

Chapter 9

Liberal Theories and their Critics

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I speak of "liberal theories," instead of "liberalism," partly because it is a matter of dispute what liberalism "really" is. Some liberals characterize it in terms of a specific methodology, others in terms of its historical role. Some believe in natural rights, some are contractualists, and some consequentialists. As a rough generalization, liberals are concerned to protect individual freedom against the power of the state and the power of other individuals or institutions. They advocate toleration of different beliefs and values. They value legal and political equality, seek to ensure opportunities and to protect individuals' economic welfare and independence. Still, liberals differ as to just what this list should contain, how key components should be understood, and which items should be regarded as fundamental, which derivative. There are many liberal theories, and liberals are themselves often the liveliest critics of other liberals. Many of the critics I discuss will be liberals criticizing the theories of other liberals.

Liberal theories are normative theories. Any such fully realized theory ought to include a reasonably precise statement of its substantive principles, a rationale for these principles, and an account of the institutions by means of which the principles can be realized. Beyond that, it ought to include a demonstration of the capacity of such institutions to function as intended and to sustain themselves. The characteristics of liberal theories listed above comprise mainly substantive aims. Theories that include (roughly) the same substantive principles will often differ in their rationales for these principles. And different rationales will often lead to different specific interpretations of the principles. Different rationales will also expose theories to different objections – and an objection directed at one rationale may fail to apply at all to a theory based on another.

Consider an example: John Kekes, in *Against Liberalism* (1997), criticizes liberalism for its inability to deal adequately with the problem posed by "the prevalence of evil (23f)." This is a problem because "the true core of liberalism," Kekes says, is a commitment to autonomy (15). "[I]t is the fostering of the autonomous functioning of all citizens that is the ultimate purpose and justification of liberal-

ism (21)." However, Kekes goes on, more often than we might like, men and women freely choose to do evil. Thus, a society that leaves people free and even encourages this freedom is bound to encourage evil in the process. Liberalism can deal with this problem only by retreating from its most fundamental commitment.

There are many possible replies to this objection, and I will mention it later in a different context. One reply is to reject Kekes's claim that he has correctly identified *the* fundamental commitment of liberal theory. But what are the alternatives? To illustrate the possibilities, I will sketch a (somewhat selective) history of liberal thought since the middle of the twentieth century. I begin, in Section I, with John Rawls's early work, some of the responses to it, and alternatives proposed by various theorists through the 1980s. I then turn, in Section II, to "political liberalism" as it has developed since the late 1980s. I will offer an interpretation of some of its more controversial ideas, and, in light of this interpretation, I will defend it against some recent criticisms. Throughout, I mean to focus mainly on liberals' justifications for their principles and, more generally, on their ideas about what constitutes an adequate justification.

I Theories of Justice

Rawls's theory of justice

John Rawls's publication of *A Theory of Justice*, in 1971, is surely a key moment in twentieth-century political thought generally, and in liberal thought in particular. By the time of the book's publication, though, Rawls's ideas were already well known and influential. The book culminated a project that began with Rawls's paper "Justice as Fairness" (1958). Beginning with this paper, Rawls set out to establish what he calls principles of justice for the evaluation of the "basic structure of society" – its major social, political, legal and economic institutions. The idea is that institutions are to be assessed holistically, for Rawls assumes that principles are concerned with the interests and prospects of individuals and that institutions work together to determine these prospects. Rawls's particular principles require that institutions establish the greatest possible system of equal basic liberties, a system of fair equality of opportunity, and an economic system in which typical members of the worst off economic class are economically as well-off as possible. Economic inequalities are permissible, but only subject to the condition that the economic advantages of those better off do not come at the expense of those worst off. This is what Rawls calls the "difference principle."

I state these principles informally. Their detailed exposition is a difficult task, made more difficult by the fact that Rawls does not always state them consistently even within the scope of his book. Still, the theory described falls clearly within the rough characterization of liberalism offered earlier: it gives a high priority to

individual liberty and opportunity, and it also insists on securing a decent minimum income. It is perhaps worth noting, though, that Rawls does not speak of liberty, *per se*, and does not view every exercise of coercive state power as even a *prima facie* violation of the "equal liberties" principle. Instead, what he seems to have in mind is a system of specific rights, immunities, and powers of the kind found in the Bill of Rights of the US Constitution. He means them to include freedom of expression, freedom of religion, rights to acquire personal property and to its secure possession, protections against arbitrary arrest, and rights to take part in democratic self-governance. Indeed, we can generalize here. The idea of freedom, as it functions in liberal thought, is highly ambiguous. While writers, especially those associated with the "libertarian" tradition, sometimes object to *any* coercion or restraint, it is perhaps more common to emphasize particular rights (e.g., property rights or rights to free speech). If freedom in a more general sense is thought important, that is because it is thought to underlie or explain the importance of the specific rights.¹

Rawls, however, does not take freedom or autonomy as his starting point. He thinks he can offer a unified account of the seemingly disparate elements in his theory, and he begins not with liberty but with an abstract conception of the social contract. He argues that persons in what he calls "the original position" would choose the principles I have sketched – equal liberties, fair equality of opportunity and the difference principle. These persons are presumed to know certain general facts of social theory, but they are otherwise behind a veil of ignorance. They do not know salient facts about themselves (their race, religion, sex, social status, or position in the natural lottery of talents). Nor do they know their distinctive aims and values. They choose principles only on the basis of an interest in primary goods – liberties, opportunities, income and wealth. They assume they want more of these rather than less, within the range that their society can produce for everyone, but they also assume that, at some level, their interest in more tends to diminish (Rawls, 1971, secs. 24, 26).

It should not be surprising, given these assumptions, that Rawls's principles would be chosen. The assumptions about the original position are designed to produce this choice. The idea, I believe, is to bring out clearly a set of assumptions that are sufficient to give us his results. This gives us a *proof* of the principles. Whether it is also a *justification* is another matter. Justification, Rawls says, proceeds between persons. It succeeds when it is possible to show that the conclusion can be supported not just by some assumptions, but by assumptions that the other person accepts (*ibid.*, sec. 87).

As I read Rawls, he has, from early on, been interested in justification as well as proof. He has specifically aimed to find principles and arguments for them that can be acceptable to those who must live under them and to justify this aspiration itself as well. Thus, he has aimed for institutions that would generate their own support and support for the principles on which they are based; he has been concerned to solve the problem of stability, understood as involving an enduring com-

mitment to principles. He has aimed at establishing a stable, well-ordered society: a society in which persons accept the same principles, institutions meet the requirements set by those principles, and in which it is common knowledge that these conditions are met. In such a society, clearly, the institutions could be justified to each in terms of principles each accepts. In short, Rawls assumes something like an ideal of *consent of the governed*, an ideal that figures in some other liberal theories, including some of the work of Jeremy Waldron.² If Rawls is right, principles derived as his are can achieve consent.

