

Justice as Fairness

A RESTATEMENT

John Rawls

Edited by Erin Kelly

Copyright © 2001 by the President and Fellows of Harvard College.
All rights reserved
Printed in the United States of America

Library of Congress Cataloging-in-Publication Data

Rawls, John, 1921-

Justice as fairness : a restatement / John Rawls ; edited by Erin Kelly.

p. cm.

Includes bibliographical references and index.

ISBN 0-674-00510-4 (cloth : alk. paper)—ISBN 0-674-00511-2 (pbk. : alk. paper)

1. Justice. 2. Fairness. I. Kelly, Erin. II. Title.

JC578 .R3693 2001

320'.01'1—dc21

00-065034

THE BELKNAP PRESS OF
HARVARD UNIVERSITY PRESS
Cambridge, Massachusetts
London, England
2001

JUSTICE AS FAIRNESS

A Restatement

PART I

Fundamental Ideas

§1. Four Roles of Political Philosophy

1.1. We begin by distinguishing four roles that political philosophy may have as part of a society's public political culture. Consider first its practical role arising from divisive political conflict and the need to settle the problem of order.

There are long periods in the history of any society during which certain basic questions lead to deep and sharp conflict and it seems difficult if not impossible to find any reasoned common ground for political agreement. To illustrate, one historical origin of liberalism is the Wars of Religion in the sixteenth and seventeenth centuries following the Reformation; these divisions opened a long controversy about the right of resistance and liberty of conscience, which eventually led to the formulation and often reluctant acceptance of some form of the principle of toleration. The views in Locke's *Letter on Toleration* (1689) and Montesquieu's *The Spirit of Laws* (1748) have a long prehistory. Hobbes's *Leviathan* (1652)—surely the greatest work of political philosophy in English—is concerned with the problem of order during the turmoil of the English civil war; and so also is Locke's *Second Treatise* (also 1689). To illustrate in our own case how divisive conflict may lead to political philosophy, recall the extensive debates between Federalists and Anti-Federalists in 1787–88 over ratification of the Constitution, and how the question of the extension of slavery in the years before the Civil War called forth fundamental discussions of that institution and of the nature of the union between the states.

1 We suppose, then, that one task of political philosophy—its practical role, let's say—is to focus on deeply disputed questions and to see whether, despite appearances, some underlying basis of philosophical and moral agreement can be uncovered. Or if such a basis of agreement cannot be found, perhaps the divergence of philosophical and moral opinion at the root of divisive political differences can at least be narrowed so that social cooperation on a footing of mutual respect among citizens can still be maintained.

To fix ideas, consider the conflict between the claims of liberty and the claims of equality in the tradition of democratic thought. Debates over the last two centuries or so make plain that there is no public agreement on how basic institutions are to be arranged so as to be most appropriate to the freedom and equality of democratic citizenship. There is a divide between the tradition derived from Locke, which stresses what Constant called “the liberties of the moderns”—freedom of thought and liberty of conscience, certain basic rights of the person and of property, and the rule of law—and the tradition derived from Rousseau, which stresses what Constant called “the liberties of the ancients”—the equal political liberties and the values of public life.¹ This overstylized contrast brings out the depth of the conflict.

This conflict is rooted not only in differences of social and economic interests but also in differences between general political, economic, and social theories about how institutions work, as well as in different views about the probable consequences of public policies. Here we focus on another root of the conflict: the different philosophical and moral doctrines that deal with how the competing claims of liberty and equality are to be understood, how they are to be ordered and weighed against each other, and how any particular way of ordering them is to be justified.

2 1.2. I note briefly three other roles of political philosophy which we consider further as we proceed. One is that political philosophy may contribute to how a people think of their political and social institutions as a whole, and their basic aims and purposes as a society with a history—a nation—as opposed to their aims and purposes as individuals, or as members of families and associations. Moreover, the members of any civilized society

1. See “Liberty of the Ancients Compared with That of the Moderns” (1819), in Benjamin Constant, *Political Writings*, trans. and ed. Biancamaria Fontana (New York: Cambridge University Press, 1988). Constant's dates: 1767–1830. The phrase “liberties of the ancients” refers to the liberties of native-born male citizens specified by the rights of political participation in the Athenian democracy at, say, the time of Pericles.

need a conception that enables them to understand themselves as members having a certain political status—in a democracy, that of equal citizenship—and how this status affects their relation to their social world.

This need political philosophy may try to answer, and this role I call that of orientation.² The idea is that it belongs to reason and reflection (both theoretical and practical) to orient us in the (conceptual) space, say, of all possible ends, individual and associational, political and social. Political philosophy, as a work of reason, does this by specifying principles to identify reasonable and rational ends of those various kinds, and by showing how those ends can cohere within a well-articulated conception of a just and reasonable society. Such a conception may offer a unified framework within which proposed answers to divisive questions can be made consistent and the insights gained from different kinds of cases can be brought to bear on one another and extended to other cases.

