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John Rawls on Justice

PATRICK RIORDAN, S. J.

EDITOR'S PREFACE

Patrick Riordan is deeply concerned with the rational settlement of conflicts in the Philippines today. He offers a reconstruction of John Rawls' theory of justice as an alternative form of adjudication wherein people can settle their differences by transcending their ideological and armed squabbles. In other words, Riordan offers dialogue instead of violence, legislation instead of dictatorship, arguments instead of rhetoric as solutions for Philippine problems of justice.

Although Riordan does not have a very high regard for Rawls' theory in its details, his reconstruction of the theory includes the basic insights of Rawls' passion for rational deliberation. He criticizes Rawls for the unrealistic assumptions behind the latter's theory. But realism is not one of Rawls' intentions. True to his Kantian legacy, Rawls is not primarily concerned with what is, but what ought to be, even if the latter could not be found in the "real" world. Rawls' ideal theory serves as a regulative principle to guide political action and not as an empirical hypothesis that needs to be verified or falsified in the uncertain world of politics.

It is surprising to note that Riordan cautions us of "the twentieth century American man" behind Rawls theory. But even if there is a lot to be desired from this effigy, there are positive aspects that can be redeemed from Rawls' cultural context. After all, philosophy is supposed to deal primarily with arguments aside from investigating the ideological biases behind fellow philosophers.

The American compassion for the "less advantaged," for example, is something that even their critics should be able to share and appreciate. Such catch words as "speaking for the marginalized," and "preferential option for the poor" are on the same emotional register as Rawls' compassion for the least advantaged. Unfortunately, as Riordan rightly points out, such "least advantaged" citizens can become the prey of triumphalism because they can be used as bases for comparison to look down on citizens of other countries who happen to live under "worse conditions" than the ghettos of Harlem. Indeed, the typical American response to their critics is to say that if you don't like it in America, stay in your mother country.

But America is no longer the envy of the world. Even from a mere economic perspective, the Turkish *gastarbeiter* in West Germany and the Filipino construction worker in Japan are in more advantageous positions than a Harlem bag lady. This does not say much about Turkey and the Philippines. But this statement does not say very much about America either. In any case, this type of argument merely muddles, rather than clarifies the issues. In fact, this kind of talk breeds potential violence that defeats the purpose of Rawls' and Riordan's intentions. American liberalism, after all, is a more respectable position than dictatorship and violence.

Liberalism, however, is not enough. Liberty without equality is abstract. Under conditions of extreme disparities in income and wealth, such as in the Philippines, American liberalism might even become a deceptive political inspiration. It can serve as an ideological foil to hide the people's real economic condition. Thus, a further reconstruction of Rawl's "original position" is necessary in order to account for the possibility that free human beings, under the "veil of ignorance," would rationally choose that they live under more egalitarian conditions.

The possibilities of a more egalitarian reconstruction of Rawls' theory are not new. Using Rawls' theory as a starting point, Kai Nielsen has shown that Rawls' position can be enhanced by the principle of equality instead of sacrificing the least advantaged for the sake of the social whole.¹ Nielsen claims that Rawl's liberal position could be well served by restructuring institutions "so that each person can, to the fullest extent compatible with all other people doing likewise, satisfy her or his genuine needs."² Nielsen's work deserves to be included in the impressive footnotes of Riordan's papers.

Nielsen also deserves to be mentioned in this preface to Riordan's work because the political agenda in the Philippines today is beset precisely with the need to bridge the gap between freedom and equality. Rawl's notion of the "original position" is not too far from the so-called "democratic space" created immediately after the fall of authoritarianism in 1986. Such a space, however, is becoming more precious with the constant threats of coup d'états and revolutionary slogans from both the extreme poles of the Philippine political spectrum. Both of these extreme positions are bred by the current conditions of inequality in Philippine society.

The so-called "middle forces" stand to benefit under the present threats of political violence. They stand to offer our people a more viable alternative to dictatorships. But the theoretical foundations of such a politically advantageous position need to be clarified and established if the middle forces are not to fall under the contradictions of ideological thinking. In this regard, a critical reading of Riordan's papers can contribute to the ongoing debate in the Philippines today about the meaning of justice.

—Rainier R.A. Ibana .

1. Kai Nielsen, *Equality and Liberty* (Totowa, NJ: Rowman and Alanheld, 1985).

2. *Ibid.*, p. 47.

