

Considering the Radical Critique of Rawls

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Abstract

John Rawls' *A Theory of Justice* is the most influential development of liberal political philosophy in the last fifty years.

Its influence is manifested as much in those who criticise the work as in those who endorse its project, and this thesis develops a view of Rawls in opposition to certain critics from the left of the political spectrum.

The core of this thesis is an attempt to make sense of the relationship between the model of society developed by Rawls in his book, and the social and political condition in which we live. Presumably, the great interest the book attracts is in part because of the timeliness of the work, and yet just *how* the theory of justice guides us in our attempt to make a more just basic structure is elusive.

Each of the critics examined here hold *some* view on this relationship and, by demonstrating the deficiencies in their understanding, we come to a rather more sophisticated appreciation of the problems which arise when attempting to make sense of the moral demands Rawls' theory makes of the design of our basic institutions.

The Communitarian critique of Rawls centres on a claim about the abstract nature of the self which is utilised in developing his theory. In developing the argument against Rawls from the nature of the relationship between the well-ordered society and our own society, our critique centres upon the abstract nature of the *society* Rawls utilises in constructing his theory. In this sense, our critique has certain parallels with that offered by the Communitarian critics.

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Introduction

I

Ever since the publication of John Rawls' *A Theory of Justice* the extraordinary scope and insight of the work has been acknowledged by the sheer weight of criticism directed against it - - it is almost impossible to imagine the map of political philosophy before its arrival. The philosophical liberal tradition certainly benefited from increased status as a result of its impact, and given the company in which Rawls' work is mentioned, it surely stands as one of the greatest works of political philosophy in this century.

II

This thesis attempts to set out and critically examine certain arguments advanced by critics from the left. Even when limiting our enquiry to this side of the political spectrum, the manner and extent of criticism defies adequate treatment within the space allowed, and so we have (reluctantly) put aside many already well-travelled areas in order to develop in more depth those criticisms which have been suggested by a reading of Rawls which focusses attention upon the relationship between Rawls' theory and the social world we inhabit.

There are two, ultimately connected, themes underlying the critics whose arguments are examined within this work - - these will become clear if we preview the areas of concern to us.

III

At first glance, *A Theory of Justice* utilises social scientific knowledge in the arguments for the two principles of justice. Each of the critics examined here have taken this reliance at its face value, and have inferred certain methodological commitments on Rawls' part. Daniels claims that Rawls opens his theory to counter example from the body of social scientific literature which shows that unequal liberty cannot be avoided in a society which, like our own, exhibits large inequalities in wealth and income - - this insight is used to show how, from the point of view of the parties in the original position, it would not be rational to accept this inequality. Rawls suggests a distinction between liberty and worth of liberty, and suggests that this avoids the above noted problem. Daniels argues that this distinction cannot be made sense of within the original position - - this understanding is challenged in the first chapter.

The second chapter takes issue with a claim that Rawls is inconsistent to hold that the well-ordered society must guarantee the social bases of self-respect, while at the same time failing to acknowledge that the distribution of power structurally required by capitalism is a barrier to the achievement of this aim. This criticism does not rest upon a certain understanding of the contract device, as did the first, but instead suggests that the difficulty lies in a failure to appreciate the effect of the distribution of power upon the ability of the workers to pursue their own conceptions of the good - - something for which social scientific evidence exists. Such an approach rests heavily upon a structural account of power which is shown to be incompatible with the reading of Rawls accepted - - that the well-ordered society must be arranged so as to underpin self-respect.

The third chapter again focusses upon a social scientific commitment found in

Rawls, or rather, a failure to acknowledge a commitment which these critics claim is required. Rawls sketches a just capitalism in the fifth chapter of *A Theory of Justice*, and this is held to be incompatible with the requirements of his own principles of justice. The only society which can realise the principles of justice is one in which the means of production are owned by the workers - - that is to say, some form of socialist society. Rejecting this view reinforces a way of reading Rawls which has been developed up until this point, one which stresses the essentially abstract nature of the theory of justice. It is simply a mistake to demand that a theory of justice yield a determinate answer to the question of which form of economic arrangement is just - - such a judgment can only be made in consideration of other factors, of the time and place in which the judgment is made. This view, however, renders more effective a stronger version of the above criticism, which stresses that a theory of justice which fails to provide a determinate answer to the question of the justice of presently existing economic forms can possibly stand up against those theories, for example, Marxism, which *begin* with a critical analysis of contemporary economic arrangements.

The fourth chapter takes up this theme, suggesting that a further, related, weakness in Rawls' account is that his failure to provide an assessment of current society and its relationship to the organisational requirements of his theory, leads to the conclusion that he has no coherent account of how the principles of justice could possibly lead to change in our current social arrangements. Once again, the absence of a consideration of problems of justice as they arise for us has led to a weakness in the view of the well-ordered society and its realisation.

IV

Our critical gaze is in all cases, and throughout, directed towards the attitude,

contained in the works we examine, that Rawls has compromised any content his theory might have in order to secure the generality he seeks. This is the first theme running through the criticisms set out above, in which a defence of his theory is only possible by stressing the way in which it is in no sense open to attacks using social data from our own situation.

At the beginning of his project, Rawls attempts to avoid the too-abstract-to-be-useful charge by building into the model of the person certain features of our psychology, and building into the model of the society certain features of our society. The question is whether this strategy has succeeded. This is the second theme running through our inquiry, as this thesis, unlike the position taken in Sandel(1982), does not criticise the ideal of the person Rawls uses to begin his argument, but starts 'at the other end' - - with the ideal of society Rawls wishes to promote¹. While sharing many of the concerns voiced by Sandel, Taylor, and others, an attempt is made here for the first time to show that the damage originates in the relationship between the ideal person and the matching ideal society on one side, and the society and individuals from which they are supposed abstractions on the other. This objection is the original feature of the thesis.

Rawls himself notes (cf 259) that the form of society will effect the kind of needs and desires which are to be encouraged. This is why the utopian objection completes the study, since it is here (as well as in a certain form of the economic objection) that we find the biggest problem for Rawls' theory. If desires and needs are at least partially determined by the social structure, then it is unclear what events could possibly prompt the occurrence of the required reorganisation of a social

¹ Actually, this is the wrong way to think of the process, since Rawls has an ideal of the society in his mind at the start - - when dealing with ideals, the matching of one to the other is a matter of choice, but one ideal suggests the other.

structure *given that the sense of justice is always promoted by the existing social structure?* In other words, what, other than the sense of justice which can only be fostered by the realisation of the theory of justice, provides the impetus to move from the existing unjust state to the ideal state Rawls promotes? Additionally, as Rawls does not provide any account of the present social system, there can be no sense in which his theory is calling for social change at all. Much depends upon the way he understands our current situation, and on this he is silent.

The relationship between the well-ordered society and our own society is, then, our central concern. In each of the critics dealt with here, it is possible to detect a certain thoughtlessness about this subject, that is, they all assume that the relationship between the two is straightforward and unproblematic, but this oversight ignores certain complexities and a possible ambiguity in Rawls' system. The central aim of this thesis is to focus upon the various formulations of the relationship which have been advanced, with the intention of showing the faults in these accounts while, at the same time, an alternative reading of Rawls is developed throughout the work. However, challenging the unproblematic reading of Rawls has unpleasant side-effects, since it brings certain other objections to bear in a particularly acute way. The final assessment must be that the criticisms fail due to their, too hasty, reading of Rawls on this difficult issue. The reading developed in this work emphasises those weaknesses in Rawls' account which demonstrate the inapplicability of the theory of justice in any straightforward way to the conditions of our own society, and this is surely a failing in a political philosophy. Finally, I offer some ways in which the proposed way of thinking about Rawls might lead to an answer to the last objection. These are offered as a conclusion without being argued for in detail. That is another project.

This inquiry has intentionally been restricted to considerations arising from his

first book. In part, this is because the critics we are concerned with have themselves restricted their attacks to this book, but also because it is by no means clear that the late Rawls is engaged upon a similar enough project to warrant dealing with both bodies of work in the same thesis. It is acknowledged, however, that the short discussion of Rawls as pragmatist is based upon a reading of his work by Rorty (see especially 1989 and 1990) which reads early and late Rawls as a continuous whole. A similar commitment does not underpin any part of this work.

Chapter 1

Daniels and Rawls' distinction of liberty and Worth of liberty

Summary

In this chapter we consider Daniels' critique of Rawls' distinction between liberty and worth of liberty. Daniels employs the methodological device of the original position in order to deny any sense to the above distinction. Employing the methodology in this way leaves the way open for a defence of Rawls - - as Daniels claims that the knowledge open to the parties in the original position would lead them to reject Rawls' principles of justice, much depends upon the nature of the knowledge allowed to the parties. Textual evidence is utilised in arguing that Daniels is mistaken in his views about the type of knowledge which the parties can have, and this is shown to be closely related to the way in which Rawls understands the effects of the social structure upon the expectations of the citizens in any society. In particular, the worth of liberty is a factor open to consideration only *after* the principles have been selected, it is therefore a consideration only when attempting to *realise* the principles of justice in the basic structure of a society.

I

In his paper 'Equal Liberty and Unequal Worth of Liberty', Daniels takes issue with the way in which Rawls defends his claim that it is possible to reconcile the demands of his first principle of justice, couched in terms of equality of liberty, with the permissions of the second principle, which allows "inequalities in income, wealth, powers and authority" (Daniels 1975: 254) provided that these inequalities could not

be reduced without worsening the lot of the worst-off group in the ideally just society.²

Admittedly, the problem would appear trivial if the theory of justice formulated by Rawls somehow guaranteed that the inequalities allowed by the second principle would be slight (actually by the second part of the second principle, that is, the ‘difference principle’), but this guarantee seems to be lacking, and so Daniels concludes that:

We are therefore forced to assess the compatibility of First and Second Principle equalities and inequalities in the least favourable case, where social and economic inequalities may prove to be large.
(Daniels 1975: 254)

How should we understand the point of such ‘incompatibility’ claims about Rawls’ two principles? Such claims do not deal with logical incompatibility, but with concerns which arise from Rawls’ own comments about the criteria of success for a theory of justice. In other words, Daniels is happy to accept and to modify Rawls’ own criteria for success. Such an approach is thought to give Rawls the best possible chance to defeat the objections which Daniels raises against him, as well as to prove most damaging should his defence prove unsatisfactory.

This technique is acknowledged at a later stage of the paper when Daniels is considering Rawls’ distinction between liberty and worth of liberty:

Considerations internal to Rawls’ own theory open him to the charge that equal liberty without equal worth of liberty is a worthless abstraction. No doubt, this charge could be explored directly by trying to discover what value there is to equality of liberty if the liberty cannot effectively be equally exercised. *But it will be more illuminating of Rawls’ theory to ask the question from the point of view of agents in the original position.* (Daniels 1975: 263 - - emphasis added)

² Rawls calls this the Well-ordered Society. The title hides a number of interesting features which such a society must have, and we shall return to consider these in a later chapter.