Responses to Rawls's theory

Rawls's main aim, of course, was to show that his principles are the right ones for evaluating institutions. A more specific aim was to provide an alternative to utilitarianism and thereby undermine its position as the only normative perspective for evaluating institutions. As we have later come to appreciate (Scheffler, 1994), utilitarianism embodies two distinct, controversial doctrines. The first, which Rawls targets directly, is the idea that outcomes are to be evaluated in terms of aggregate well-being, independent of distribution. The second is the idea that no type of action is morally ruled out independent of its consequences – that there are no “deontological constraints.”

In *Anarchy, State and Utopia* (1974), Robert Nozick argued that the reasons for rejecting the aggregative standard for evaluating consequences (its alleged refusal to recognize “the separateness of persons”) should lead us also to accept individual rights (constraints) against the state. But, once we do this, he claimed, we will then see that the liberal state in general, and Rawls's version in particular, must be rejected. Nozick adopted what he saw as a Lockean conception of individual rights – especially rights to property, but other individual rights as well; and he claimed that any state action encroaching on these rights is unjust. He holds this whether the aim is to promote aggregate utility *or* to achieve economic justice as conceived by Rawls, and by many other liberal theorists.

To the objection that this means condoning injustice, Nozick replies that Rawlsian liberals have a mistaken conception of justice. A just state of affairs, a just society, he holds, is not to be characterized by a *patterned* principle, like equality or the difference principle. Instead, a state of affairs is just if and only if it results from the free exercise of individual rights consistent with respect for the rights of others. Nozick's theory is a historical, entitlement theory.

Now, insofar as Nozick's theory embodies a strong suspicion of state action and a concern for individual rights and liberty, it coincides with a major part of liberalism as understood here. However, though he believes that protecting individual economic rights tends to benefit everyone, Nozick does not make this claim a precondition of accepting his theory. Thus, he rejects another foundational commitment of much twentieth-century liberalism, namely, the commitment to promoting individual welfare and opportunity. In this, he joined – from within

philosophy – a tradition of criticism heretofore found mainly within economics. Economists like Hayek (1960), and later James Buchanan (1975), were profoundly suspicious of state intervention to redistribute income or wealth. They thought intervention to be inefficient and also to require a state apparatus that endangered liberty.

Though Nozick's suspicion of the state and his doubts about aggregative reasoning found a sympathetic hearing among many in the broadly liberal tradition, his specific list of rights did not. One of the earliest replies to Nozick's book was Thomas Nagel's "Libertarianism without Foundations" (1975). Nagel complained specifically about Nozick's failure to give an adequate argument for his system of personal and property rights. And, indeed, though Nozick offers an ingenious and often fascinating account of what states and citizens would be committed to *if* they accepted a theory of rights like the one he adopts, he agrees that his arguments in support of those rights are less than conclusive.

In retrospect, I think Nozick's book can actually make one more sympathetic to Rawls's project. Two points are worth mentioning. First, insofar as Rawls's theory addresses the question of the justice of particular holdings of particular persons, his theory is actually similar to Nozick's. Both hold that there ought to be rules of property and contract, that these ought to be respected, and that any particular person's entitlements are determined by the free operation of that system.³ The question is just which rules, which system of rights, we ought to adhere to. But here, secondly, Rawls offers a general answer, while Nozick does not. For Rawls, a system of rights is correct only if it is part of the basic structure of a society where that structure, in turn, satisfies general principles of justice which would be chosen in the original position.

Rawls's theory purports to offer a way to achieve critical distance from particular institutions, systems of rights, and beliefs about liberty, opportunity, and the distribution of wealth. It specifies an abstract procedure for adjudicating among these different beliefs or systems and determining which can be justified. And, if Rawls is right, it is possible to produce a coherent liberal theory specifying the appropriate relations between liberty, equality and welfare. In this, Rawls's theory – but not only his – is consonant with one of the historically central ideas of modern political theory: the idea, central to enlightenment thought, that social, political and legal arrangements are to be seen not as fixed but as properly subject to alteration in light of human purposes (cf. Waldron, 1993, pp. 43–5).

While much liberal thought – and, as we will see below, not just that of Rawls – seeks to justify its policies by adopting an abstract, critical perspective on particular institutions, both feminist and communitarian critics have criticized liberalism for exactly this abstraction. Feminists, in particular, argue that the abstract conception of citizens found in Rawlsian or utilitarian thought blinds us to the particular needs and interests of particular groups, including women and racial or cultural minorities.⁴

Alternative liberal theories

Rawls's contractualist theory is not the only one that offers this kind of critical perspective on first-order liberal beliefs. Since the eighteenth century, utilitarianism has sought to do the same. For Bentham, and later for Mill and Sidgwick, the idea of the greatest happiness offered a rational standard for the critical assessment of choices of all kinds, from personal decisions to decisions about constitutional design. Bentham thought many of the laws and institutions of his own day irrational by this standard. A number of utilitarian theorists in the second half of the twentieth century, partly in response to the Rawlsian challenge, have developed sophisticated arguments to show that the utilitarian standard actually requires many of the typical institutions of the contemporary liberal state (Bailey, 1997; Hardin, 1986; Hardin, 1988; Sartorius, 1975). The arguments turn on considerations of several kinds.

One example: Utilitarianism, it might seem, should insist that each person, in each situation ought to try to maximize utility. But it does not follow that, if one were designing a constitution, one ought to create positions of authority whose occupants are authorized to pursue the project of utility maximization without restriction. It does not follow, in particular, that government officials should have the authority to censor acts of expression simply on the ground that utility requires it. Nor does it follow that the police should always have the authority to conduct searches or to engage in forms of surveillance, even if they think the consequences will be good.

Utilitarians can defend limits on authority, even on the authority to act on utilitarian considerations, by arguing that the authority itself, once granted, may so often be misused as to have bad consequences. One reason is that government offices, once created, may not be occupied by conscientious utilitarians. A more interesting reason is that even good utilitarians, like everyone else, seldom have anything like the kind of full information they would need to calculate consequences accurately. A variety of writers, including Russell Hardin, and Friedrich Hayek (1948), have emphasized this point. Not only does it provide a good defense of the limits on official authority found in works like Mill's *On Liberty* (restrictions on censorship and paternalism, for example), it also provides an argument for individual rights of property and contract: we may have limited knowledge of what is good for others, or for society at large, but we are more likely to know what we ourselves need (and, as Hayek emphasizes, how to conduct our own businesses).