Since it was first published twenty years ago, John Rawls's book *A Theory of Justice* has stimulated a heated and lively discussion about the philosophy of justice.³ Several full-length books as well as numerous articles took up the challenge posed by Rawls.⁴ Scarcely ten years after the publication of the book, an annotated bibliography was published containing several hundred entries.⁵ Now, eight years later, the interest remains alive. The July 1989 issue of *Ethics* is devoted to a symposium on Rawls.⁶

Why is this abiding interest in Rawls' thought on justice so valuable, or is it perhaps his way of doing philosophy which is so interesting? These are three questions which might guide our approach to Rawls to see what we in the Philippines today can learn from him and apply to local problems.

First of all, out of a desire to know what is going on in the world of philosophy, we can ask why this man and this book have generated so much discussion.

Secondly, out of an interest in philosophy we can be curious to know what we can learn from Rawls about philosophizing. Can we learn from the creative initiatives of this attempt to do philosophy, and from its successes and failures, how we ourselves might better contribute as philosophers to the ongoing debate in Philippine society?

And thirdly, those of us who are concerned about justice especially in the Philippines might turn to this book in the hope of finding help in pinpointing injustice and naming it for what it is. Can we hope to find there a clarity of argument which might be nimble enough to slip around their usually adamant defences and startle the perpetrators of Philippine injustice into recognizing the enormity of their deeds?

To begin with the third question. I will argue that those who are committed to the work of justice in the Philippines will find little to help in this book. This is not to deny that Rawls, like many another book on the topic, could serve to introduce neophytes to a discussion

3. John Rawls, *A Theory of Justice* (Oxford: Oxford University Press, 1972). Published in the U.S. in 1971. References in the text of the article are to page numbers in this book.

4. Brian Barry, *The Liberal Theory of Justice: A Critical Examination of the Principal Doctrines in a Theory of Justice by John Rawls* (Oxford: Clarendon, 1973); Norman Daniels, ed., *Reading Rawls's Critical Studies on Rawls' A Theory of Justice* (Oxford: Blackwell, 1975); Robert Nozick, *Anarchy, State and Utopia* (Oxford: Blackwell, 1974); Robert Paul Wolff, *Understanding Rawls: A Reconstruction and Critique of A Theory of Justice* (Princeton: Princeton University Press, 1977).

5. J.H. Wellbank, D. Snook, D.T. Mason, *John Rawls and his Critics: An Annotated Bibliography* (New York: Garland, 1982).

6. "Symposium on Rawlsian Theory of Justice: Recent Developments," *Ethics* 99 (July 1989).

of questions which have been on the philosophical agenda since Plato's *Republic* or Aristotle's *Politics*. If our interests are primarily philosophical we will be rather better served by other works, since Rawls's theory belongs to the Kantian tradition of asking how reason can be practical, and adds another candidate to the long list of attempts at deriving morality from the nature of reason itself. In other words, it attempts to show that it is irrational to be immoral. As an elaborate exploration of rationality, such an exercise is of abiding interest to philosophers, but here too I announce my opinion at the beginning, that I consider the attempt a failure.

And so to the first question: why the enormous interest in the theory and the widespread discussion which it provoked? In this article, I will present Rawls's theory of justice, and attempt to substantiate my rather sweeping assessment of its contributions both to the understanding of justice, and to the doing of philosophy. In a subsequent article I will take up the first question, and attempt to explain how this theory could have attracted so much attention. For now, suffice it to say that there are plenty who hunger for justice especially in the Philippines and so search everywhere for help. Contemporary philosophy is desperate for a rational grounding—this is its great agenda—so a plausible candidate attracts attention and must be taken seriously.

A HYPOTHETICAL CHOICE THEORY: THE ORIGINAL POSITION

Rawls's theory of Justice has been called "a hypothetical choice theory", because it identifies just institutions as those that would be chosen by rational self-interested agents.⁷ Rawls maintains that the principles of justice which would be chosen by rational agents, if they were freed from the distorting effect of bias and sectional interest, would be the rational principles of justice. The relevance to Philippine institutions is obvious. The very fact that they would be chosen by such rational choosers is the warranty of their rationality (pp. 17-21). The strategy of the theory is to design a choice situation in which the choosers are freed from all bias, and are simply rational. Rawls calls this hypothetical situation of choice the "original position." His argument is that the principles of justice are those principles of obligation and natural duty that would be agreed upon by all members of a society, if they were to make their agreement in the "original position."