It should also be clear from the above that Daniels is not directly criticising Rawls' methodology, that is, his contractarian approach, rather, Daniels is concerned with the normative *content* that results from this approach. Such a criticism leaves open the possibility of further, direct arguments against the structure of Rawls' theory, but there is an important reason why Daniels does not wish to take this course, and one which is not stated explicitly in his paper. This point can be illuminated in a further consideration of Daniels' views about the nature of the incompatibility between the first and second principles.

II

If logical impossibility cannot be the test for compatibility between the two principles, any incompatibility must derive from certain features of the principles, not considered in abstraction, but as they are intended to be assessed - - *as realised in a society*. Here, the concern with issues surrounding the realisability of Rawls' theory is mentioned for the first time - - it is the horizon for our inquiries, and is one of the key themes of this work.

Daniels holds that:

...[Rawls] requires that his ideal must be socially possible...[i]t must comprise a workable conception of justice in light of what we know from general social theory, including psychology, sociology, history, economics, and political science. (Daniels 1975: 255)

The reference provided as support for this view is Rawls' discussion of the knowledge possessed by the parties in the original position. Daniels places a great deal of weight upon the original position, partly for reasons we have mentioned above,

but also because of the relative rationality proofs he constructs in the second half of the paper. Of course, any weight placed upon the original position should focus our attention upon the dominant characteristics of this device, some of which I take up now.

The reference given by Daniels for his view of the original position is p.138 of *A Theory of Justice*. It is important to attempt to make the nature of the relationship between social science and political philosophy as Rawls understands it clear at this point, since Daniels has made some hasty assumptions which prejudice his view of Rawls' project, and much of his following discussion reflects this.

In his discussion of the veil of ignorance (section 24) Rawls sets out the restrictions on knowledge which apply to the parties in the original position, and which obviously constrains their choice of principles. The parties are said to:

...know the general facts about human society. They understand political affairs and the principles of economic theory; they know the basis of social organisation and the laws of human psychology. Indeed, the parties are said to know whatever *general* facts affect the choice of the principles of justice. (Rawls 1971: 137-138)

We should note at this point that a number of discrepancies between Rawls' list and Daniels' list exist. Daniels has presumed that 'the general facts about human society' is synonymous with 'general social theory', however, it is by no means clear that Rawls would agree without further clarification as to what criteria are applied to judge the *truth* of the theories which Daniels has in mind, an issue which requires further examination.

Rawls makes it clear that the parties in the original position:

...do not know the particular circumstances of their own society. That is, they do not know its economic or political situation, or the level of civilisation and culture it has been able to achieve. (Rawls 1971: 137)

But such a restriction *must* rule out certain aspects of the social sciences which earn their interest for us precisely *because* they tell us truths about the institutions of our particular societies. This view is captured in the above quotation from Rawls; the parties “do not know the particular circumstances of their own society.”. How else *could* anyone obtain this particular knowledge if not (at least partly) through social scientific inquiries. It is not controversial to claim that such things as inquiries into voting patterns or political activity among the unemployed, or rates of reoffence following various educational programmes are ruled out for the reason already given, but it *may* be controversial to claim that *all* the research programmes carried out by the social sciences are ruled out for the same reasons. The point is that these ‘bodies of knowledge’ cannot be taken as a whole for the purpose of assessing Rawls’ theory of justice, and that some more sophisticated view must be adopted as to *which* findings are admissible.

I take it that such a restriction is a restriction upon the level of *generality* of knowledge which the parties may have. Such an understanding has implications for the following chapters of this work, but here I sketch out the problem it raises for Daniels alone.

III

Textual evidence supports this reading of Rawls, evidence which also points to an important further consideration for the relationship between the knowledge held by the parties in the original position, and the principles of justice derived from it.

In section 26 of *A Theory of Justice*, Rawls points out that:

...there is no objection to resting the choice of first principles upon the general facts of economics and psychology...the parties in the original

position are assumed to know *the general facts about human society*. Since this knowledge enters into the premises of their deliberations, their choice of principles is relative to these facts. *What is essential, of course, is that these premises be true and sufficiently general.*
(Rawls 1971: 158 - emphasis added)

several pages later, he concludes that:

...without these elements the whole scheme would be pointless and empty. (160)

Daniels' main point appears to be confirmed, since these facts of 'sufficient generality' are vital to the whole contractarian scheme. This is important for the next stage in the development of his argument, since he uses this understanding to draw an analogy between Rawls' comments about the importance of 'the principles of moral psychology' and other 'empirical evidence'. In order to see the problem, we need to further develop this analogy.

Rawls, says Daniels, gives a criterion for acceptability of a theory of justice in his discussion of the principles of moral psychology. Rawls is said to suggest that any theory which closely reflects these principles is more *stable* than its potential rivals, and that this is a crucial requirement for the acceptability of a theory of justice. The principles of justice are acknowledged openly in the well-ordered society, and this is a central feature of the well-ordered society, for only when the chosen principles are publicly acknowledged is the necessary commitment to them generated. If the principles of justice were realised in the basic structure of the well-ordered society, but this fact were not generally recognised by the citizens, then the necessary cohesion could not be maintained, since the individuals must each *recognise* that the basic organising principles of their society are just in order to maintain their allegiance to these principles as realised. This is the view captured by Rawls' 'publicity

condition'. In section 29 he explains its importance:

...a strong point in favour of a conception of justice is that it generates its own support. When the basic structure of a society is publicly known to satisfy its principles for an extended period of time, those subject to these arrangements tend to develop a desire to act in accordance with these principles and to do their part in institutions which exemplify them. A conception of justice is stable when the public recognition of its realisation by the social system tends to bring about the corresponding sense of justice...whether this happens depends...on the laws of moral psychology and the availability of human motives.
(Rawls 1971: 177)

We are referred to sections 75 and 76 in which Rawls develops his views on moral psychology, to which we shall shortly turn for further guidance. First, however, we should aim to become clear about the lesson which Daniels extracts from the role played by these laws.

Rawls holds the view that stability is an important constraint upon "the content of an adequate moral theory." (Daniels 1975: 255). Moreover, this constraint is empirical in character and is to be taken as "one determinant of social possibility" (255).

If this is so, claims Daniels, must there not be *other* 'determinants of social possibility', each also important because of their use as measures of stability? Just as the determining factor mentioned by Rawls is empirical in character, so these other factors will be employed in the same way, with the result that:

...if we have good reason to believe that the arrangements authorised by a conception of justice are not in line with the principles of political science or with what we know from history, then that conception of justice is to a certain degree unstable and perhaps not socially possible.
(Daniels 1975: 255).

This is the central move in the early part of the paper, since he uses it to introduce the apparently damaging consideration for the compatibility claim between

the first and the second principles. The specific claim is that if social science provides evidence that gross inequalities in wealth and power between individuals and classes 'cause or produce' inequalities of liberty, then this presents difficulties for Rawls' account - - drawing directly from his stress upon stability. Such a system could not be stable, as the publicity condition would allow the members of the well-ordered society to judge that this inequality is undermining the equality of liberty and so ensure that the necessary cohesiveness remains undeveloped. In such circumstances equality of liberty is not protected by the combined action of the two principles when realised in the basic structure of the well-ordered society.

It is, however, by no means obvious that the analogy between Rawls' view about the laws of moral psychology and their affect upon stability and Daniels' claims about inequalities of wealth and income is a good one. Sufficient differences exist to make us doubt Daniels' conclusions *in application to Rawls' theory*; to say this is not to say that inequalities in wealth and income do not cause us problems in our world, and that this might be a problem for liberal theorists *in general*. Our concern is with the normative content of Rawls' theory alone.

The laws of moral psychology play a vital role in Rawls' theory since they form the basis of the continuity of the well-ordered society. All discussion of the publicity condition rests upon this view of human moral capacities, and the force of the principles of justice is derived in large part from this view of human behaviour. Importantly, the laws as Rawls sets them out are applicable in the well-ordered society - - *there is no suggestion that they are manifested in our own societies*. Indeed, Rawls explicitly states this in section 74 in his discussion of 'Moral and Natural Attitudes' when he says:

...even if the sense of justice is the normal outgrowth of natural human attitudes within a well-ordered society, it is still true that our present

moral feelings are liable to be unreasonable and capricious. However, one of the virtues of a well-ordered society is that, since arbitrary authority has disappeared, its members suffer much less from the burdens of oppressive conscience. (Rawls 1971: 490).

He makes a further illuminating remark in the immediately following section:

A capacity for a sense of justice built up by responses in kind would appear to be a condition of human sociability.
(Rawls 1971: 495 - - emphasis added).

Comparing the above with the claim Daniels makes about the clash between the theory of justice and “ the principles of political science or with what we know from history”(Daniels 1975: 255) forces us to doubt his earlier claim that the kind of *stability* which Rawls has in mind is an empirical constraint in the same way that Daniels’ own is intended to be.

Moreover, the principles of moral psychology cannot be derived from empirical inquiry in the same way that Daniels believes his claims about the effects of inequalities of wealth and power on liberty can be derived from ‘the principles of political science or history’. Rawls talks of a *capacity* which is actually not realised in our present society, and it is unlikely that such a thing would be accessible to empirical study - - at least not without some contention, since the possibility of the study of non-manifested properties in social life is one which is contested, as we shall see in the next chapter.

Rawls’ earlier remarks concerning the level of knowledge accessible to the parties in the original position have a bearing on the argument at this point, since it seems dubious to claim empirical status for any knowledge drawn from history (one of Daniels’ preferred sources) which is sufficiently general to escape Rawls’ prohibition on knowledge of their societies “economic or political situation...level of civilisation and

culture” (Rawls 1971: 137)³. In fact, Rawls specifically denies knowledge of historical location in the following:

...the course of history is closed to...[the parties in the original position]; they have no information about how often society has taken this or that form, or which kinds of society presently exist.
(Rawls 1971: 200)

Of course, it is always possible to claim that nevertheless, history *can* yield knowledge of the required generality, just as it is possible to claim that political science can do likewise, but there must be considerable doubt that such general claims are really *empirical* in character - - at a certain level of generality, they become detached from the mass of social scientific inquiries and become philosophical - - history gives way to philosophy of history. Marx serves as an example of the way in which the relationship between general theories of this type and the social science which goes on in their name or against them becomes itself problematic.