Of course, liberalism usually involves more than just a commitment to limited government, specific freedoms like freedom of speech, and a belief in individual rights. Many liberals favor some restrictions on freedom of contract, such as the restrictions implicit in minimum-wage laws or closed-shop labor contracts. Many also favor limits to property rights if these are needed to secure public goods like

clean air and water. But utilitarian arguments, supplemented by an understanding of the strategic features of interactions, can support these conclusions too.

Though Rawls's early work on justice aimed especially to provide an alternative to utilitarianism, later work by utilitarians showed that their theory can in fact support many of the same conclusions Rawls defends. Moreover, just as Rawls's contractualism promises to offer a critical perspective on the natural rights postulated by libertarians like Nozick, so also does utilitarianism. However, while both offer arguments in support of individual rights to property and contract, neither supports *unqualified* rights of these kinds. Both theoretical approaches, indeed, can make use of some of the same concerns about the strategic nature of interaction to support qualifications on libertarian rights.

Contractualism and utilitarianism are not the only theories offering a critical perspective on *particular* accounts of individual rights and authority. Another is Joseph Raz's. Raz says he aims to "rehabilitate" the "traditionalist affirmation of the value of freedom," and to defend a "doctrine of political authority" based on a "perfectionist political defense and promotion of liberty and autonomy." Autonomy, indeed, is his central concept, and he thinks the value of personal autonomy is what underlies the defense of political freedom (Raz, 1986, pp. 17, 19, 400f).

The argument is long and complex, with many different strands. It is broadly consequentialist, but the aim is to promote autonomy, not utility. Raz is especially concerned to show that, starting with the idea of autonomy, we end up in a different place from that of many other theorists in the broadly liberal tradition. He rejects, for one thing, the attempt to reduce the idea of liberty or autonomy to the idea of any particular system of rights. He specifically denies that autonomy is best realized in a system protecting only individual rights of the kind Nozick advocates. Instead, Raz argues that the value of autonomy can be achieved only in contexts in which society protects collective benefits, especially "social forms" constituting valuable ways of life. For autonomous choosers must choose for reasons, and that means choosing among available, valuable, alternatives. Since protecting social forms may require state action, the liberal state should not be equated with the minimal state. And since protecting autonomy itself, as well as protecting particular social forms and practices, requires legislating on the basis of values, Raz's liberal state is also not required to refrain from promoting ideals.

It is perhaps worth recalling here Kekes's critique of liberalism, mentioned at the outset, for Kekes objected to the alleged liberal preoccupation with autonomy. Neither Rawls, as I read him, nor utilitarians, actually base their theories on an ideal of autonomy, but Raz does. And Kekes objected that, when we guarantee people autonomy, we also make it likely that they will misuse their autonomy by choosing evil over good. Does this objection apply to Raz?

While it is true that Raz champions autonomy, this has to be understood in the context of his claim that his is a "'moralistic' doctrine of political freedom" (1986,

p. 367). The ideal of personal autonomy, he says, is the ideal of persons "controlling . . . their own destiny . . . throughout their lives" (369). However, while Raz thinks good lives must be autonomous in this way, he does not think that any autonomous life is good. Autonomy is, as it were, a necessary, not a sufficient condition. Good lives are lives autonomously chosen for good reasons. "[T]he non-availability of morally repugnant options" is not a bad thing, on this view. "Autonomy is valuable only if exercised in pursuit of the good" (381). Consequently, for Raz, the promotion of valuable, autonomous lives is perfectly compatible with governmental action to make valuable options available and to discourage or eliminate options that are bad. Respect for (worthwhile) autonomy does not mean we should turn people loose to choose evil or repugnant ways of life. As a result, Raz's theory is not subject to Kekes's criticism.

In this brief survey of liberal thought through the 1980s, I have focused especially on different ideas about how liberal institutions and principles can be justified, and on what kind of justification is appropriate. The theorists I emphasize all argue for basic political freedoms, toleration, equal opportunity, and the economic and social conditions that make possible the pursuit of good and meaningful lives. All of them reject extant institutions and beliefs that stand in the way of our realizing these conditions. Liberal institutions, these theorists argue, can be given a firm and convincing justification, while opposing ideas and institutions cannot. But, the fact is, even liberals disagree among themselves as to which justifications are adequate; and non-liberals do not accept the arguments offered by any liberals. Acknowledging these disagreements, some liberals have come to think about the issue of justifying liberalism in a new way. They seek a way of thinking about liberal ideas that could make liberalism more widely – even uniquely – justifiable.

II Political Liberalism and its Critics

Political liberalism

In this section, I attempt an explication and (partial) defense of the ideas its defenders refer to as "political liberalism." Despite the considerable ingenuity devoted to developing and refining the various theories described above, each remains controversial. Indeed, in both academic and nonacademic circles, opposing ideas have reasserted themselves with great vigor. While the strongest academic critics of liberalism in the 1960s were from the Marxist left, the next wave of academic criticism came from the libertarian right, and many subsequent critics were partisans of traditional and religious communities. It became easy to see the justificatory ideas in liberal thought as just various arbitrary starting points.

Anyone who might have hoped that careful attention to foundational beliefs and to the construction of well-grounded theories would lead to a convergence

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of ideas, a shared conception of the truth, would have been disappointed. Some liberal theorists in the last two decades, therefore, have come to focus even more self-consciously on the prospects and limits of justification. Calling their view "political liberalism," John Rawls, in his later work (1993), and Charles Larmore (1987, 1996) seek to strengthen the case for liberalism and to broaden its appeal partly by limiting the scope of liberal principles (they apply only to certain political questions) and partly by trying to show that liberalism, as they construe it, is the uniquely best answer to those questions, given a practical problem they think unavoidable in all modern, democratic societies. The problem arises from what they see as the *inevitable* diversity of moral, philosophical and religious ideas, even among "reasonable" persons. That political liberalism can solve this problem, they claim, justifies it (for anyone who sees it as a problem). And that other political views do not solve it, or even exacerbate it, shows that (at least in this respect) they cannot be similarly justified. Taking this approach, however, leads Rawls and Larmore to positions that put them at odds not only with various non-liberal theorists but also with utilitarian liberals and "perfectionist" liberals like Raz.

Rawls and Larmore are not alone in seeing disagreement and diversity as a problem.⁵ But why it should be a *special* problem requires comment. That people disagree about right and wrong, good and bad, after all, is hardly news. It is especially not news to moral philosophers; and they have responded in various ways. One is some form of skepticism, the denial that we can know the truth in these matters or, even, that there is any truth to be had. Others, I suspect the majority among contemporary philosophers, take the fact of disagreement simply to show that some people must be wrong and that the task of philosophy is to discover what the right view is.