1.3. A third role, stressed by Hegel in his *Philosophy of Right* (1821), is that of reconciliation: political philosophy may try to calm our frustration and rage against our society and its history by showing us the way in which its institutions, when properly understood from a philosophical point of view, are rational, and developed over time as they did to attain their present, rational form. This fits one of Hegel's well-known sayings: “When we look at the world rationally, the world looks rationally back.” He seeks for us reconciliation—*Versöhnung*—that is, we are to accept and affirm our social world positively, not merely to be resigned to it.

We shall be concerned with this role of political philosophy in several respects. Thus I believe that a democratic society is not and cannot be a community, where by a community I mean a body of persons united in affirming the same comprehensive, or partially comprehensive, doctrine. The fact of reasonable pluralism which characterizes a society with free institutions makes this impossible.³ This is the fact of profound and irreconcilable differences in citizens' reasonable comprehensive religious and philosophical conceptions of the world, and in their views of the moral and aesthetic values to be sought in human life. But this fact is not always easy to accept,

2. The term and its meaning is suggested by Kant's use of it in his essay “Was Heisst: Sich im Denken orientieren?” *Kant's gesammelte Schriften*, Preußischen Akademie der Wissenschaften, vol. 8 (Berlin, 1912). For him, reason is similarly the faculty of orientation as very briefly characterized in the text.

3. For the meaning of “reasonable” as used in the text, see §§2, 11, 23.

and political philosophy may try to reconcile us to it by showing us the reason and indeed the political good and benefits of it.

Again, political society is not, and cannot be, an association. We do not enter it voluntarily. Rather we simply find ourselves in a particular political society at a certain moment of historical time. We might think our presence in it, our being here, is not free. In what sense, then, can citizens of a democracy be free? Or as we shall ask eventually, what is the outer limit of our freedom (§26)?

One can try to deal with this question by viewing political society in a certain way, namely, as a fair system of cooperation over time from one generation to the next, where those engaged in cooperation are viewed as free and equal citizens and normal cooperating members of society over a complete life. We then try to formulate principles of political justice such that if the basic structure of society—the main political and social institutions and the way they fit together as one scheme of cooperation—satisfies those principles, then we can say without pretense and fakery that citizens are indeed free and equal.⁴

1.4. The fourth role is a variation of the previous one. We view political philosophy as realistically utopian: that is, as probing the limits of practicable political possibility. Our hope for the future of our society rests on the belief that the social world allows at least a decent political order, so that a reasonably just, though not perfect, democratic regime is possible. So we ask: What would a just democratic society be like under reasonably favorable but still possible historical conditions, conditions allowed by the laws and tendencies of the social world? What ideals and principles would such a society try to realize given the circumstances of justice in a democratic culture as we know them? These circumstances include the fact of reasonable pluralism. This condition is permanent as it persists indefinitely under free democratic institutions.

The fact of reasonable pluralism limits what is practicably possible under the conditions of our social world, as opposed to conditions in other historical ages when people are often said to have been united (though perhaps they never have been) in affirming one comprehensive conception.

4. The idea of political philosophy as reconciliation must be invoked with care. For political philosophy is always in danger of being used corruptly as a defense of an unjust and unworthy status quo, and thus of being ideological in Marx's sense. From time to time we must ask whether justice as fairness, or any other view, is ideological in this way; and if not, why not? Are the very basic ideas it uses ideological? How can we show they are not?

2. A Fair System of Cooperation

Eventually we want to ask whether the fact of reasonable pluralism is a historical fate we should lament. To show that it is not, or that it has its very considerable benefits, would be to reconcile us in part to our condition. Of course, there is a question about how the limits of the practicable are discerned and what the conditions of our social world in fact are; the problem here is that the limits of the possible are not given by the actual, for we can to a greater or lesser extent change political and social institutions, and much else. However, I shall not pursue this deep question here.

§2. Society as a Fair System of Cooperation

2.1. As I said above, one practicable aim of justice as fairness is to provide an acceptable philosophical and moral basis for democratic institutions and thus to address the question of how the claims of liberty and equality are to be understood. To this end we look to the public political culture of a democratic society, and to the traditions of interpretation of its constitution and basic laws, for certain familiar ideas that can be worked up into a conception of political justice. It is assumed that citizens in a democratic society have at least an implicit understanding of these ideas as shown in everyday political discussion, in debates about the meaning and ground of constitutional rights and liberties, and the like.⁵

Some of these familiar ideas are more basic than others. Those we use to organize and to give structure to justice as fairness as a whole I count as fundamental ideas. The most fundamental idea in this conception of justice is the idea of society as a fair system of social cooperation over time from one generation to the next (*Theory*, §1: 4). We use this idea as the central organizing idea in trying to develop a political conception of justice for a democratic regime.

This central idea is worked out in conjunction with two companion fundamental ideas. These are: the idea of citizens (those engaged in cooperation) as free and equal persons (§7); and the idea of a well-ordered society, that is, a society effectively regulated by a public conception of justice (§3).

As indicated above, these fundamental intuitive ideas are viewed as being

5. The exposition of justice as fairness starts with these familiar ideas. In this way we connect it with the common sense of everyday life. But because the exposition begins with these ideas does not mean that the argument for justice as fairness simply assumes them as a basis. Everything depends on how the exposition works out as a whole and whether the ideas and principles of this conception of justice, as well as its conclusions, prove acceptable on due reflection. See §10.