Daniels himself provides unintended confirmation of this when he sets out his understanding of the processes he thinks problematic for Rawls. Introducing the social phenomenon which concerns him he says that “ inequalities in wealth and powers *cause or produce* inequalities in liberties” (Daniels 1975: 255 - - emphasis added). It is not clear at this point what the relationship between wealth and powers consists in, and his later remarks fail to clarify this:

By Rawls’ definition...inequalities in the ability to meet demands of conscience, when caused by unequal wealth *or* powers, just are inequalities in worth of liberty of conscience.
(Daniels 1975: 268 - - italicised emphasis added)

³ Once again, this does not rule out the possibility of employing such knowledge for a head on attack on Rawls’ views. Daniels himself rejects this option - - it is a good deal harder to make this ‘external’ criticism bite. It should be noted that the effect of this whole process of distancing Rawls’ theory from empirical considerations (as Daniels understands this term) will ultimately be seen to have very damaging implications for our understanding of his theory. I take up and develop this point in Chapter Four.

The conjunction of wealth and powers now becomes a *disjunction*. Prior to this he indicates a different relationship between the two:

...the inequality [of liberty] derives from the (usually) legal exercise of abilities, authority, and powers that *come with* wealth.
(Daniels 1975: 257).

Just following this quote, he refers to “wealth and concomitant powers.”. ‘Concomitant’ may be understood in two ways; first, it may mean that powers (always?) *accompany* wealth; secondly, it may mean that powers *exist in conjunction with* wealth. In either case, this view appears different from the view that wealth is *causally* related to power, and the above quote from page 268 confuses the issue still further by implying that powers may have a domain of effects which is not closely related to wealth.⁴

Undoubtably the phenomenon in question is difficult to pin down, but it hardly seems plausible for Daniels to assert that this understanding is in any sense *developed*, nor does he give any support for *any* of these interpretations from either historical sources or political scientific studies in the course of developing his arguments. If he should retort that this phenomenon is ‘obvious’ in the same way that Rawls holds the capacity for moral commitment ‘obvious’, we should respond that he has failed to give as much thought to the nature of the claims he builds his case on as Rawls obviously has. Daniels owes us a more explicit formulation of the way in which wealth and

⁴ This is of course the case, political office may be open to the wealthy but not the poor in the U.S.A., but those winning office have powers (and responsibilities) which clearly depart from those possessed by their non-office holding fellows. It is always difficult to determine whether Daniels takes power in the Marxian sense or the liberal sense. If it is the former, it is strange that he entertains Rawls’ arguments for equality of political liberty at all, since the Marxist analysis does not regard the relationship between the means of production and the capitalist as benefiting them in this narrow sense. Inequalities of political liberty are to be expected as the political institutions are part of the superstructure.

powers are related before we can assess the nature of his claims properly⁵. Rawls gives us this when he presents his views on moral psychology as a set of laws.

Further difficulties arise when Daniels attempts to draw conclusions from his dubiously grounded social science. On page 258 he acknowledges that the complexity of the phenomenon he is concerned with makes any knowledge claims about its nature problematic. What we do know, however, is that:

...the process of political control by the dominant economic class is highly complicated...it involves the combined effects of vast economic powers and control over ideological institutions...we fail to know what all, or even the main, causal mechanisms are. Therefore we fail to know if constitutional safeguards could satisfactorily interfere with them. (Daniels 1975: 258)

We are never to doubt in the face of all this ignorance, however, that the descriptions Daniels prefers enjoy a certain status - - that they would be among the knowledge possessed by the parties in the original position, and that the parties would use such awareness in selecting their preferred principles of justice from among the options they are presented with.

Once again, it is at least questionable that Daniels' views are empirically grounded, and that this knowledge jeopardises the selection of Rawls' two principles as set out in the special conception of justice, but there is a further worry about Daniels' understanding of the implications of such knowledge, Daniels writes:

My own view is that formal, procedural guarantees are *never* sufficient to make sure small groups or classes cannot gain significant advantages in political liberty *and power*...equalising liberty between antagonistic classes by devising the proper form of government is an impossible dream. (Daniels 1975: 258.)

⁵ In the next chapter we shall examine certain claims about the negative effects of power on liberty which are based upon evidence from social scientific inquiries, together with the problems which arise from this approach. For now, we merely note that Daniels' view lacks even this basis.

Under one interpretation, these comments raise the charge of utopianism against Rawls' theory, and this view will be examined in the fourth chapter, but once again, Daniels' remarks seem to indicate a much deeper *philosophical* disagreement between he and Rawls.⁶

The nature of the philosophical difference between Rawls and Daniels is plain to see - - he takes a 'bottom up' view of the relationship between social systems and political institutions, which, if correct, would lead to Rawls' entire project being dismissed as futile. If there is *no possibility* of organising state institutions so as to prevent concentrations of power, influence, or wealth, with the consequence that unfair advantages accrue to 'small groups', then *any* attempt to produce principles of justice realised in such structures is doomed to failure. Daniels contends in the main body of the paper that:

Persons in the original position are aware how little is really known about the relevant mechanisms [by which certain classes accrue power and exert unfair control over the political process] (Daniels 1975: 258).

For this to have the effect that Daniels supposes it will have on the decisions taken by the parties in the original position, the further assumption is needed - - that the parties will hold the general position which Daniels holds. But this is not obvious, since the parties may just as easily conclude that such uncertainty is a sign of the tenuous status of the claim that this general position is in some sense 'known'. This conclusion is supported by considerations arising from the *way* in which the general knowledge possessed by the parties relates to their choice of principles of justice.

⁶ It is also worth noting here that in these passages, Daniels has slipped from a discussion of equality of liberty in general to a discussion of equality of political liberty in particular, with no acknowledgement of this reduction in scope. This focus upon political liberty may yield a distorted strength to his arguments about the distinction between liberty and worth of liberty in general. As Joshua Cohen notes in his paper 'Democratic Equality' (Cohen 1989) this emphasis takes advantage of the peculiarly competitive nature of the use of political liberty, given the nature of politics.

In his discussion of the knowledge possessed by the parties in the original position, Rawls clearly states the way in which we are to understand the relationship between the choice of principles and “the natural facts about men in society.”(Rawls 1971: 159). This is an important aspect of his justification for the two principles of justice, since the principles enjoy a close relationship to the knowledge which is open to the parties who select them. In section 26, ‘The Reasoning for the Two Principles’, he notes the way in which both justice as fairness *and* utilitarianism relate the selection of moral principles to features of the world. This sets both of these theories apart from alternatives which begin from ‘nowhere’, that is, from those who believe “that ethical first principles should be independent of all contingent assumptions.”(159).

Although such general facts are to be taken into consideration, the *way* in which justice as fairness does this differs markedly from the way in which utilitarianism does so. This difference is held to be vital in view of the publicity condition we have already mentioned.

One of the conditions for acceptability of a theory of justice is that it should meet our ‘considered judgments’ about a range of moral outcomes; for example, a principle or principles of justice which did not rule out the possibility of slavery would strongly conflict with our considered judgments about the moral acceptability of such an institution, and would be unlikely to achieve the public endorsement necessary for its success. This is the view expressed by utilitarians, but:

Justice as fairness, by contrast, embeds the ideals of justice, as ordinarily understood, more directly into its first principles. This conception *relies less on general facts* in reaching a match with our judgments of justice. (Rawls 1971: 160 - - emphasis added)

Rawls gives two reasons for favouring this approach, which *embeds* the ideals of justice into the first principles - - both cast further doubt on the strength of the analogy drawn by Daniels between the knowledge he attributes to the parties in the original position and the laws of moral psychology.

The first reason given is that the utilitarian's denial of the morally unacceptable consequences of his theory stands or falls on the facts of society which are selected. But such facts may be:

...only probably true, or only doubtfully so. Moreover, their full meaning and application may be highly conjectural....*From the standpoint of the original position* it may be unreasonable to rely upon these hypotheses and therefore far more sensible to embody the ideal more expressly in the principles chosen...These remarks are further confirmed by the desirability of avoiding complicated theoretical arguments in arriving at a public conception of justice.
(Rawls 1971: 160-161 - - emphasis added)

The above supports the claim that Daniels' 'knowledges' would, in cases of doubt about their status, simply be abandoned as a basis of selection, rather than being employed with the consequent uncertainties transferred to the selection of principles of justice.

The second consideration also demonstrates a significant divergence between Rawls' favoured knowledge and that offered by Daniels. All moral conceptions in justice as fairness are public, and as Rawls makes clear in his discussion of moral psychology, the public acknowledgement of reciprocity as the basic feature of human society is vital to the continued development of that attitude in which reciprocity is confirmed and strengthened. So, to declare one's commitment to certain moral principles *despite the support they may receive from certain facts* provides the basis for the continued commitment to these principles from all members of a society. For

Rawls, the conditions necessary for social cohesion, if they are realised at all, will tend to reinforce themselves - - this is the basis of reciprocity. Rawls gives us his view on the effects of non-reciprocity in the following:

If we answered love with hate, or came to dislike those who acted fairly towards us, or were averse to activities that furthered our good, a community would soon dissolve. (Rawls 1971: 495)

Under justice as fairness, this condition is avoided, since to choose the two principles is to publicly announce one's commitment to the content of the principles regardless of the facts, which *might* have failed to provide justification for them. All this contrasts with the effects Daniels claims that his knowledge would have on the choice of the principles of justice. In his view, this knowledge is *sufficient* to prevent the parties in the original position from accepting the principles of justice set out by Rawls, but Rawls does not think that any knowledge which is available to the parties in the original position has that effect, since the laws of moral psychology are *embedded in the principles of justice themselves*. This must be so, since the principles contain the moral ideal of justice as fairness, and integral to this ideal is the idea of reciprocity which is the foundation of the laws of moral psychology.

Interestingly, Rawls holds the view that for a social theory to be useful in considerations of justice, the social theories concerned must employ *moral* notions. In the example given by Rawls, while it may be acceptable to say that in a system based upon co-operation between equals, the more individuals interact with each other, the more feelings of friendship develop, this 'law' is of limited scope, since it does not embody a notion of justice. We need to know that the arrangement is a just one, and that it is known to be just, since only when this is established are we able to assess the *acceptability* of such 'laws'. People will behave differently under different

arrangements, and the question of whether these arrangements are *just* can only be answered if the description of the law contains the idea of justice which it embodies.