Rawls seems to say, in the introduction to his *Political Liberalism* (1993), that he originally saw the project of *A Theory of Justice* as an attempt to do just this: It aimed to show that the hypothetical contract was the correct starting point for moral philosophy, and so, that the principles derived there were the morally correct principles for assessing social and political arrangements. He construed political philosophy, at that time, as the application of a correct, comprehensive moral view to the particular case of political choice (1993, p. xv).

Rawls now conceives his project differently. But the reason he no longer seeks to find the uniquely correct moral theory to supplant the alternatives is that he *retains* one of the original, motivating ideas behind his theory, namely, the idea that institutions, to be legitimate, must be justifiable *to* each (reasonable) person subject to them. Yet, he also thinks it inevitable that there will never, in a democratic society, be agreement on foundational, moral and philosophical ideas. There will never be agreement on what he calls "comprehensive doctrines." That leaves us with "the problem of political liberalism": "How is it possible that there may exist over time a stable and just society of free and equal citizens, profoundly divided by reasonable though incompatible religious, philosophical and moral doctrines?" (1993, p. xviii, cf. xix, 4; see also Larmore, 1996, pp. 121-2). This is essentially the problem of creating a well-ordered society – a society whose sta-

bility rests on a principled consensus, where everyone accepts the same standards as “a reasonable public basis of justification on fundamental political questions” (1993, p. xix). What is new in the way Rawls now sees this problem is his acceptance that whatever agreement we may reach will be limited in crucial ways. It will be an agreement on certain principles for certain purposes against a background of *disagreement* on many other matters, including, perhaps, the ultimate reasons why we should seek such an agreement. How is a well-ordered society possible at all, given the fact of pluralism?

Rawls’s answer – or conjecture – is that philosophical and religious doctrines, often radically different in their foundational beliefs and in many of their consequent judgments, can still coincide in endorsing the ideal of the reasonable. Partisans of otherwise different views can all be reasonable in the sense that (1) they are prepared to seek and to offer, in good faith, mutually acceptable terms of cooperation with others (and to comply with these when in force), and (2) they are prepared to accept the burdens of judgment – to accept that deeper agreement on fundamental matters simply cannot be achieved, on a widespread basis, under conditions of freedom and democracy (1993, pp. 48–58). Reasonable persons, as defined, share the aim of finding mutually acceptable principles for the assessment of shared institutions. And, to the extent that persons are reasonable in this sense, there is a basis for seeking agreement among them – despite other differences.

To the extent that persons are reasonable in the sense defined – and to the extent that the aim of political theory is construed not as justification to *everyone*, but as justification to the reasonable – it looks as if the problem of justification might be tractable. And it is, of course, not a particularly surprising idea that principles guaranteeing religious liberty, free expression, and some degree of personal privacy, would form part of a consensus among reasonable persons who otherwise disagree sharply with one another. In short, it is far from implausible that central liberal ideas can, in fact, solve the practical problem of political liberalism under conditions of reasonable pluralism.

Defenders of political liberalism sometimes go on to say it is a consequence of their approach that the state must in general be *neutral* among the reasonable comprehensive doctrines of the sort that can be expected to persist in modern democracies.⁶ Or, as Thomas Nagel puts it in his rather different idiom, we must find principles representing a “highest order of impartiality”: “highest order” because, as Nagel notes, the conflicting moral views prevalent in society already represent to their adherents an achievement of impartiality. They are *moral* views. Any system that can expect consent must achieve impartiality among these otherwise already impartial perspectives. And so also, to put the point negatively, the fact that particular moral views represent an achievement of impartiality is not enough to justify imposing them (Nagel, 1987).

Now, the substantive principles Rawls seeks to defend – and he is the one who offers substantive principles – have not significantly changed since *A Theory of Justice*, though he is less inclined to treat them as uniquely correct. But I do not intend to focus here on these substantive principles. Instead, I want to look at the

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ideas in political liberalism about the constraints on justification – the ideas about morality, truth, neutrality and impartiality to which Rawls and other defenders of political liberalism take themselves to be committed. These have themselves become matters of controversy in the recent literature. How do they come into play?

Given the fact of reasonable pluralism, Rawls and Larmore both claim, a system of principles will be able to serve as “a public basis of justification on fundamental political questions” only if it constitutes, in Rawls’s phrase, an “overlapping consensus” among the diverse, reasonable doctrines in society. This does not assume that these principles are already found, in a developed form, in each doctrine. It assumes merely that they can be developed out of minimal shared assumptions in such a way that all “can reasonably be expected,” at least in the long run, to endorse them (Rawls, 1993, p. 137). But they cannot be based on certain controversial, fundamental ideas. For example, they cannot be based on the *moral* idea of pluralism – the idea that the different conceptions of the value and meaning of life prevalent in society are all viable and good ways of life (Larmore, 1999, p. 122). This is just what many reject. Similarly, Larmore and Rawls join in denying that we should begin, as does Raz, by affirming the value of autonomy. The value of autonomy is a matter of controversy.

To summarize, Rawls and Larmore both claim that political principles must be acceptable to the diverse persons and groups in society; and both claim that this requires *neutrality* among different conceptions of the good life, among different comprehensive moral, religious and philosophical ideas. Moreover, Rawls even claims that liberalism must refrain from asserting the *truth* of its ideas and principles.

Critics object strongly to both ideas. Not only some conservatives, but also perfectionist liberals like Raz and Sher claim it is the state’s job to promote what is genuinely good. Political philosophy should discover truths about what is good and argue for public policies based on those truths. They consequently criticize the commitment to both neutrality and “epistemic abstinence.”

There is some irony in this turn of events. Thomas Nagel (1973) and Adina Schwartz (1973), among the very early critics of *A Theory of Justice*, criticized Rawls’s principles for *failing* to be neutral among competing conceptions of the good: While it is true that political liberties, economic opportunities and adequate income and wealth are useful in the pursuit of many goals, they are especially useful in the pursuit of the more individualistic goals widely favored in modern, market-oriented societies. Thus the emphasis on these goods may actually encourage people in the development of individualistic goals. It may make it less likely that those with more communitarian values will be able to realize those values and live the kind of life they find best.⁷

Rawls replied, in “Fairness to Goodness” (1975), that no political theory can be genuinely neutral *in its effects*. Any set of institutional arrangements will, in fact, make some ways of living more eligible than others. Moreover, in cases where the ways of life made difficult or impossible are unjust (because they rest on racist

ideologies, for example) we should not regret their passing. But even some otherwise acceptable ways of life are bound, in any system, to be more difficult to pursue than they might be otherwise; and, in that case, all we need do is assure ourselves that whatever the obstacles, they are compatible with justice and cannot be removed without causing greater injustice.