7. Cf. Alan Donagan, *The Theory of Morality* (Chicago: University of Chicago Press, 1977), p. 222.

Following a suggestion by Philip Pettit, I will present this model of choice in terms of four questions: Who chooses?, What is chosen? With what knowledge? and With what motivation?⁸

WHO CHOOSES?

The choosers are individuals, but representing family lines, because Rawls ascribes a concern with the next generation to them. The number of contractors is not significant according to Rawls, because, since all share the same knowledge, are limited by the same ignorance and have the same motivation, they can be expected to choose in the same way. The number of choosers would not affect the outcome. This is a device to enable each of us to imagine ourselves in the choice situation and faced with the choice of a principle of justice. So in answer to the question "who chooses?" the answer is "we do" (p. 19).

WHAT IS CHOSEN?

Rawls regards justice as concerned with the regulation of society as a total system (pp. 7-8). The contractors in this original position are set the task of choosing a principle or principles of justice to regulate the structuring of society, in the Philippines, for example, and its major institutions. They have before them a list of such principles from which they have to choose (p. 124). Pettit uses the convenient term "charter" to indicate the function of the principles chosen.⁹

WITH WHAT KNOWLEDGE?

Each contractor is assumed to know the general truths of human psychology, sociology, economics, and the theory of human institutions (p. 137). Further each knows that moderate scarcity obtains, given the resources and capital of which his society disposes, and the talents and skills possessed by its members (p. 126). Each also knows that he has a rational plan of life, designed to ensure a harmonious satisfaction of his interests (p. 129). The main idea behind this notion of a life-plan is that a person's good is determined by what is for him the most rational long-term plan of life. On the basis of this plan, his activities are scheduled so that various desires can be fulfilled without interference (pp. 92-93). However, no one knows what his interests are, nor what the details of his life plan are. This is part of the "veil

8. Philip Pettit, *Judging Justice* (London: Routledge and Kegan Paul, 1980), p. 149.

9. *Ibid.*, pp. 23, 162.

of ignorance" with which Rawls surrounds his contractors, in a move designed to ensure their freedom from bias (pp. 136-42).

Under the "veil of ignorance" the contractors are ignorant as to their individual race, social position, wealth, talents, opinions, aspirations and tastes. The point of this assumption is to ensure that their choice will be free from any bias in favor of any one race, social or economic class, or even family (pp. 18-19; 136-37). The absence of partiality due to private or sectional interest ensures the rationality of the outcome.

WITH WHAT MOTIVATION?

Each contractor, who is assumed to be rational, is for the purpose of the contract to consider only his own self-interest. Not knowing what that interest consists of, he will not be able to choose to suit himself, except to choose to have as much as possible of those goods which are means to achieving any life-plan. There are some things which Rawls assumes anyone would want, no matter what else they want. These are called *primary goods* and are valued as means to any possible set of ends. As such they are presumed to be neutral between different life-plans. Self-interested choosers would opt to have more rather than less of these primary goods, namely of fundamental liberties, rights and opportunities, of income and wealth, and of the social bases of self-esteem (pp. 13-14; 144-45). Rawls adds a further qualification to the motivation of the contractors. He assumes that they are "non-envious," that the perception of differences between people is not in itself a source of great dissatisfaction (p. 143).

OTHER ASSUMPTIONS

Rawls adds a number of other qualifications to his hypothetical choice model. The principles to be chosen will have to exhibit the formal conditions of generality, universality, publicity, ordering and finality (pp. 130-35). The contractors and the people for whom the principles are chosen are assumed to be capable of "a sense of justice," to be capable of strict compliance with the principles once chosen and to be agreeable to unanimity on the principles in perpetuity (pp. 146-47). The principles are to be chosen for a "well-ordered society." Also in the discussion of the priority of liberty over equality, he assumes that his considerations apply to "normal situations of non-starvation."

The application of this hypothetical choice model to Philippine society makes for some interesting reflection.

OUTCOME: THE TWO PRINCIPLES OF JUSTICE

Rawls is convinced that such an original bargaining game would produce a definite outcome, namely the choice of his proposed two principles of justice with their priority rules. They are: "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" (pp. 250; 302), and "Social and economic inequalities are to be arranged so that they are both (a) to the greatest benefit of the least advantaged and (b) attached to offices and positions open to all under conditions of fair equality of opportunity" (pp. 83; 302).