This is vital to our understanding of any given society, since:

The justice or injustice of society's arrangements and men's beliefs about these questions profoundly influence the social feelings; to a large extent they determine how we regard another's accepting or rejecting an institution, or his attempt to reform or defend it.
(Rawls 1971: 492)

Unsurprisingly, the principles of moral psychology conform to this requirement, since they embody a conception of justice - - Rawls' special conception. The net result is that

the sense of justice is a settled disposition to adopt and want to act from the moral point of view insofar at least as the principles of justice define it. (Rawls 1971: 491)

Rawls gives the parties in the original position knowledge of economic theory, but in this discussion he notes how different economics is from the other social sciences Daniels wishes to draw upon. Economics assumes that its rules will be followed, and takes them as given, but neither of these attitudes can be transferred into the political sphere, since here it is the moral beliefs of the actors which guides them through the complex interrelationships which they are inevitably forced to confront when attempting to navigate society to a just arrangement. A public sense of justice is in this case necessary, since in this way social cohesion is maintained as all acknowledge the end they pursue. Rawls concludes that:

...a correct theory of politics in a just constitutional regime presupposes a theory of justice which explains how moral sentiments influence the conduct of public affairs. (Rawls 1971: 493)

In which case, it is hard to see how any of the knowledge which is available to

the parties in the original position could have the 'detached' quality which Daniels requires - - the social science of the well-ordered society will not necessarily yield the same knowledge as our own social sciences, and only the former is available in the original position which is, as has been said, merely the embodiment of the ideal of justice Rawls develops.

The implication for Daniels' account should now be plain; Rawls' account of the constraints on the choosers in the original position is too closely related to the special conception of justice to allow a place for Daniels' own concerns about the iniquitous effects of economic inequalities on liberty. To include these insights would be to alter the nature of the original position so that the principles of justice, even if selected, would not be selected for the right reasons.

IV

The argument against Daniels remains incomplete without consideration of the later sections of his paper in which he specifically takes issue with Rawls' use of a distinction between liberty and worth of liberty. As Daniels understands the distinction, Rawls seeks to avoid the compatibility problems we have discussed above. He does this by claiming that, while certain things *can* have a detrimental effect on the exercise of equal liberty, other things cannot have this effect. In the former category, Rawls says that

...constraints may range from duties and prohibitions defined by law to the coercive influences arising from public opinion. (Rawls 1971: 202)

But a reduction in the ability to exercise one's rights due to "poverty and ignorance, and a lack of means generally" (Rawls 1971: 204) is a constraint upon *worth* of liberty alone, and so any society in which the latter occurs is not necessarily a society in which

equality of liberty has not been maintained.

Daniels maintains that this distinction is untenable, and that inequality of wealth and power is no longer incompatible with equality of liberty. The method he employs to demonstrate the problem for Rawls is the construction of relative rationality arguments for the liberties dealt with by Rawls - - liberty of conscience and political justice. In each case, claims Daniels, if it is rational for the parties in the original position to choose equality of liberty, it is also and for the same reasons rational for them to choose equality of worth of liberty. The problem arises because the parties in the original position would *not* find it rational to accept a society in which the right to, say, participate in elections as a candidate is held by all, and yet also to *accept* that the *same* society did not, by virtue of the inequalities of wealth existing therein, guarantee everyone the chance to exercise that right.

Although this characterisation of Rawls's views is in many elements correct, returning to the text reveals some tensions which are interesting when developed. The central statement of the distinction between liberty and worth of liberty is found in Rawls' discussion of 'The Concept of Liberty' (section 32), where he does indeed make the point Daniels attributes to him concerning the effects of wealth and authority upon the exercise of liberties. For Rawls, such inequalities are *not* taken to effect the equality of liberty - - or at least not on one reading of the relevant passages. On the reading given by Daniels, Rawls is using this distinction to avoid the difficult (for him) truth that inequalities of wealth and income precisely *do* effect the equality of liberty as evidenced by many instances from our own society. However, in his discussion of political justice, Rawls *does* appear to raise concerns about the level of worth of liberty which suggest that he accepts the general feeling that vast inequalities in wealth and income are inimical to the establishment and continued maintenance of

political liberties. Moreover, the cost to a society aiming at justice is extreme, since the effect of a political system in which those with the means are seen to control the political agenda is the reinforcement of this state of affairs with the result that:

...the less favoured members of society, having been effectively prevented by their lack of means from exercising their fair degree of influence, withdraw into apathy and resentment. (Rawls 1971: 226)

Clearly, this is not compatible with stability in Rawls' sense, since the members of such a society would fail to acknowledge the sense of justice which is reflected in such a system - - there would be no development of the capacity for justice as Rawls also requires.

Rawls does mention several ways in which a society allowing private ownership of the means of production could attempt to prevent the erosion of the fair value of the political liberties, but the fact that he makes the suggestions in these terms indicate that he thinks the solutions suggested are in no way *requirements* of his theory, which, for him, is neutral on the question of private versus public ownership of the means of production.⁷ This point is confirmed when he refers to the entire preceding discussion as dealing with questions of 'political sociology'.

This is not to say that these questions are not important for the future of any social arrangement which is to be considered just, but it *is* an indication that such a view is *external* to considerations of Rawls' theory - - something which " must not be mistaken for a theory of the political system." (Rawls 1971: 227). Rawls is here making a point which we shall return to in later chapters, that the work of formulating a theory of justice does not *by itself* guarantee a just state *when realised*.

This is a radically different view of Rawls' project from that presented by

⁷ Others are not in agreement with Rawls on this point, but this debate shall be deferred until chapter three.

Daniels, who found it crucial to understand that Rawls intends his theory to be a workable model - - as he himself admits at the beginning of the work. Under the reading developed here, Rawls intends his theory to be realisable only in the sense that it does not transgress the laws of human interaction as he has identified them, and not that it provides a prior guarantee of success. Questions of how to secure equal worth of liberty are very important for the success of the well-ordered society, but they are not questions to which a theory of justice can provide answers. The theory of justice merely lays down the requirement that worth of liberty is not allowed to grow so unequal that equality of liberty is undermined. This reflects the priority of the first principle over the second.

It might still be wondered if the worth of liberty *does* fall under the second principle, even for this general guidance on the question of the *application* of Rawls' theory. In dealing with this topic in section 31, we find him making a distinction between the *levels* at which the principles of justice are brought into play - - this constitutes a division of labour between the two principles based upon Rawls' contention that the application of the first principle is more easily established, there is a clarity of requirement in the case of the first principle which is absent in the case of the second. It is vital for the case being made here to note the distinction as Rawls intends it.

The first principle:

...is the primary standard for the constitutional convention. Its main requirements are that the fundamental liberties of the person and liberty of conscience and freedom of thought be protected and that the political process as a whole be a just procedure. Thus the constitution establishes a secure common status of equal citizenship and realises political justice. (Rawls 1971: 199).

The second principle:

...comes into play at the stage of the legislature. It dictates that social and economic policies be aimed at maximising the long-term expectations of the least advantaged under conditions of fair equality of opportunity, subject to the equal liberties being maintained. *At this point the full range of general economic and social facts is brought to bear.*" (Rawls 1971: 199 - - emphasis added)

It should now be clear that Rawls intends worth of liberty to be a factor taken into account when realising the whole theory of justice since his subsequent comments about the need to avoid the harmful effects of accumulations of wealth (under some economic arrangements) only make sense if the first principle is being used to constrain the legislative process as described above.

Also note how, at this level, the knowledge which the participants in the society possess is much wider than that holding at the first (constitutional) level. This confirms our earlier argument against Daniels, when we noted that different knowledges would be permissible in the original position from the ones which Daniels claimed were applicable. Those knowledges are only present at the stage at which the theory of justice is *realised*, and as should now be clear, this is *not* the point at which the principles are selected.

If this is the case, it is not possible to ask the parties in the original position questions which relate to the *realisation* of the theory of justice, since this follows from the selection of the principles from behind the veil of ignorance as it has been defended above. But all problems of securing permissible levels of inequality in worth of liberty are realisation problems, and cannot be considered in the original position which is the device for *selecting* the principles of justice. The parties in the original position *cannot* have the resources for comparing outcomes from the realisation of the

principles of justice with the principles as formulated in the way that Daniels requires for his objections contained in the relative rationality arguments to hold.

Chapter 2

Rawls, Self-respect, and Power

Summary

Doppelt, like Daniels, claims that Rawls has a methodological commitment to avoid certain unjust practices within our own society, as revealed by social-scientific inquiry. The unequal distribution of power in a capitalist society is a problem for which much evidence exists, and yet Rawls avoids considering its importance for the structure of the well-ordered society. His claim that stability can only be secured by guaranteeing the social bases of self-respect, is incompatible with a claim that the well-ordered society may utilise a capitalist system of production which is *predicated* upon the continuity of unequal power relations - - a view for which social-scientific inquiry has provided much evidence.

Power is held to be a property of the capitalist system, and inequality of power makes it impossible for a capitalist economic system to guarantee the self-respect which Rawls thinks is necessary for the well-ordered society. Rawls' project is then flawed, containing an unacceptable tacit commitment to capitalism.

Much turns on the view of power relied upon in this criticism, and an attempt is made to become clearer about this notion. Various accounts of power are set out, and an attempt is made to locate the view of power which Doppelt employs in his criticism. A problem arises, since the structural account of power which he supports is, (i) not shared by Rawls, and (ii), incompatible with the thrust of the criticism that inequality of power undermines the self-respect of individuals. There is no easy way to reconcile a view of power as a structural property, and a view of power as a property of

interpersonal relations. Doppelt fails to appreciate the extent of this problem.

I

As we saw in the first chapter, there is reason to doubt the *prima facie* assumption that Rawls' theory draws upon features of our social systems as revealed by social-scientific enquiry. The approach taken by Daniels attempted to reconstruct Rawls' theory in this way with the intention of demonstrating an inconsistency in his account. This attempt was unsuccessful in part *because* of the way it understood the relationship between Rawls' contractarian method and the substantive element of his theory.

In this chapter, we focus upon a slightly different approach, one which also shares Rawls' methodological assumptions, although the original position is not explicitly employed. Instead of utilising directly Rawls' contractarian method, the features of Rawls' account which Daniels finds so compelling are taken as all that is necessary for a telling critique, as our central interlocutor says:

Once we take Rawls' methodological notions of publicity, well-orderedness, and stability seriously, social philosophy *must* evaluate embodied systems of justice and not merely their principles taken in abstraction. For this reason, our study focuses on Rawls' whole vision of a just society, as well as the socio-empirical assumptions concerning existing society upon which it rests...our argument fully shares his own methodological presuppositions. (Doppelt 1981: 265-266)

The general thrust of this critique is to show how Rawls is mistaken in his claim that the well-ordered society can be specified without embracing either capitalism or socialism. There are two broad approaches to this problem in the literature; this chapter examines that found in Doppelt (1981). The general approach is echoed in Nielsen(1991). The second approach, which focuses instead upon the model of the

property-owning democracy and which attempts to draw out from this the implications for his theory's relationship to economic theory, will be examined in chapter three.