What Rawls asserted at that time was that principles and institutions were not required to be neutral *in their effects*. And, along with Larmore, Dworkin and Waldron, he still accepts that view. But while both Rawls and Larmore now express some dissatisfaction with the terminology, they also insist, as I have said, on some version of neutrality of intention or purpose.

There are then two controversial ideas associated with political liberalism: that liberalism must refrain from asserting the truth of its ideas and principles, and that the state must remain neutral among various other moral and philosophical views. I will say more about each in turn.

The moral truth

It is Rawls, primarily, who seems to advocate that liberalism abstain from claiming the truth of its principles. What does this claim amount to, and does he have a good reason to adhere to it? To answer, we need to say a little about the theory. Like any political theory, liberal theory will include directives concerning matters of constitutional design, especially specifications of the scope and limits of legal and political authority, but also matters of basic economic and social policy. It will also embody a justification for these directives. In Rawls's theory, this justification rests on various ideas – ideas about citizens, and their capacities, together with the idea of choice behind a veil of ignorance – where these ideas and resulting principles are supposed to form a stable “overlapping consensus” among persons with diverse but reasonable comprehensive doctrines. The principles, Rawls assumes, will not be found already extant in the various prevailing doctrines. Rather, they will have to be *constructed* so as to be suitable for their purpose. The procedure of construction is choice in the original position. This procedure, and the various conditions which define it, is proposed as an interpretation of the values of consent and of social cooperation for mutual advantage. These values, in turn, include a partial specification of the shared ideas of the reasonable and the rational (Rawls, 1993, pp. 90–6). The argument for the whole system is, ultimately, that it *works*. More exactly, the argument is that reasonable adherents of different comprehensive doctrines could come, in time, to share these ideas as the ideas that *should* govern their common political affairs. They will be seen as reasons. When citizens respect limits on authority and modify their own demands on the basis of these principles, they treat others in a way that can be justified to those others. And, when others make excessive demands, it will be possible to explain to them, in terms they can accept, why they are excessive.

That his political liberalism works, that it can be accepted in this way, Rawls thinks, does not mean that it is true (1993, pp. xx, 125f, 216f). More, the assertion of its truth can be no part of the argument for its acceptance. Why? It is Joseph Raz, especially, who has recently pressed this question. In "Facing Diversity: The Case of Epistemic Abstinence" (1990), he objects to several of Rawls's strategies for trying to avoid reliance on controversial theories or ideas. He observes, correctly, that Rawls now views his task as that of solving a kind of practical problem. But, he objects, even if this is his task, that is no reason to deny that his theory is *true* (15–16). If it solves the problem, then it is *true* that it solves the problem. Suppose we had an engineering problem, and we concluded that its solution required the use of a certain type of valve. In that case, it is *true* (given the context) that we should use that type of valve. How can we assert that we should use this valve and not assert that it is *true* that we should? That we should is a truism about truth. By analogy, if our problem is to find a constitution that can meet certain practical constraints, and if that requires a guarantee of religious liberty, then it is simply *true* (given the context) that we should guarantee religious liberty.

When Rawls initially denies that his principles are true, he says that to claim their truth would be to assess them "from the point of view of our comprehensive doctrine" (1993, p. 126). Now, this claim can be understood in more than one way.⁸ But either way, it denies that there can be truth relative to a less than comprehensive aim or concern. I do not see why we should accept this limitation on the use of the term "true". Hence, I do not see why Rawls must refuse to say that the principles of justice, supposing they do the job they are supposed to do, are true. I also do not think this would be a serious concession on his part.

Granted, if an argument for political liberalism is to succeed, it must not contradict essential features of reasonable, comprehensive moral or religious doctrines. If it did that, then it could not be justified to reasonable adherents of any of the doctrines it contradicts. But, as long as asserting the truth of principles does not involve denying any essential feature of such doctrines, doing so does not compromise the project. If their truth consists merely of their being part of a solution to a practical problem, then there is no reason not to assert their truth. Should we go on to say that the principles represent (part of) the moral truth?

Rawls insists that political liberalism is a "freestanding" political conception (1993, p. 12). Its principles are not presented as theorems of some particular comprehensive view, but, rather, as principles for regulating political life, justifiable in terms of the idea of the reasonable. Charles Larmore has recently argued, though, that to say this is not necessarily to deny that they make true *moral* claims on us (1999). Rather, they presuppose a certain moral ideal (cf. Raz, 1990, p. 14). Should Rawls agree with this?

Rawls claims that liberal principles are reasonable. They meet the need reasonable persons have for principles that they and other reasonable persons can all accept. Reasonableness, Rawls thinks, will by itself be enough to lead persons to

accept liberal principles. (If he is right, it will lead persons to accept *his* principles.) But the aim of being reasonable, Larmore claims, is itself a moral aim. It amounts to one conception of the moral ideal of respect for persons. And so, he argues, we should not shy away from asserting that reasonable principles represent moral truths.

I believe Rawls has good reason to refrain from asserting this as any part of the justification for liberal principles. To claim they are moral truths is to make an assertion that adherents of some reasonable, comprehensive views must reject. It is certainly true that the term "moral" can be, and has been, used both broadly and narrowly. We might sometimes want to reserve it for a rather narrow range of particular duties corresponding roughly to Rawls's requirements of reasonable behavior, but, on other occasions, we might take it to include ideals and conceptions of excellence that go far beyond the minimal duties we owe to one another.⁹ Thus, someone *can* speak of a requirement as a moral one, in the former (narrow) sense, without taking a stand on its relation to a variety of further ideals – much less on whether it derives from the same source as those ideals. I take this to be what Larmore proposes. However, among those who are prepared to affirm the duties of the reasonable, there may be some who reject the "pluralistic" conception of the meaning of "moral." For *them*, to commit oneself to a moral claim is to commit oneself to an elaborate metaphysical idea, and they may reject that idea. For example, they may hold that morality consists of God's laws and yet reject theism. While they may be committed to reasonable principles, they have reason to deny that these are moral principles. To insist that they *are* true moral principles is gratuitously to reject assumptions they may hold dear.