The second principle is called the "difference" principle. Two priority rules order the relative priorities of liberties and advantageous inequalities. The first rule is that in normal nonstarvation conditions the first principle should never be compromised in the name of the second. No interference with the system of liberties is compensated for by an increase in the socioeconomic advantage of the society. The second rule is that fair equality of opportunity should never be restricted out of consideration for the greatest benefit of the least advantaged (pp. 302-3).

The main alternatives to his two principles according to Rawls are various Utilitarian proposals. In fact he sees his theory as resolving the impasse due to the polarization of the two main cognitivist traditions of ethics, namely intuitionism and utilitarianism (pp. 22-40). The great weakness of utilitarianism as a source of social philosophy, as we have seen in Philippine society, is its inability to explain how rationally self-interested pleasure-maximizers are to be led to substitute the general happiness for their own as the object of their actions. A second weakness also evident in Philippine society is its seeming tolerance of mistreatment of individuals or minorities in the name of the general good.

STRATEGY OF CHOICE

Rawls is convinced that his contractors in the original position would choose his two principles in preference to any utilitarian principle. The awareness of the vulnerability of individuals and their life-plans when faced with totalitarian or autocratic rulers would motivate the choosers to secure their liberty. A range of liberties is essential if anyone is to pursue his own life-plan, and so the first principle would be

chosen. Utilitarian principles by contrast would seem to tolerate restrictions in individuals' liberties if the general welfare could be improved thereby. No rational chooser could tolerate that possibility, if his rationality consists in securing the conditions for achieving whatever life-plan he may happen to have, of which he is as yet ignorant.

Rawls's explanation of the choice of the second principle of justice relies on his assertion of what would be the rational choice strategy of self-interested persons in the supposed position. He terms this strategy "maximin" (pp. 152-55). Each player would survey the types of societies which would be generated by the various principles on offer. Their presupposed knowledge of the general facts of society allows them to translate principles into blueprints for society. However, each player's ignorance of his own social or familial background, wealth and status would prevent him from knowing what position he himself would occupy in any of the considered societies. He would have to reckon with the real possibility that he himself would end up in the worst-off position in any society. That's his worst scenario in each case. As a cautious, self-interested chooser, desiring as much as possible of life's primary goods, he would choose the principles and society which offered him the best worst case. If the position of the representative worst-off person in any society specifies the worst possible outcome for the chooser, this identifies for him his security level. He would choose so as to obtain the highest security level possible. This is the "maximin" strategy: the strategy to maximize the minimum outcome.

In considering possible differences in the distribution of wealth or income or other desired goods, the chooser who reckons that he may be at the bottom of the pile would choose a system which regulated inequalities so that they functioned to make the worst-off position better off than it would otherwise be. The difference principle would be chosen. With such knowledge and motivation, a chooser in the original position would never opt for a utilitarian criterion of justice, since it might land him in a worst-off position without any protection from what might be done to him in the name of the general welfare.

The two principles correspond to any individual's dual position in a modern society (p. 61). The first specifies his position as citizen, as subject of liberties which the State is obliged to respect. The second refers to his social and economic position, which is defined by the distribution of wealth and income. Inequality in the distribution generates social distinctions.

ASSESSMENT OF THE MODEL:
RAWLS ON JUSTICE

Rawls's theory contains one central plausible idea. That is the device which challenges us to put ourselves in the other person's shoes, to imagine ourselves in the position of the worst-off in our society, and to ask ourselves if we would choose this society from that perspective. Would we choose to live in the US or Britain or Germany or the Philippines or China if we had to reckon with the possibility of being in the position of the worst off? A Harlem slum dweller? An unemployed Liverpool dock-worker? A Turkish Gastarbeiter in Germany? A Tondo squatter? A political prisoner in China?