Rather like Daniels, then, Doppelt contends that Rawls is proposing a methodological guideline when he says that "conceptions of justice must be justified by the conditions of our life as we know it or not at all." (Rawls 1971: 454). Specifically, this implies that Rawls opens his theory up to criticism derived from the findings of social-scientific research. Doppelt's approach differs from that of Daniels in giving examples of the findings of research which are held to present difficulties for Rawls.

II

Doppelt begins by offering an account of Rawls' theory which focusses upon the claims he makes about the centrality of self-respect in the well-ordered society. At several points in his discussion of the various goods and liberties, Rawls brings in self-respect in a revealing way. The primary goods given attention in an account of social justice are those which fall within the scope of the basic institutions of a society - - these institutions are held to be able to control their distribution to a large degree. In setting out these social primary goods, Rawls notes that self-respect is among them, but that it does not feature in the discussion of justice until the third part of *A Theory of Justice*. In section 67, Rawls returns to consider the importance of self-respect, and states that it has as its basis "democracy in judging each other's aims" (Rawls 1971: 442), and is therefore a central notion in explaining how ties of association are formed and maintained within a well-ordered society. We do not aim to judge others' conceptions of the good; this perfectionist approach is recognised as inimical to the formation of ties of association based upon self-respect and, because of the presence of

reciprocity, the respect of others for our own life-plans.

The citizens of a well-ordered society will have their sense of self-respect enabled as a result of its structure, which will be so configured that the conditions of self-respect are established. Their recognition of the role played by the structure will prompt them to continue to support the system, and so ensure that such a society is *stable*. Doppelt's views on self-respect will be shown to be ultimately incompatible with his criticism of Rawls.

Rawls' stress upon the social perspective to self-respect requires that the well-ordered society must guarantee equality in the social bases of self-respect, and for him this means equality of "those constitutional rights of citizenship characteristic of capitalist democracy in the West." (Doppelt1981: 260). Doppelt questions whether simple equality of liberty is enough to satisfy the requirements of the citizens of a well-ordered society, and suggests that Rawls' view that it *is* sufficient shows that he

...does not adequately comprehend the social reality of self-respect, the deep ways in which equality and inequality in its social bases are decisively shaped by the distribution of economic power and position in advanced industrial society...[also] Rawls' basic conceptions of self-respect and liberty unwittingly incorporate and legitimate certain fundamental structural limitations of capitalist society.
(Doppelt 1981: 260)

Doppelt accuses Rawls of uncritically adopting the current orthodoxy in western capitalist societies, in particular, the idea that human dignity and freedom can be understood apart from economic position, with the result that the deleterious effects of capitalist economic systems are hidden from the perspective of Rawls' theory. For Doppelt, the freedom necessary for human dignity is greater than that permissible under a capitalist system, and Rawls reflects this in his principles of justice, which require equality of liberties, but which permit inequalities in economic rewards. This

in turn reflects the view that economic position merely effects the ability to meet one's own desires, whereas human dignity and self-respect are undermined by any inequality in the basic liberties.

From this, it is held to follow that Rawls' view that a theory of justice must guarantee equality in the social bases of self-respect is quite compatible with allowing inequalities in income, wealth, power etc., for self-respect is not affected by one's place in the distribution of these goods, but by possession of the same liberties as one's fellow citizens, and equal opportunities to compete for the 'offices and positions' that exist within society.⁸ The effect of this approach is to yield

...a two-tiered model of social justice entailing the priority of equal liberty over unequal economic benefit, the first principle over the second, and the well-entrenched institution of political democracy over the more contingent question of legitimate economic inequalities. (Doppelt 1981: 262)

Rawls may have removed utilitarian concerns with maximisation of benefits from the institutions of the state, but they are still present in the second principle, indicating that the old liberal division of the state and the economy lies at the heart of his theory, and

...stems from his conception of self-respect as bourgeois-democratic citizenship, and...ultimately incorporates structurally necessary, but morally pernicious, features of capitalism. (Doppelt 1981: 263)

The model of citizenship Rawls adopts is that provided by our own western liberal democracies and this emphasis on the rights and liberties present in these societies will be challenged by drawing upon findings of social-scientific enquiries into

⁸ Of course, this view also takes issue with the economic model Rawls presents in chapter five of *A Theory of Justice*, in which it appears that Rawls holds the incentive power of economic inequalities necessary for the maximisation of wealth in society as a whole. This assumes that the well-ordered society will attempt equalisation through the redistribution of income and wealth in a way familiar to us, but this is contestable, as I shall go on to show in chapter three.

the origin of self-respect even in our own societies. Once again, the criticism will be that standards adopted by Rawls fail to secure the stability which he claims is a necessary requirement for the well-ordered society. The focus is different, of course, since in this case, the claim is that in order to secure self-respect the economic sphere must be brought under the same egalitarian framework that applies to the liberties; however, the thrust of the objection has much in common with that offered by Daniels, since both interpret Rawls' claims about the knowledge which affects judgments of justice as allowing social-scientific evidence to count against his theory. Doppelt is much clearer than Daniels about *which* findings from the social sciences cause Rawls problems, and it will be our task to examine his claims in some depth in order to become clearer about the reasons why they do *not* present the difficulties which he imagines they do. Unsurprisingly, the nature of the discussion will build on the view of Rawls developed in the first chapter.

III

Doppelt wishes to claim that social-scientific research shows that workers who are unable to control the form of their working lives have very poor self-esteem. He further claims that this lack of self-esteem is the direct result of a hierarchical labour structure, and that such a structure is endemic to capitalist systems. He concludes that this inequality of power over one's own life will arise in Rawls' well-ordered society, and that the reinforcing mechanism - - reciprocity - - would be absent, and so the well-ordered society would be unstable.⁹

This line of attack places great emphasis on the negative effect of 'power' on

⁹ Doppelt focusses upon power rather than income and wealth in this paper, and so power is our concern here. He acknowledges the equally damaging effects of the distribution of income and wealth, but I attempted to deal with this objection as raised by Daniels, and I shall return to it in chapter three.

the self-respect of the members of any social system, the central claim is that the hierarchical labour structure is unable to give individuals the control over their own labour activities, and the labour process generally which is a requirement for self-respect is to be a possibility. Doppelt cites Kornhauser (1985), and the report of the HEW (1972) amongst others in support of his claim that the worker suffers from powerlessness, with associated feelings of hopelessness and lack of self-esteem in inverse proportion to their place in the hierarchy. Those who suffer most are lowest in the hierarchy, the worst-off are the unemployed.

It is not our task to argue against the findings of the cited studies, nor would we wish to contest their depressing contents, but Doppelt seeks to attack Rawls' theory through such inquiries by suggesting that Rawls' theory cannot deal with the inequalities of *power* which are identified by them. Inequality of power in this case is said to be present within the organisation of the labour process, but the implication is clearly that such inequalities threaten the viability of the task of securing equality of liberty and equality of opportunity and so a stable society based upon reciprocity.

Doppelt holds that the second principle is supposed to deal with inequalities of power, in addition to inequalities of wealth and income¹⁰. Although Rawls does mention power in his discussion of 'The Basis of Expectations', section 15 of *A Theory of Justice*, his suggestion there, that power is to be dealt with by the difference principle, is not carried out - - the central discussion of the difference principle deals only with the worst-off group in terms of their position relative to others in income and wealth with the result that

...the second principle of justice sanctions whatever inequalities of power are required to maximise the income of the worst-off...Power as a

¹⁰ Doppelt focuses upon power rather than income and wealth in this paper, and so power is our concern here. He acknowledges the equally damaging effects of the distribution of income and wealth, however, this was dealt with in chapter 1. That problem is returned to in chapter 3.

primary social good has dropped out of the picture.
(Doppelt 1981: 269)

All of this affirms the hidden commitment to the ideals of bourgeois-democratic capitalism mentioned earlier, since Rawls simply *assumes* that the control of the labour process will remain in private hands, rather than in those of "the democratic state, the citizenry at large, or the workers." (Doppelt 1981: 270).

The terrain of power seems well mapped out by Doppelt, but he immediately goes on to inject an element of confusion:

To be sure, during the last century the political action of the working class have placed legal limitations upon the internal organisation of the internal organisation of the labour process by its owners: the elimination of child labour, the eight hour day, the right to unionise and bargain, some provision for health and safety on the job, worker's compensation etc. Nevertheless, such reforms within capitalism, valuable as they are, can never amount to public, democratic control over the core of the division of power and labour itself.
(Doppelt 1981: 270)

The reforms he mentions have clearly been pushed through by those favouring the worker, whether from concern to improve their lot or, to avoid the consequences of failing to accommodate the demands of the population of a country, and this seems at least potentially at variance with the history of the improvement in labour conditions as Doppelt understands it. For if all these reforms have so far improved the lot of workers they have surely done so in a way which has increased the power of the workers to oppose those who seek to remove the conditions which are required for their self-respect. If these reforms have failed to secure a basis for self-respect, then the reason cannot simply be the power possessed by the owners of the means of production, since, in any given case, they have failed to prevent the legislation which has resulted in our current state of development, but, as he indicates, the structural

properties of capitalism itself; power is a feature of social structures rather than the individuals or groups which realise them¹¹ .

At this stage we have been responding to Doppelt's talk about 'power', without being very clear about what *he* means by this, or indeed what we *should* mean by it, assuming that there is anything like an exhaustive account of power which can be applied in the way Doppelt has attempted to do¹² .

One of our tasks is to show how Doppelt's attack on Rawls fails, due to an inadequate consideration of the nature of power as it operates in Rawls, in his own work, and in the work of the social scientists upon which he draws.

IV

Each of the conceptions of power reviewed in this section has been or is being used to assess instances of power identified 'in the real world' , but there is a tendency among empirical researchers to avoid involving themselves in complex theoretical arguments prior to conducting their research. This is a pattern which has been identified by Bachrach and Lawler:

Researchers typically proceed in an inductive fashion, deriving their formulations of power from its empirical manifestations. In effect,

¹¹ Vogel (1982) makes a very good case for doubting the veracity of the simple view that businesses in America are all powerful. He gives many examples of the decline in the ability of American big business to influence political decisions in the 1970's, to the extent that the legislative agenda in that country during the 1970's was largely set by the 'pressure groups', that is, environmental, civil rights, unions etc.. Only in the 1980's has business begun to reassert itself though the adoption of the very techniques employed by the opposition. Clearly, if the employers grip on the political process is so slight, it would be foolish to ascribe to them any long-term systematic ability to destroy the basis of human dignity through legislation. This view reinforces a reading of Doppelt which emphasises the structural nature of power -- it does not matter what the employers do, the legislative cards are always stacked in their favour due of the *nature* of the social structure of capitalist societies. Such a view is very Althusarian, something which leads to difficulties as we shall see.