I conclude that Rawls is wrong to withhold the term "true" from his principles, but justified in refusing to say that they are *moral* truths. More exactly, while he, or Larmore, may themselves be prepared to believe that these are moral truths, he is justified in insisting that liberal principles *be capable of being justified by reference merely to the idea of the reasonable*, and without a further claim that this constitutes a moral requirement.¹⁰

Neutrality

A more difficult issue about political liberalism is whether, or to what extent, it is committed to an ideal of state neutrality among competing views – and if it is committed to neutrality, whether this is not an objectionable commitment. I will focus particularly on neutrality in political liberalism. This is important because various liberal (and libertarian) conceptions have advocated an ideal of neutrality for various reasons. And so, different critics of neutrality focus on undermining different arguments offered to support it.

I will argue that the fundamental commitment of political liberalism is not to neutrality *per se*, but to the idea of justification to all reasonable persons. This requires, at most, that basic principles be neutral just with respect to comprehen-

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sive doctrines on which there is disagreement. Moreover, while principles may sometimes deny political authority to promote certain ends or values, more commonly it will simply regulate the way in which they can be promoted, perhaps by requiring that certain legislative procedures be followed. This can still allow that legislation itself may not be neutral. And I will also argue that there is good reason why some such legislation should be allowed.

Still, starting with the idea that basic principles must be justifiable to each, Larmore and Rawls conclude that this requires principles to be neutral among competing, reasonable comprehensive views.¹¹ On the other hand, both emphasize that this requirement applies only to basic constitutional questions, and Rawls goes on to say that citizens should be free to vote according to their comprehensive views “when constitutional essentials and basic justice are not at stake” (1993, p. 235).

Given their underlying aim, one can see the appeal of neutrality. Among persons who have very different ideas about what makes life good for a person, about what kinds of life or activity are to be admired, and about what might make such ideas right in the first place, one way to achieve agreement is simply to refrain from pronouncing on such things – to remain neutral. As against all this, however, there is a very different idea about the proper aims of the state. In *Beyond Neutrality* (1997), Sher sets out to defend the view that the state “may legitimately promote the good.” (1) He rejects the view that the state “oversteps its bounds” if it “tries to make citizens more virtuous, to raise their level of culture or civility, or to prevent them from living degrading lives.” (2) While political liberalism denies that the state can base at least its fundamental principles on the aim of promoting the good, Sher insists that “no reasons are inadmissible in politics” (4, cf. 248). He defends the “traditional” view that “knowledge, excellence and virtue make people’s lives better” and that “political agents often have ample reason to promote such lives” (245). To do so is part of the proper function of the state.

Perfectionists like Sher or Raz will differ from defenders of political liberalism in the kind of argument they will accept for laws and institutions. In matters of substantive policy, however, it is hard to say how much perfectionists would differ from Rawls or Larmore. For one thing, different perfectionists will have different ideas as to which lives are best. Moreover, although, at the level of constitutional design, perfectionist liberals will be less concerned to find rules acceptable to all, and more concerned to create a state that will promote the good, they may, for their own reasons, endorse things like freedom of expression and freedom of religion. (Even if one thinks it justifiable to restrict offensive expression, say, one may fear authorizing the state to do so on the ground that others will likely misuse the power.) Still, perfectionists tend to prefer a narrower construction of First Amendment rights and to favor some restrictions on artistic expression when it might encourage degrading ways of life. They will certainly favor state-sponsored cultural or artistic activity when it encourages people to develop, or enables them to exercise, their talents. And they often favor relatively strict academic standards, along with moral education, in school curricula.¹²

Political liberalism would respond by reasserting that disagreement on fundamental issues of value, religion and philosophy is inevitable in modern democracies. At the least, were we to adopt, as the very foundation of our political relations with others, the idea of promoting some particular, ideal way of life, we would be unable to justify our social and political arrangements to others who reject that ideal. We would fail to solve the problem of political legitimacy as political liberalism understands it. If the aim of our association were to promote an ideal incompatible with the basic aims of some reasonable citizens, how could we justify our institutions to them?

It is not irrelevant to this reply that Sher begins his book by acknowledging an "ambivalence" toward contemporary liberalism, asserting "a confidence in the power of reason to resolve our disagreements" (ix). This is surely one of the roots of his disagreement with the liberalism of Rawls and Larmore. Even if we accept the demands of the reasonable, Sher might say, we have no need to be neutral among conflicting groups if we can win the agreement of all by reasoning. If he is right, of course, that certainly undermines the case for neutrality. But is he right?

This is not a simple question, for answering it requires sorting out two different issues. First, there is the question whether actual, smart, educated persons will continue to disagree in fact about philosophical, religious and moral issues. The answer, surely, is yes. But, second, there is the question of what sort of agreement we need. Should we be satisfied if we are convinced, on the basis of sober, reasoned investigation, that our institutions are supportable by principles that everyone else *ought* to agree to – if only they used their heads? Or must we seek something closer to actual assent of all or most persons? We have to admit that we will not *get* actual, universal, assent to anything. But I suspect the theorists of political liberalism might be interpreted as accepting an intermediate requirement: principles are adequate only if they should be accepted by all reasonable persons on the basis of beliefs and values they *already hold*.

Perhaps political liberals think they discern, in the modern history of democratic societies, a trend toward *disagreement* on matters of religion and philosophy, conjoined with a trend toward *agreement* on political ideals like toleration. I do not know. But I do suspect that, as Rawls understands the idea of the reasonable, it requires that we seek something closer to actual agreement than Sher would require – perhaps something along the lines just suggested. And this in turn suggests that the disagreement between him and Sher is a normative disagreement as to how we should behave toward others with whom we disagree. If this is right, it is not surprising that Sher, following Raz, questions Rawls's consistency by observing that Rawls's own theory is "based on a controversial moral... doctrine," namely, the "value of uncoerced stability" (85, 92).

Now, I believe it is right that one difference between political liberalism and Sher's perfectionism is that the former is committed to an ideal of political stability grounded on principles that are acceptable to all reasonable persons, despite enduring philosophical and religious differences. And this idea may commit liberals to something like neutrality on matters in dispute among reasonable persons.

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But I do not see any inconsistency here. Political liberalism, like any view, is not without premises. There is nothing wrong with adopting a particular normative perspective and then, if that perspective requires neutrality *elsewhere*, pursuing it there. And certainly the idea of justification to all is not controversial among the reasonable. However, I do not believe that Rawls's theory (and he is the one who offers the more substantive principles) achieves a thoroughgoing neutrality. Instead, the impatience he expressed with the idea of neutrality, at the time of "Fairness to Goodness," is more in line with his current theory; and that may help to explain the discomfort with the term "neutral" that both he and Larmore now express (Rawls, 1993, p. 194; Larmore, 1996, pp. 125-6).