The central plausible idea of this theory is that "we should consider ourselves in the other person's shoes." This is an imaginative variation on the Kantian idea of universalizability, which recurs also in the Golden Rule, that we treat others as we would wish to be treated, the notion of the impartial judge in other rational choice theories, and in Lucas's explanation of justice from the perspective of those who are "done down."¹⁰ Similarly, Ronald Dworkin, the author of *Taking Rights Seriously* and many other publications concerned with rights, argues that the core of rationality in Rawls's position is the assertion of a fundamental right of all to equal respect.¹¹

Does this theory contribute anything of use to those of us concerned about justice especially in the Philippines? I want to suggest that it does not, apart from the plausibility of this central idea, which can stand alone independent of the complex theory built around it. My reasons for this negative judgment are threefold. Firstly they have to do with the determination of the subject of justice; secondly with the unreality of the assumptions built into the model; and thirdly with Rawls's procedure in constructing the theory. This third set brings us into the realm of the philosophical assessment.

THE SUBJECT OF JUSTICE

For Rawls the subject of justice is the basic structure of society. By this he means the way in which the fundamental institutions of society are ordered in relation to one another: the institutions of property,

10. J.R. Lucas, *On Justice* (Oxford: Clarendon, 1980), p. 5. Cf. also Donagan, *Theory of Morality*, p. 222.

11. R. Dworkin, "The Original Position," in *Reading Rawls*, ed. Norman Daniels, pp. 16-53.

family, power. The concern with the "system as a whole" is shared with analysts on the left, of course, although Rawls is very much within the liberal tradition. Without denying the value of analyses which take this perspective on economic and social reality, from which we have learnt so much, I am sceptical about the value of making this perspective either the sole or even the central case for the specification of justice. No individual or group ever made or makes a system as a whole; no revolution is capable of changing the whole system. Certainly a total system can be *affected* by some action, as for instance the adoption of a new Philippine constitution, but that is a far cry from *changing* the system as a whole. The total structure of society is never an object of human choice. Of course it can be an object of thought and analysis. But justice has to do with concrete obligations in the real world. So talk about the justice of the system as a whole is an escape from reality. It frees us from the nitty gritty concerns of saying who has to do what to whom in what manner and when. What are the obligations in justice of Philippine landowners? Are landowners obliged in justice to use the compensation they are guaranteed by law in any particular way? What are the obligations in justice of these lawmakers in this Congress in these circumstances? Such are the burning questions of justice. How convenient it is when the high-priests of justice free us from such concrete issues to consider the structure of society and the justice of the system as a whole. The contrast with a typically Aristotelian concern with doing the right thing to the right person in the right place at the right time in the right manner underlines the peculiarity of Rawls's approach.

PROBLEMATIC ASSUMPTIONS

Knowledge. Many of Rawls's particular assumptions contribute to his divorce from reality. It is understandable why he imposes a veil of ignorance on the contractors. It is because he wishes to abstract from all those concerns which introduce bias into our rational assessment. But the contractors require some knowledge. Otherwise they cannot choose anything. Rawls specification of this knowledge is particularly problematic. He seems to imagine that knowing "the general truths" of psychology, sociology, economics and human institutions is something like knowing Euclidean geometry: A set of axioms and definitions which can be expected to apply for all problems of ordering two dimensional space. Or again like Newtonian Physics: a set of axioms and general laws which apply to all the problems of dynamics which we can expect to encounter. But knowledge of human reality, Philippine society, for example, cannot have

this form. The social, economic and political structures studied in the social sciences are the products of particular histories, and their particularity defies the reduction to "general truths." But furthermore, the sciences themselves are products of particular cultural situations and of particular societies. They too have a history. The concepts and theories of the social sciences are historically and culturally conditioned constructs, and cannot have the universality of Euclidean geometry which qualify them as "general truths" in Rawls's sense. Marx's insight into the concepts of social science as products with a history has become a commonplace in the human sciences, but it is lost on Rawls. To accept the analyses of neoclassical economic theory is to take a practical and political stance. To regard human psychology as capable of formulation in general laws is to take sides in a debate among psychologists, as to whether the human psyche can be treated as an object of study. Freudian analysts insist that the human person is only adequately treated as subject, telling his or her own story. But Rawls blandly presumes that knowledge in these sciences is uncontroversial and undisputed, and that despite ignorance of any particulars like the history of one's own society, it is possible to know the general truths of society.