¹² Lukes (1974): 26-27, for example, believes power to be an essentially contested concept , and so unable to be captured as a single definition -- as each definition rests upon a set of value-assumptions which "predetermine the range of its empirical application[s]." .

researchers invoke power as an empirical label of some event or phenomenon...[t]he operation or measurement becomes the concept, thereby enabling researchers to skirt the theoretical and conceptual issues posed by power. (Bachrach and Lawler 1980: 11)

This approach contrasts with those who *theorise* about power. The above approach yields disagreements said to be about the interpretation of the empirical data, but this is seen to be based upon the tacit and unexamined assumption that everyone is clear about the *meaning* of the concept. It should be clear, however, that in the absence of any comparative criticism of the concepts as they are identified in individual studies, there is at least the possibility that the difference lies in the different *approaches* to power. Lukes (1974) is an attempt to provide an assessment of the various theories of power which have been offered, and contains a competing position of its own. This is our starting point.

Lukes outlines three accounts of the nature of power. The final view is his own development, but the first two are taken from the literature, both of them having been used in influential social studies to revealing effect. It is worthwhile rehearsing these views.

The one-dimensional view of power is found in the work of Robert Dahl. His studies defend a so-called *pluralist* conception of power, that is, one which sees the power as more or less balanced in its distribution within the political system. The assumption here is that power operates in plain view, so that, by examining the outcome of, in this case, the decision-making process within the political system, one can conclude that the balance of power is not unfairly distributed. His notion of power may be expressed as the view that if A is successful in affecting the behaviour of B by his/their actions, then A has power over B. The background methodology is strict behaviourism, and so Dahl is opposed to any claim that it is possible to examine

anything involving a change in the beliefs and/or desires of those people affected - - the effects of power must be manifested in the behaviour of the individual or group concerned, or there is no instance of power. Without this, there is nothing to study.

His inquiry is straightforward in that he is able to locate instances of confrontation within a particular arena, and is then able to analyse the way in which one party is able to 'win out' over the other. In his own studies, he analyses the pattern of outcomes of political controversies in a town or city (New Haven) and in so doing, establish the way in which The People were able to effect the making of decisions in such cases. In such a case, the power possessed by an individual or organisation is easily identifiable through study of relatively unambiguous evidence (court transcriptions, minutes of council meetings, the outcome of public debates etc.)

Bachrach and Baratz, in their book *Power and Poverty* question Dahl's assumption that his enquiry is able to reveal the exercise of power in its fullest extent. Their claim is that adopting such a view blinds one to the possibility that the controversies etc. which reach the observable level of conflict in a particular arena are *not* the interesting ones for the study of power as it is exercised in practice.

As Vogel observes:

...they argue...that a critical dimension of political power is the ability to prevent the emergence of issues which challenge the existing allocation of values, or, alternatively, to promote political controversies whose resolution is unlikely to harm or likely to support elite privilege.
(Vogel 1982: 21)

So, the first view of power restricts the object of study to actual conflict, and it is the contention of the supporters of the second view that this misses all those important interchanges which occur *before* conflict is able to arise. Social researchers employing the first view of power will simply not register anything which occurs 'below

the line' of actual conflict, as Lukes notes, any research carried out under the influence of the first view ignores the way in which "some issues are organised into politics while others are organised out."(Lukes 1974: 16).

Of course, because the two-dimensional view stresses the need for observability, it too requires the presence of conflict. The additional factor is the rejection of the requirement that the conflict need be 'out in the open'. The conflict is still a conflict of interests, but at this level, the interests of one group are never allowed to surface, and so the conflict cannot occur. The social scientists' role is to identify whether or not those affected in a negative way by decisions (or non-decisions) have *covert* grievances which have not found their way into the political system. Once again, the interests which we are interested in are the subjective interests of those (potentially) involved in the conflict. Both sides recognise their interests but only one side is able to bring these interests into the public arena, because they control the agenda.

Lukes' own position is an attempt to overcome the half-hearted rejection of behaviourism which underpins the second view. Its focus upon 'decisions' places too much emphasis upon the actual behaviour of individuals or groups for it to comfortably accommodate all instances of issue exclusion. The most successful use of power is that which removes any chance of conflict by simply bringing everyone into accord through influencing their conceptions of their wants/needs, etc.. It is a central claim by critics of a pluralist conception of the political process, that the fact that The People (or some sub-section of them) are not seen to oppose a proposal, or do not engage in open conflict about an issue, is *not* indicative that they are aware of the situation and approve of it as being in their interests. To make sense of this, Lukes introduces the distinction between interests of the power-holders, P, and the interests of those

excluded, E. On his account, if E was made aware of their real interests, then they would oppose P. This is an example of *latent* conflict, in which case, of course, the reason for lack of opposition is not open to simple observation, nor could it be, because there is no actual opposition. However, he is quick to note that he thinks these interests can be determined by empirical means, and that the real interests should not be identified by the power holders, but by the group over which power is exercised. As a further safeguard, such inquiries must be made in a system in which there is 'relative autonomy' which is exercised 'through democratic participation'.

Lukes' claim is that his account offers the opportunity for a truly sociological study of the phenomenon. For example, Bachrach and Baratz's study of the delay in giving blacks the vote in Baltimore, should have

...concern[ed] itself with...the way in which the *inactivity* of leaders and the sheer weight of institutions - political, industrial and educational - served for so long to keep the blacks out of Baltimore politics."
(Lukes 1974: 38)

Rather than focusing on the decisions and activities of the various members of the city government.

While Lukes thinks that power is a concept which can be usefully studied at the sociological level, the uses to which the findings are put is limited by the system which is studied. Specifically, the limitations are those of autonomy and democracy. He gives an example of how he understands this feature of power to operate. The inhabitants of a small American town, Gary, were unaware that a proposal to establish a plant would increase drastically the amount of air pollution in their area. Opposition to the plant can be assumed for those citizens, since it is reasonable to claim that it is not in the interests of those people to be poisoned! In this particular case, the value

judgment is perhaps the least disputable we can imagine (the sanctity of human life), but the same holds for other more difficult potential issues.

The central problem for such an account is the extent to which the notion of autonomy is undermined by the claim that exercises of power are explicable in a way which does not *require* reference to the perceived interests of those affected or indeed of those who supposedly wield power. Note that for Lukes, the proper analysis of power occurs at the sociological level, the study of the *institutions* reveals the extent to which the real interests of one group were prevented from becoming apparent to them. But where are we to locate the source of power on such an account? Power is still an 'agency concept' according to Lukes, and it is exercised by individuals within the system, but it is still not clear to what extent the structures of the system determine the actions of those who constitute it.

Lukes himself comments upon the debate between those who view the exercise of power by collectivities as a possibility, for example, Miliband(1969), and those who reject this possibility. The work of Althusser and Poulantzas represent this extreme determinist position, according to which the attempt to comprehend the nature of classes and the State *cannot* succeed if the method of comprehension involves reducing these 'objective structures' to sets of interpersonal relations. Such a view ignores the 'problematic of the subject' (Poulantzas 1969: 70). Poulantzas and the other proponents of determinism¹³ are guilty of a gross distortion of the relationship between social structures and the actors who participate in the activities which these structures allow, since the role of *all* of the actors within the system is fully determined by the system. According to the determinists, the agents are all simply going along the tracks laid down by the 'system', and this understanding

¹³ These comments apply only to the determinism of Althusser and Poulantzas. So-called technological determinists, e.g., G.A. Cohen, are not included.

dismisses as ephemeral those relations which exist between agents *within* the system.

Lukes spells out the implications of such a view:

...although the agents operate within structurally determined limits, they none the less have a certain relative autonomy and could have acted differently...within a system characterised by total structural determinism, there would be no place for power. (Lukes 1974: 55)

The justification for such a view rests upon the idea that to have power is to be held responsible for the consequences of those actions which one controls. On a structural-determinist account, no one *can* be held responsible for their decisions - - all are merely place-holders.

All the above accounts regard 'power' as a concept applicable to *conflict*, whether actual or potential, but that is not the case with all accounts of power which have been formulated. The account offered by the sociologist Talcott Parsons, for example, is based upon the idea of power as *co-operation*. It will be helpful to have an idea of this alternative approach, together with some of its problems.

In a number of papers, Parson's takes issue with the conflict-theorists' view of power, which he describes as a *zero-sum* conception, because of the underlying assumption that one group is able to gain and then to hold power to the extent that it can *deny* power to another group. This view is a reasonable representation of the approaches set out above, and in opposition to them, he proposes a *non-zero-sum* analogy for understanding power, in which both parties may gain from the arrangement. He is concerned to explain how authority inevitably involves the *legitimate* use of power, that is, when the power-holders, in virtue of having control over a social system, employ their power in order to advance the collective goals of society *as a system*. An illustration may be given by using the analogy he makes with

the organisation of the economy. Just as organising the economy in a certain way brings benefits to all through the creation of more wealth to be distributed, so the organisation of the goal attainment sub-system can be arranged to maximise the power generated by the system, and so available for distribution. The leaders of societies are given power by the members of that society in order to allow them to achieve certain generally beneficial goals. Such 'investment' places those who are invested *in* under obligation to the members of their society which they must fulfil, or have their power withdrawn. In saying this, Parsons does not *deny* that conflict is a feature of social systems, but he regards the phenomena which have traditionally attracted the attention of the theorists as a secondary effect of the phenomenon he has identified.

It is useful to think of Parson's account as concerned to develop certain aspects of the notion of power associated with the locution 'power to', and the other accounts as being concerned to articulate different aspects of the notion of 'power over'. For him, however, legitimation is built into the very concept of power, so that all sources of non-legitimate force, which is to say, force which does not advance the collective goals of the social system in the manner described is *not* power, but coercion. In such cases

...power, losing its symbolic character, merges into an intrinsic instrumentality of securing compliance with wishes, rather than obligations. (Parsons 1963: 250)

Such an account is open to the same objection as that raised by the structural determinists, even though each is concerned with power understood differently, since no account is given of the relationship between individuals and groups in society and the legitimate power-holders. As Giddens points out:

...what slips away from sight almost completely in the Parsonian analysis is the very fact that power, even as Parsons defines it, is always

exercised *over* someone...however much it is true that power can rest upon 'agreement' to cede authority which can be used for collective aims, it is also true that interests of power-holders and those subject to that power often clash. (Giddens 1993: 220)

The result of such an approach to power

...allows him [Parsons] to shift the entire weight of his analysis away from power as expressing a relation *between* individuals or groups, towards seeing power solely as a 'system property'. That collective 'goals', or even the values which lie behind them, may be the outcome of a 'negotiated order' built on conflicts between parties holding differential power is ignored. (Giddens 1993: 221)

The main purpose of the above is to set out various approaches to the notion of power with a view to clarifying the thrust of the radical critique of Rawls, to which we now return.