I suppose one idea of what neutrality might involve is the idea of a minimal state – a state that does almost nothing beyond enforcing an uncontroversial goal of order and individual security. Perhaps this is one way of arriving at something like Nozick's position. But Rawls and Larmore hope to find a rationale for a more robust, activist liberalism, and they seek ideas and principles that can serve as the "public charter" in terms of which citizens can understand and discuss their shared institutions, principles to which they can appeal in resolving, or at least clarifying, their disagreements.

To achieve the aims of political liberalism, these ideas will have to be acceptable to diverse persons who otherwise disagree sharply. Rawls's language (e.g., the idea of an "overlapping consensus") sometimes suggests that he will achieve this by drawing his principles from the shared stock of ideas already present in democratic culture, and both Sher and Raz take note of this point. Sher also portrays Rawls as taking "conceptions of the good" "out of play" with the device of the veil of ignorance (79). But I think neither idea really captures what Rawls does. The first ignores the extent to which, as noted above, Rawls's theory represents a *construction* out of a variety of ideas that are mere *specifications* of shared values; and the second ignores the fact that Rawls's argument from the original position begins with a list of goods everyone is said to want: liberties, opportunities, income and wealth.¹³

Now, to start with these ideas is not to adopt a stance of neutrality among all ideas of the good. Nor can it be said that the list of goods is completely uncontroversial.¹⁴ But the real aim of political liberalism is not neutrality per se. It is rather to formulate a political conception that can be justified to reasonable persons holding a variety of incompatible, comprehensive doctrines. The question is whether constitutional principles guaranteeing Rawlsian primary goods can be so justified.

It is certainly plausible that principles guaranteeing equal liberties, especially freedom of religion and freedom of expression, might figure in a reasonable accommodation among those who hold conflicting doctrines. While leaving supporters of different ideas free to advocate their views, they specifically refrain from siding with any one in particular. Understood as they are in the US Bill of Rights, they remove from the political agenda the question of *which* religion or *which* moral or philosophical doctrines ought to be officially certified as true. The other

Rawlsian guarantees – the difference principle and the requirement of fair opportunity – however, may be less easy to justify. I think the requirement of fair opportunity especially problematic. Rawls says remarkably little, in his various writings, about just how this requirement is to be understood. Is it primarily concerned, for example, with the competition for economically advantageous positions, or for positions of power or prestige? Or is it instead concerned with opportunities to flourish and live well more generally?

The latter might seem more easily justifiable (especially if there is serious disagreement as to the value of economic success itself).¹⁵ But even then it looks as if the justification will not be as straightforward as the justification for some of the other liberties mentioned. While freedom of religion, for example, removes certain issues from the agenda, fair opportunity merely postpones them. If it were understood, say, as the opportunity to acquire and exercise certain purely secular capacities and habits of skeptical inquiry, or alternatively as the opportunity to become a model socialist citizen, then there are many to whom it could not be justifiable as a requirement of basic justice at all. The same would be true if it were understood merely as the opportunity to lead an exemplary religious life and pursue a religious vocation. On the other hand, if the idea of a good life is left largely open, the requirement could be justified as a basic requirement, but only because it postpones controversy over particular attempts to implement it. Controversy over school curricula and textbooks is an obvious example.

Securing opportunity will require legislation, and a legislature empowered to enforce requirements. Disputes about these requirements will inescapably take the form of disputes about what is actually good for people, what is actually true, and so on. They will require decisions about how to promote what is good both for individuals and for society. Even the decision *not* to require certain things of everyone, given the assumption that we must provide fair opportunity, is a decision about what a person needs in order to flourish. So, voters and officials will be unable, in the formulation of actual policy, to act neutrally. If I am not mistaken, then, Rawls should actually end up with the kind of “quasi” perfectionist view Sher proposes: a view “that does not seek to *ground* the state in any particular conception of the good, but nevertheless holds that a government may legitimately *promote* the good” (1).¹⁶ And this view is also consistent with what Rawls himself says, when he suggests that neutrality is required in dealing with constitutional questions and questions of basic justice, but that people are free to vote according to their comprehensive views in legislative matters. Indeed, both Larmore and Nagel say very much the same thing.

It helps make sense of this to see – as Rawls makes explicit – that political liberalism is concerned with more than *merely* finding agreement. This is one constraint on a more general political project, another aim of which is to constitute a “fair system of cooperation,” where this idea, in turn, requires “an idea of each participant’s rational advantage” (1993, pp. 15–16). Political society aims to make possible and to facilitate our gaining these advantages. The problem is to achieve

this purpose in a legitimate way, where legitimacy requires, to use Waldron's term, some analogue of *consent*.

Promoting the achievement of individual good is in some tension with the legitimacy constraint – given the background of reasonable pluralism. Reasonableness (in Rawls's sense) makes some agreement possible. And it is arguable that this agreement can include the kind of substantive requirements, supplemented by a relatively unconstrained, democratic political process, which Rawls proposes. But this does not achieve the kind of thoroughgoing neutrality against which Sher argues. Legislative debates will invoke substantive values, and legislation itself will incorporate some of these values. For those, including some feminist writers, who object to what they see as excessive abstractness and who endorse a robust, democratic politics, this should be welcome (Young, 1990, ch. 5; Benhabib, 1987).

Political liberalism offers an account – an explanation – of a wide range of liberal ideas. Raz's theory, like sophisticated forms of utilitarianism, can also make sense of many of these ideas. The latter two, however, arguably fail to meet the legitimacy constraint – the requirement that at least the basic principles of a theory must be justifiable to all reasonable persons. Does that mean they are not justified, while a theory like Rawls's is? That depends on whether one accepts this requirement, and just how one interprets it. Whether we should accept it, I think, depends on whether it can be interpreted in such a way that, on the one hand, it can be met, but on the other hand, the fact that a theory meets it is morally significant.¹⁷ The idea of focusing on reasonable persons and on what can be justified to them, is an attempt to do this. In any case, I think acceptance or rejection of this requirement marks a fundamental divide in political philosophy – and perhaps in moral philosophy as well.¹⁸

Notes

- 1 J. S. Mill's *On Liberty* (1978), a more sweeping defense of liberty, even against democratic encroachments, is a classic of liberal thought. Isaiah Berlin, in "Two Concepts of Liberty" (1969), defends a Millian "negative" liberty against "positive" liberty.
- 2 See Waldron (1993), pp. 50f, and 58 where he emphasizes justification *to* subjects. Note that this ideal itself may be questioned.
- 3 In Rawls's terms, this is a matter of "pure procedural justice," whatever results from a just system is just. For discussion, see Nelson (1980).
- 4 Young (1990), Benhabib (1987), but, see also Okin (1989). For further discussion, see articles in this volume by Held and Sterba.
- 5 Nagel (1987), Berlin (1969), Hampshire (1989).
- 6 On neutrality, see also Dworkin (1985), pp. 191f; Waldron (1993), ch. 7.
- 7 See discussion in Waldron (1993), "Legislation and Moral Neutrality," esp. pp. 165f. See also Dworkin (1985).
- 8 It might imply a relativistic view, that there are different truths, but each presupposes one or another comprehensive view; or it might be the view that a judgment is true