Rationality. In the determination of the rationality of the contractors Rawls explicitly relies on an economic model of rationality (p. 14). Furthermore, the economic rationality in question seems to be that of the corporation rather than of the individual. A business corporation calculates in terms of the maximization of profit; it makes its calculations in different time-scales, the short-term and the long-term. It is in the long-term that it expects to get a return on investments made. Rawls has his contractors calculate in this manner, reckoning their advantages in terms of a life-plan, even though they are supposed to be ignorant of what interests exactly comprise that plan. But whereas a firm can identify its interest as the maximization of profit, no matter what market it is engaged in, what is a human person trying to maximize in his life-plan? There is no single element on which others can be centered. Our lives are typically subject to variation. Chance occurrences, typhoons and floods, changes in fortune, illnesses and deaths introduce factors into our lives which require a shifting of priorities, a realignment of our concerns, or sometimes even a conversion, a change of mind and heart. The rationality of such a historical existence must surely be more complex than the single end perspective of the business corporation.

Neutrality of Primary Goods. People in the original position would choose to have as much as possible of the primary goods, because these are means for the realization of any life-plan whatsoever. The

primary goods are therefore introduced as neutral between different conceptions of a life-plan and between different conceptions of justice. But the specification of those primary goods is such that they presuppose a whole history of development of political and economic life, and a valuing of liberties, powers and opportunities which is itself rooted in a history. The supposedly neutral primary goods are laden with an option for a particular kind of society and a particular kind of political existence. The valued society is of course liberal democracy. Rawls cannot be faulted for this option. But he can be faulted for building a culturally conditioned option into a specification of supposedly culturally indifferent rationality. Imagining ourselves now in the original position and faced with a choice of a total social structure, the outcome of our choice can hardly claim the rationality and validity Rawls desires if our reasoning is structured in a manner appropriate to one particular even if privileged historical experience.

Risk Avoidance Strategy. Much has been written in the discussion of Rawls's theory of justice about the pessimistic choice strategy of the contractors. Rawls makes his choosers avoid all risk. The adoption of his two principles and particularly the difference principle depends on this specification. But is this a reasonable assumption? Is it not reasonable to accept a gamble? To take on the risk of being in a slightly worse off position for the sake of the opportunity of making it into a higher level bracket? The structure chosen according to the maximin strategy will be that which guarantees the best worst-off position. But suppose another hypothetical society with a second best worst position offered a greater range of top-notch opportunities in terms of wealth or whatever. Would it be unreasonable to reject the possibility of doing better because of the added risk of doing worse? A choice strategy which excludes all risk is surely foreign to the rationality of entrepreneurs, inventors, founders of institutions, organizations, schools, colleges and even States.

Cumulative Unreality of Assumptions. Rawls considers his theory as "ideal", and is not particularly worried by the unreality of his assumptions. However, at some point he will want to justify the usefulness of ideal theory in generating conclusions which are applicable to experience. Perhaps enough has been said about the unreality of the assumptions built into the description of the original position to raise doubts about the possible relevance to reality of the outcome of the theory. Each assumption taken individually is plausible. But cumulatively, the whole set of qualifications generates a model which is so divorced from reality that it loses all power to tell us anything about justice in the world of our experience. A summary of those assumptions would help:

1. The principles are to be chosen for a normal situation of nonstarvation, in which the contractors know that the achievement of liberty is possible. But we ask what is required in justice in a world and a country like the Philippines where millions are actually starving, and are actually locked in a poverty trap.
2. The principles are to be chosen for a "well-ordered society." But the problem of justice in many places today like the Philippines is how to establish order in societies which are riven by conflicts.
3. The choosers are non-envious. But we are concerned about justice in a world and in countries like the Philippines in which people are very conscious of the differences in wealth, advantage and power.
4. The choosers know general facts. But we seek justice in a Third World country in which access to knowledge is not universal, and in which the content of knowledge is ideologically significant.
5. The choosers are ignorant of relevant details about themselves. But that imagined degree of ignorance is nonhuman.
6. The contractors do not know their life-plans, but they do know how to realize them. In fact, the model reverses our usual experience. Usually, people know what they want, but don't know how to get it. In Rawls's theory, the choosers don't know what they want, but they do know how to get it.

A Theory of Pure Distribution. Robert Paul Wolff's most telling criticism of Rawls's *A Theory of Justice* is that it treats the problem of justice as one of pure distribution. How wealth has been produced is not considered relevant to deciding how it is to be distributed. So there would be no difference between distributing a cake which has appeared from nowhere, and dividing up a cake which one of the group has baked. This neglect blinds Rawls to the existence of powerful groups, as for example those who control some means of production and can hold out for a greater share in the distribution, or those who control some aspect of distribution like social welfare officials. The reality of power as we encounter it ought to make its impact on a theory of justice. The neglect of this reality undermines any relevance Rawls's theory might have for our concern for justice.