V

Doppelt states that Rawls only mentions the notion of power very briefly, when he introduces the notion of primary goods:

For simplicity, assume that the chief primary goods...are rights and liberties, powers and opportunities, income and wealth.
(Rawls 1971: 62)

He then utilises this to construct an attack on the account Rawls gives of the economic system to which he is committed. As mentioned, the notion of power plays a central part in this, since Doppelt quotes from recent studies of the work-place in America in support of his claim that the powerlessness of the workers is a feature endemic to capitalism. It is precisely this powerlessness which prevents all workers achieving the self-respect Rawls claims is vital to his notion of a well-ordered society.

The main claim here is that, of necessity, the capitalist system requires that the workers not have power over the means of production. In most production centres, a system is in place in which effectively places workers under constant supervision and denies them any say in determining the way they control their working time, activities etc.. The critique employs the notion of power in a way which suggests that it is wholly structural - - capitalism is the barrier to the establishment of the just society Rawls claims to be setting the boundaries for. This is not a problem of the different levels of *authority* which a system legitimises (and which is applied in all cases to the *office* rather than to the individual) but with the way in which power is related to the control of one's own activities.

However, if we attempt to apply what we have recovered from the literature on power, we find two weaknesses in Doppelt's account. The first relates to the nature of the research he draws upon, the second to the way he understands the *unstated* concept of power used in criticising Rawls' (equally unstated) views on the distribution of power.

Doppelt claims that what makes his account superior to Rawls' is that it:

... draw[s] in part upon *empirical* research concerning the social reality of self-respect (Doppelt 1981: 264 - - emphasis added)

The research he quotes is geared towards identifying instances of worker dissatisfaction, and seeks to show how restructuring in the work-place *can* lead to improvements in job-satisfaction. For example, in HEW (1972), we find that:

What workers want most...is to become masters of their immediate environments and to feel that their work and themselves are important...[a]n increasing number of workers want more autonomy in tackling their tasks, greater opportunity for increasing their skills, rewards that are directly connected to the intrinsic aspects of work, and greater participation in the design of work and the formulation of their tasks. (HEW 1972: 13)

In these cases the researchers claim to be reporting the wants and beliefs of those workers involved in the survey. These feelings are taken by Doppelt to imply that the heart of the worker's objections is to the nature of the relationship between themselves and the structure in which they produce, although this is not stated as the problem by the workers. Neither do they identify the bosses as a class whose interests are continuously being followed at the expense of their own. Doppelt is interpreting the data and findings of the social scientists using a conception of power which is not necessarily endorsed by either the social scientists or the workers, and it is one which involves identifying the workers *real* interests rather than their expressed interests.

He must make this claim, since the workers in the report just quoted express desires and wants which do not point towards the conclusions which Doppelt gives. The studies themselves suggest alternatives which have been introduced, with the result that there has been improvement in the way that workers regard themselves. The main areas of dissatisfaction are factors such as extreme supervision, lack of variety, monotony, etc., but such things are not immediately linked to the analysis given by Doppelt, which must include the claim that any alterations made to the internal organisation of the work-place must fail to remove the dissatisfaction felt by the workers. Any workers reporting satisfaction in such a situation would have to be misidentifying their own interests on Doppelt's account. But selecting the expression of one over the other seems arbitrary. What the accounts Doppelt relies upon show is that there are dissatisfied workers, *not* that they are the victims of a *system* which deprives them of power. Moreover, even if the researchers had drawn conclusions from their studies which supported Doppelt's view of power, there is still the question of the way *they* understand the notion of power. As we noted at the beginning of our

review of the literature, empirical researchers have tended to define the concept operationally, but this approach is inimical to the methodology adopted by theorists. Of course, it is always open to Doppelt to side with such an approach to research, but his assertion that power is a structural concept suggests that this option would be simply incoherent.

Assuming that Doppelt *has* a theory of power, what can it be? He cannot be proposing either a one dimensional or a two-dimensional account of power, since both of these require observability for study; power must be realised in actual conflict, and yet as we have seen, the studies he draws upon do not carry the conclusions he wished if we simply take the workers' expressed interests at face value. This leaves the alternatives suggested by Lukes, either his own three-dimensional account, or the structural-determinist view offered by Althusser and Poulantzas. Given Doppelt's clearly stated view that power as he understands it is a feature of the structure of capitalism, he must intend something like the view put forward by Poulantzas - - power is a property of social structures. If this is so, however, he faces all the problems with this view which were discussed above. How are we to understand the relationship between the system and the agents who operate within it? Furthermore, does such a view contain a coherent notion of *power* at all, since the owners of the means of production are as much prisoners of the structure as are the workers?

The problems of understanding the relationship between the subject and the system have a peculiar force against Doppelt, as the standard approach to these difficulties - - to deny the individual a primary place in one's social ontology, *cannot* be one which he endorses, since he wishes to construct a richer account of *self-respect* than the one which is offered by Rawls. There is no easy way of doing this when the only objective features of society are social structures; there is no account of the self

which is not hopelessly infected with the ideology of capitalism on such a view.

Nor could Doppelt simply acknowledge these difficulties and attempt a reconciliation with Lukes' account, since this is based upon an interactive view of power which denies that power is a structural property of social systems. The task for Doppelt, and it is a difficult one at best, is to construct a plausible account of how power can be a property of structures while at the same time make sense of the claim that individuals within these structures are capable of amending the power relations which they are part of.

It should be apparent that Doppelt cannot adopt the structural model proposed by Parsons for three reasons; first, this model makes legitimacy a feature of the definition of power, and this is not something Doppelt would wish to hold, since his critique of Rawls is based upon the claim that Rawls supports the present order which legitimizes power relations which are incompatible with true self-respect. Second, Parsons' account falls victim to the same problems as Poulantzas's, in that no account is forthcoming of the nature of the relationship between individuals and the social structure. Finally, Parsons' view of power is based upon an *analogy* between power and wealth. The behaviour of the power (goal-attainment) sub-system of a social structure is analogous to the behaviour of the economic sub-system. The effect of this is to separate economic and political processes in the same way that (Doppelt's) Rawls does, hardly the ideal basis for a critique of such a view.

VI

The origin of Doppelt's view of Rawls on power is his claim that Rawls mentions power as a primary good but says nothing about how it is to be distributed. This view derives from a simple misreading of Rawls.

Doppelt misquotes from Rawls' discussion of primary social goods, claiming that Rawls talks of the 'power and prerogatives of authority' and that this is to be understood as a claim that the second principle "purports to deal with inequalities of *power*." (Doppelt 1981: 269). Doppelt is then mystified that all talk of the notion disappears in the final account of the two principles of justice.

The actual passage Doppelt quotes (Rawls 1971: 93) mentions 'the powers and prerogatives of authority'. Rawls always talks of 'powers' rather than power (the term only appears three times in the whole book, and is not even included in the index) and this should indicate that he is not concerned with anything like power as Doppelt understands this term.

Rawls understands something else by 'powers'. This is essentially tied to the notion of *authority*, and is not concerned with questions of conflict. The locution which best captures this notion is that of 'power-to'. This is revealing, since Rawls seems to be offering an account which has much in common with Parsons, and this is rather disturbing, because of the problems with such an account as set out above, particularly the problem of understanding how structure and individuals interact. After all, Rawls does indicate that 'powers and opportunities' fall under the second part of the second principle of justice, requiring that the offices and position are "open to all under conditions of fair equality of opportunity." (Rawls 1971: 302).

There is a relevant difference between the two, however. Parsons, unlike Rawls, is offering a *sociological* account of power in society. As was argued in the first chapter, Rawls' claims about justice are always referenced to the well-ordered society, and this is *not* open to the same constraints as a sociological analysis of our own social systems. The way the world *is* cannot constrain the way the world *should* be. In this way, the emphasis upon legitimation is proper, since it is not anticipated that there

will be any conflict between groups about the general features of the well-ordered society. There may of course exist conflict at some less general level, but this is held in check by the acknowledgement that the basic features of society accord with the demands of justice.

By now, it should be apparent that there will be a price to pay for developing Rawls' defence as we have, the final chapter attempts to grapple with this, but the debate over the nature of Rawls' claimed economic neutrality presents the starkest clash between Rawls and his critics, and it is to this that we now turn.

Chapter 3

Rawls and Capitalism

Summary

The charge that Rawls is committed to reject capitalism is here examined. There are two possible approaches, the first claims that the relationship between the worker and the capitalist within the capitalist system is essentially unjust, Rawls fails to appreciate this, and so he claims that a theory of justice cannot determine in advance which form of economic arrangement will turn out to fail to meet the requirements of justice. The second approach takes Rawls' own sketch of a property-owning democracy as evidence of a methodological commitment to allow other models to compete against it - - the result of this process is that Rawls must acknowledge that his principles of justice require a non-capitalist economic system.

The second approach fails to understand the way in which Rawls' principles guide the course of development of the well-ordered society - - in particular, the way in which the economic model which Rawls develops is not understood as a development of any currently existing economy. The assumption that it is developed out of capitalism leads to claims that certain features of the present arrangement will prevent its development. This criticism therefore builds upon a socialist critique of contemporary arrangements in a way which Rawls' project does not, being conducted at a higher level of abstraction. Rawls does not deny the possibility that a realised capitalism would in fact fail to meet the demands of justice, only that this cannot be prejudged.

The first approach raises a more serious difficulty, since now Rawls' account

seems inconsistent. He appears to hold both that his theory operates at a level of abstraction *above* the psychological and economic forms present in current society, and that the sketch of property-owning democracy is somehow more familiar to us than a socialist alternative. How can an abstract theory make such use of our capitalist-formed expectation without acknowledging the force of the critique of capitalism offered since Marx and Mill?

I

As noted at the end of the second chapter, the area of Rawls' theory which has attracted most concern from left-wing critics is his treatment of economic life - - particularly, Rawls' curious claim that his theory of justice is *potentially* compatible with both private and public ownership of the means of production. This is interpreted as indicating an ideological attachment to the separation of the state from the sphere of commerce. Such a position is supported by the view that economic activity is the origin of wealth creation, and that such activity lies outside the legitimate concerns of the state - - the organisation of civil society. The history of forms of economy in which the state attempts to arrange production in order to allow efficient allocation of resources on the basis of need is not a happy one, and the theoretical scales appear to have firmly tipped in favour of markets as the basis for an efficient economy, that is, one in which production is maximised, supposedly to the benefit of all. Insofar as this is true of capitalism in its current form it is not surprising to find those who oppose the outcomes which our society is seemingly unable to correct, extending this criticism to the dominant economic model which is held by proponents to accurately characterise the way our society *needs* to be arranged.