- only when based on the correct comprehensive doctrine – though we disagree as to which this is.
- 9 This phrase is from Scanlon (1998). He insists on the plurality of conceptions of the moral and replies to some criticisms of his account of our duties to one another that they stem from moral ideals in a broader use of the term.
 - 10 This is an argument in support of Rawls's refusal to accept his theory as a moral truth. But an analogy of this argument could also be used to defend his refusal even to say that it is true; for some may even refuse to accept the "relativized" conception of truth which I refer to as a truism. I thank Dave Phillips for this observation.
 - 11 Larmore (1987), pp. 50f, 67f (1996), pp. 125–6; Rawls (1993), p. 194.
 - 12 While some defenders of neutrality (perhaps, e.g., Dworkin) will reject such policies, political liberals, as I argue below, can at least permit some of them. They reject, as a basis for political association, any specific conception of the good, but they recognize the need, in practice, to provide conditions in which good lives of various kinds can flourish. They also have to face up to the hard choices that arise when the conditions for one good kind of life are incompatible with the conditions for another.
 - 13 It has been argued by Scanlon (1975), and noted by Nagel (1987), that we need at least some theory of the good if we are to make judgments about distributive justice – for these will require judgments as to who is better or worse off.
 - 14 Though it is relatively so – as, by the way, elements of the conception of value Sher defends in his book are relatively uncontroversial. I think a lot of what Sher says, much of it inspired by Aristotelian ideas, could be accepted by theorists like Rawls. Among those who might find Rawls's list controversial are feminists like Young and Benhabib, each of whom suggests that abstract generalizations about what persons need risk leaving out the needs of under-represented persons or groups.
 - 15 Nelson (1984), and Sen (1992).
 - 16 At the end of his book, Sher seems to go further, arguing that it is actually legitimate to ground a state on a conception of the good. But then he does not seem to accept the political liberal's constraint on legitimacy.
 - 17 Raz, in the last paragraph of "Facing Diversity . . ." (1990), doubts that both conditions can be met. This essay was written before Rawls's *Political Liberalism*. Whether the ideas there – in particular, the conception of the reasonable – help, seems to me an interesting question.
 - 18 My thanks to Greg Brown, Dave Phillips and George Sher for discussing these ideas with me and for comments on an earlier draft.

Bibliography

- Bailey, J. W. (1997). *Utilitarianism, Institutions and Justice*. New York: Oxford University Press.
- Benhabib, S. (1987). "The generalized and the concrete other." In S. Benhabib and D. Cornell (eds.), *Feminism as Critique* (pp. 77–95). Cambridge, Eng.: Polity Press.
- Berlin, I. (1969). *Four Essays on Liberty*. New York: Oxford University Press.
- Buchanan, J. M. (1975). *The Limits of Liberty*. Chicago: University of Chicago Press.
- Dworkin, R. (1985). "Liberalism." In *A Matter of Principle*. Cambridge, MA: Harvard University Press.

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- Hampshire, S. (1989). *Innocence and Experience*. Cambridge, MA: Harvard University Press.
- Hardin, G. (1988). *Morality within the Limits of Reason*. Chicago: University of Chicago Press.
- Hardin, R. (1986). "The utilitarian logic of liberalism." *Ethics*, 97: 47-74.
- Hayek, F. (1948). "The use of knowledge in society." In *Individualism and the Economic Order*. London: Routledge.
- (1960). *The Constitution of Liberty*. Chicago: University of Chicago Press.
- Kekes, J. (1997). *Against Liberalism*. Ithaca: Cornell University Press.
- Larmore, C. (1999). "The moral basis of political liberalism." *Journal of Philosophy*, XCVI: 599-625.
- (1996). *The Morals of Modernity*. New York: Cambridge University Press.
- (1987). *Patterns of Moral Complexity*. New York: Cambridge University Press.
- Mill, J. S. (1978). *On Liberty*. Indianapolis: Hackett.
- Nagel, T. (1973). "Rawls on justice." *Philosophical Review*, LXXXII: 220-34.
- (1975). "Libertarianism without foundations." *Yale Law Journal*, 85: 136-49.
- (1987). "Moral conflict and political legitimacy." *Philosophy and Public Affairs*, 16: 215-40.
- Nelson, W. (1984). "Equal opportunity." *Social Theory and Practice*, 10: 157-84.
- (1980). "The very idea of pure procedural justice." *Ethics*, 90: 502-11.
- Nozick, R. (1974). *Anarchy, State and Utopia*. New York: Basic Books.
- Okin, S. M. (1989). *Justice, Gender and the Family*. New York: Basic Books.
- Rawls, J. (1958). "Justice as fairness." *The Philosophical Review*, LXVII: 164-94.
- (1971). *A Theory of Justice*. Cambridge, MA: Harvard University Press.
- (1975). "Fairness to Goodness." *The Philosophical Review*, 89: 536-54.
- (1993). *Political Liberalism*. New York: Columbia University Press.
- Raz, J. (1986). *The Morality of Freedom*. New York: Oxford University Press.
- (1990). "Facing diversity: The case of epistemic abstinence." *Philosophy and Public Affairs*, 19: 3-46.
- Sartorius, R. E. (1975). *Individual Conduct and Social Norms*. Encino and Belmont, CA: Dickenson.
- Scanlon, T. (1975). "Preference and urgency." *Journal of Philosophy*, LXXII: 655-68.
- Scanlon, T. M. (1998). *What We Owe to Each Other*. Cambridge, MA: Harvard University Press.
- Scheffler, S. (1994). *The Rejection of Consequentialism* (Revised edn). New York: Oxford University Press.
- Schwartz, A. (1973). "Moral neutrality and primary goods." *Ethics*, 83: 294-307.
- Sen, A. K. (1992). *Inequality Reexamined*. Cambridge, MA: Harvard University Press.
- Sher, G. (1997). *Beyond Neutrality*. New York: Cambridge University Press.
- Waldron, J. (1993). *Liberal Rights, Collected Papers, 1981-1991*. New York: Cambridge University Press.
- Young, I. M. (1990). *Justice and the Politics of Difference*. Princeton: Princeton University Press.