WHAT IS RAWLS DOING?

My third set of reasons for thinking we have little to learn from Rawls in regard to justice arises from a consideration of his performance. Although the central plausible point in his theory is the strategy for getting us to put ourselves in the other person's shoes, thereby freeing us from the selective interests which might bias our consid-

erations, he has not succeeded in freeing his theory from major culture-bound presuppositions. As noted in the previous section, many of his qualifications are rooted in an option for a particular form of economic and political existence. That people want that particular set of primary goods is plausible only in the context of a particular society. That human rationality is based on a life-plan is conditioned by an economic view of rationality rooted in a definite form of economic organization. That the problems of starvation and the control of power have been overcome is a plausible assumption only at a certain point in the history of particular societies and hardly relevant for example, in a society like the Philippines. These assumptions are so ideologically laden that Rawls himself does not achieve the freedom from selective interest which is a central concern of his undertaking. The result of this ideological hijack is that his central plausible idea is deformed into a defense of the status quo. The reflective device which required us to put ourselves into the other person's shoes is now translated into an *ad hominem* argument addressed, for instance, to the poor in Manila, reminding them that although they are worse off than others in their society, they would be much worse off if the wealthy in the society did not have the liberty to get rich. Puerto Ricans in New York may feel badly off, but they are reminded how much worse off they would be back in Puerto Rico.¹² This reflects the familiar liberal slogan that "a rising tide raises all boats", proposed to justify giving priority to economic growth over distribution. The experience of just how far apart the boats of the wealthy and the poor have drifted makes us sceptical of such rhetoric, but Rawls's theory now adds intellectual fire power to the platitude to "count your blessings". As Campbell remarks, "impartiality and neutrality have an uncanny knack of coming up with ideals which do not pose any real threat to the established economic inequalities of the liberal societies from which they routinely emerge."¹³

ASSESSMENT: RAWLS THE PHILOSOPHER

Related considerations undermine the value of Rawls's contribution to philosophy. Rawls attempts to generate a substantive theory of justice on the basis of merely formal premises, and some non-controversial assumptions. In this his project is clearly Kantian, and he himself admits to a Kantian interpretation of justice as fairness (pp. 251-57).

12. Lucas, *On Justice*, p. 187.

13. Tom Campbell, *Justice* (London: MacMillan, 1988), p. 184.

His theory goes through three stages of development from its first presentation in an article on "Justice as Fairness" (1958) to its second formulation in the article "Distributive Justice" (1967) receiving its final form in the book, first published in 1971.¹⁴ Through each stage of development Rawls modified the description of the original position, subtracting or adding qualifications so as to make it more capable of generating the two principles of justice. These principles, in slightly different form, were there from the beginning. The failure of the early forms of the model to ground these principles did not result in the abandonment of the principles. But the principles were held onto as the guiding consideration in the revamping of the model, until it should give the required result. Wolff notes how Rawls takes his own words on the principles from the earlier versions as something like sacred text, for which the interpreter must find plausible grounds.¹⁵ For instance, Rawls writes of his own words: "It is not clear what is meant by saying that inequalities must be to the advantage of every representative man", and goes on to try out possible meanings, hitting eventually in the second form of the model on an acceptable interpretation: the maximization of the expectations of the least-advantaged representative man (pp. 62, 66). As Wolff notes, there is something slightly odd about a philosopher treating his own words in this manner. Rawls's failure to advert to the actual order in the elaboration of his ideas reinforces the suspicion that his claim to articulate a universal rationality cloaks his failure to reflect on his own rationality and to identify it for what it is—the historically and culturally conditioned world-view of twentieth-century North American man.

Rawls's model is more complex than the presentation above could possibly show. His argument is often ingenious, and the task he has set himself is philosophically stimulating. But can he in any way be said to have made a breakthrough? A sociologist of knowledge would acknowledge his very important role as the catalyst for a very lively discussion of a much neglected topic. For that contribution he justly deserves his fame. However others have pioneered the "game-theory" approach to practical rationality, paralleling Rawls's contractarian device. And his own attempt remains inconclusive, as I have argued above. One reason for this inconclusiveness is Rawls's own ambiguity about the philosophical or, better, logical status of his theory.

14. J. Rawls, "Justice as Fairness," *Philosophical Review*, 1958, reprinted in *Philosophy, Politics and Society*, Second Series, eds. Peter Laslett, W.G. Runciman (New York: Barnes & Noble, 1962); "Distributive Justice," *Philosophy, Politics and Society*, Third Series, eds. Peter Laslett, W.G. Runciman (New York: Barnes & Noble, 1967).

15. Wolff, *Understanding Rawls*, pp. 58–59.

I follow Wolff once again in this analysis.¹⁶ To the question of the logical status of his theory, Rawls seems to offer three different answers.

The first answer presents the theory as the sketch of a proof of a theorem in the theory of collective rational choice. The two principles are simply presented as the solution to a bargaining game with certain constraints. As the outcome of such a game, the two principles are guaranteed to be just. Those who claim to be rational, in the minimum sense required by the game, must accept the two principles, or else accept that they act irrationally. This is the strongest and most exciting answer philosophically. But Rawls seems to accept the validity of the criticisms against this understanding, and to lose confidence in the strong version, and so he resorts to a different argument for the status of the theory.

In Rawls's second view, the theory is seen as a rational reconstruction of his own and his society's moral and social convictions, whereby some dialectical adjustment between the model of rational choice and the outcome of the reconstruction is to be expected. It is in this context that Rawls presents his notion of "Reflective Equilibrium" (pp. 48-51). The equilibrium in question is that between a set of principles which encapsulate the core of the moral convictions of a society, and a model of rational choice. The principles are generated by a rational reconstruction of a society's morality, while the model of rational choice claims some independent validity, beyond its suitability as a reconstruction of the practical rationality of the society in question. In this view, the theory is successful if it has managed to reconstruct the body of our settled opinions about justice in the two principles of justice. The fact that these two principles would be chosen in the hypothetical choice situation reinforces our confidence in our sense of justice. But no proof of the principles beyond such reflective equilibrium is possible.

In a third answer, the theory is presented as analyzing the structure of an envisioned harmonious, stable social and political order. The two principles both express the structure of this integrated society, and as practical guides serve to maintain its harmony. Wolff formulates it as follows:

Having adjusted the original position to fit the principles arrived at by the rational reconstruction, and having adjusted the principles in turn to make them the sorts of principles that parties in the original position would choose, Rawls now adjusts both the principles and the original position in order to yield results that would, if put into effect in the real world,

16. *Ibid.*, chap. 16.

encourage people to be the sorts of citizens who would naturally and willingly cooperate in and support the institutions dictated by the suitably tailored choice problem.¹⁷

For instance, Rawls assumes that his contractors are non-envious. He needs this assumption so as to make a plausible case for the rational acceptance of some measure of inequality. The model is adjusted so as to yield the desired principles. The model is shown to be appropriate if its outcome fits our intuitions about inequality. In a late section of his book, Rawls again raises the question of envy (pp. 530–40). But now he asks whether a society modelled on the two principles, and therefore accepting a measure of inequality, would be stable. Would there be so much inequality that destructive feelings of envy would be generated, leading to a destabilization of society? If the society modelled on the two principles were unworkable, then, according to Rawls, the conception of justice would have to be reconsidered (p. 530). So this adds a very new appraisal of the function of the theory. Firstly, the principles were the principles of justice, solely because they were or would be chosen by rationally self-interested persons in the original position. Secondly, the principles are *the* principles of justice because they fit with our moral intuitions. But now, thirdly, the principles of justice are only such if they would in fact be conducive to a harmonious and workable social order. Here Rawls seems to be relying on some extraneously generated vision of a stable and harmonious social order. But this vision is substantive and not derivable from his minimum presuppositions. If it is to play such a role in his philosophy, it ought to be subjected to the demand for justification.

CONCLUSION

Following a brief presentation of the essentials of Rawls's theory of justice I attempted to argue firstly, that his theory has little to teach us about justice which might help us to cope with the pressing problems of justice in the Philippines, and secondly, that his philosophical performance is significantly compromised by his own inability to free himself from culture-bound presuppositions. The third of our original questions remains to be answered: how is it that this theory of justice has received so much attention and stimulated so much discussion, despite its evident weaknesses? This question will be the starting point of a subsequent article in *Philippine Studies*.

17. *Ibid.*, p. 187.