The debate centres around the arguments contained in chapter five of

Rawls(1971). There are two ways in which criticism of Rawls may be developed:

1) Rawls' claims about the inability of a theory of justice to rule out certain forms of economic arrangement sits uncomfortably with a not unreasonable expectation that such a theory will assist those located in an actually existing society to resolve difficult questions about the justice of the economic arrangement under which they live. This claim of Rawls' is even harder to make sense of given the presence of a body of political theory which may reasonably be held to do just that. Such theorising points to deep problems with contemporary economic arrangements which are frequently couched in terms of its injustice. Rawls' failure to acknowledge such critiques suggest two possibilities; either, (i) Rawls retains a commitment to capitalism based upon a (unacknowledged) rejection of such critiques, or (ii), we should understand his project rather differently from such critiques - - that is, he fails to engage with them because they are not talking about the same thing. If this latter reading is the correct one, then a further and similarly important concern suggests itself, since we must be sure that such a project is both reasonable and that it does not conflict with the critique of capitalism mentioned here in some other way.

One concern here is that if Rawls and the critics of capitalism *are* in conflict, there is a chance that Rawls will have to accept that certain structural features of capitalism are open to objection at this level, so that capitalism as a form of economic arrangement must be acknowledged to be unjust. This amounts to a denial of Rawls' claim that principles of justice cannot by themselves settle the question of

...which of these systems [capitalist or socialist] and the many intermediate forms most fully answers to the requirements of justice
(Rawls 1971:274)

There is, on this reading, a determinate form of just economic arrangement

from the point of view of theory, and this informs a critique of capitalism based upon its structural *requirement* that the proletariat is held in thrall by capitalists in order to maximise their profits through the continued exploitation of the workers. On such a view, justice *demand*s that capitalism be rejected, as the relationship between the worker and the capitalist is essentially unjust, and no tinkering can avoid the gross inequalities which pervade the very essence of the capitalist system. It is a mistake on such a reading to identify the actual inequalities of wealth and income as somehow the problem, since this identification yields a set of possible fixes to the capitalist system which fail to identify the unjust nature of its core. Ultimately, if the economic system fails to provide equality of outcomes, we should look to the basic form of the relationships between individuals *required* by the system for the reason why this should be so.

Unsurprisingly, it would be better for Rawls' theory if it were somehow engaged upon a different project, but that option will be shown to bring its own difficulties which we go on to develop in the final chapter. First, we must consider and reject another possible approach to this problem.

2) Although Rawls *says* that a theory of justice cannot *by itself* settle the question as to which economic arrangement is preferable, Rawls does in fact offer a sketch of a supposedly just market-based system which once again affirms his commitment to capitalist forms of economy. His commitment to capitalism stands in opposition to the requirements of his own theory of justice, and the introduction of this model requires that he allows other models to compete with the one he offers on the same terms - - so that it will be possible to reject Rawls' model, and hence, to reject the best attempt at a just capitalism. Given that Rawls' defence of his model must be that it is consistent with his own theory of justice, the effect of this line of

argument is to deny that this is so, and, once again, Rawls must reject capitalism.

Of course, these arguments will stand or fall on the way in which they interpret Rawls' remarks about the nature of the relationship between a theory of justice and actually existing economic arrangements. Our first step must be to set out Rawls' remarks on this subject in a systematic way.

II

Rawls begins the relevant chapter thus:

...I take up the second principle of justice and describe an arrangement of institutions that fulfils its requirements within the setting of a modern state. (Rawls 1971: 258)

The above passage introduces a very difficult issue - - how to understand the extent to which Rawls draws upon the tacit ideology of the 'modern state'. Our main task is to decipher what could possibly be meant by 'the setting of a modern state', since many left-wing critics have in the past been guilty of interpreting this and other remarks as simply showing Rawls up as an apologist for the America of the late twentieth century, with his emphasis on stability amounting to a call for the status quo to be maintained at all costs. It is not clear that this is the case, as he remarks early in his discussion of political economy:

...these principles [the two principles of justice] have embedded in them a certain ideal of social institutions. (Rawls 1971:258)

They are to be used "as standards by which to assess economic arrangements and policies."(259). It is important to note that Rawls intends *all* of his principles to be used in assessing the justice of "economic arrangements and policies, and their background institutions."(259). All the principles are used to guide the citizens'

judgments about questions of 'economic and social policy', and it would therefore be mistaken to pay attention exclusively to the difference principle in this case. I take it that all commentators concede this point since they are effectively contesting Rawls' claim that a capitalist economic structure could meet the demands of his theory of justice, rather than the separate claim that the difference principle will function as he says it will.

More importantly, we see from Rawls' initial comments that the doctrine of political economy which he puts forward is to be used by the *citizens* of the society in coming to a decision concerning the economic and social policies which are adopted. So, the formulation of such a doctrine is a progression from the selection of the conception of justice itself, and it is done in circumstances in which more knowledge is available than was the case when the principles of justice themselves were settled upon. Such a view is consistent with that argued for in previous chapters of this thesis, and is also supported by comments which Rawls makes at the end of section 42, when he turns to the view that theories of justice should address the question of which economic arrangement is just:

There is presumably no general answer to this question, since it depends to a large part upon the traditions, institutions, and social forces of each country, and its particular historical circumstances
(Rawls 1971: 274)

So, although there is an answer to the *general* question of which principles will, when realised, establish a just basic structure, there is no further help to be had at the theoretical level when it comes to the form of an actual economy. Given this, we are now forced to consider the status of the sketch of the ideal scheme provided in section 43 of Rawls(1971). Some guidance of how to take this scheme can be found in section

41.

In this section Rawls endorses the claim made by many economists (from Marx to Marshall) that the economic system is capable of forming the wants and needs of its occupants, and that this stands apart from the idea that an economic system satisfies the present wants and needs of its occupants. These effects require us to consider the moral and political basis of choices about the form of economic institutions. This marks a distinction between the utilitarian basis for deciding the form of the economic arrangement in society and that given by his two principles of justice. He concludes that the utilitarian account is flawed as its 'starting point' is always the desires and wants of the current citizens. That is to say, that the decision as to what 'system of desires' is the best (will lead to 'a greater net balance of satisfaction') can only be a judgment about which desires already in circulation should be promoted by the society in question. On such an account, the present circumstances play a dominant role in determining what are to count as 'the moral virtues' for that society, and Rawls says that it similarly depends upon the "natural continuation into the future" of the "existing desires and present social circumstances".

This is said not to be the case for his principles of justice, which already contain an 'ideal of the person'. Because of this, the two principles "are not contingent upon existing desires or present social conditions" (Rawls 1971:263), and so we are able to derive a conception of a just basic structure, and an ideal of the person compatible with it, that can serve as a standard for appraising institutions and for guiding the overall direction of social change.

It appears then, that the principles of justice and Rawls' own sketch of a property-owning democracy are ideal in a positive sense - - that in contrast with utilitarian accounts of the just society, the two principles sanction a society which may

be very different from any that we have had experience of, and that the justness of this account is not supported by the 'facts' about any particular society at a particular point in time.

This raises questions about the relationship which holds between ideal and non-ideal theory as Rawls understands it, to which we shall return briefly at the end of this chapter, prior to taking it up again in some detail in the final chapter. This will require consideration of the way in which we are to understand the role of the well-ordered society in guiding reform (since it introduces claims about the utopian nature of Rawls' theory). Such an approach takes the first route set out at the beginning of this chapter, but first we turn to consider the second line of criticism.

III

The model of economy Rawls chooses to develop is based upon that offered in Meade 1993. In chapter five of his book, Meade begins:

Let us suppose that by the wave of a magic wand...the ownership of property could be equally distributed over all the citizens in the community. (Meade 1993: 41)

Here we find confirmation for the claim that Rawls intends his account of a society in which private ownership of the means of production is retained to be very different from any currently existing capitalism. As noted in chapter two, self-respect is a paramount concern of the parties in the original position, and they would avoid any social conditions which would undermine it. Rawls is sufficiently aware of the negative effects of gross inequality in wealth and income on both the equality of liberty and the fair equality of opportunity to require that the just society minimise the 'strains of commitment', that is, must not commit the parties in the original position to principles

that they would be unable to live under in the realised society. This rules out any social and economic arrangement which would undermine the self-respect of its citizens.

In DiQuattro(1983) we find an attempt to defend Rawls theory of justice by pointing out "the egalitarian implications of the difference principle"(53). The claim made by DiQuattro is that although the theory of justice is compatible with socialist ideas of justice, it does not *require* a socialist model of public ownership of the means of production in order to secure this. He suggests that Rawls' account of class differs from that offered by socialists as it refers only to individuals' holdings of primary social goods. Any differences which may exist in holdings of such goods serves to demarcate levels of well-being, and as there is likely to be many and various levels, the conception of class advanced by Rawls allows for a sliding scale rather than a marked division, or at least, many discernible *levels* of well-being. If this is correct, and taking into account the near equality of property ownership which Rawls clearly anticipates, we see that his sketch of a property-owning democracy has none of the objectionable features of a capitalist account, in which the division of class is essentially one of relationship to the means of production.

But although DiQuattro makes this point by reference to the equalising requirements of the difference principle alone, there is good reason to doubt that this is the case. The first thing to note is that DiQuattro himself uses the expression 'difference principle' in a misleading way. This is clear in the following:

...the difference principle establishes a limit to their[the differentials which can exist between the best and worst-off] size by seeking to secure equality of opportunities (DiQuattro 1983: 59)

Just prior to this, DiQuattro quotes Rawls, again with reference to the difference

principle, as holding that it

...does not weight men's share in the benefits and burdens of social cooperation according to their social fortune or their luck in the natural lottery.(Rawls 1971: 75)

On both occasions, however, DiQuattro attributes qualities to the difference principle which Rawls intends to be taken to apply to other aspects of his special conception of justice. In the first example, it is clear that DiQuattro conflates the difference principle and the principle of equality of opportunity. While together these form the second principle of justice, Rawls clearly indicates that they are separate aspects of his overall theory.

The second error in the reading of Rawls is more serious, since the quotation he gives as evidence for his view of the role played by the difference principle is simply misattributed. It is taken from section 12 of Rawls(1971), which sets out the form of the second principle of justice, that is, the principle of fair equality of opportunity and the difference principle. However, Rawls preceding remarks clearly indicate that his discussion at this point refers to the theory of justice *as a whole*, it being contrasted with "a system of natural liberty"(Rawls 1971: 72), so that it is the theory of justice

...which treats everyone equally as a moral person, and which does not weight men's share in the benefits and burdens of social cooperation according to their social fortune or their luck in the natural lottery.(Rawls 1971: 75)

This must lead us to conclude that it is unacceptable to suggest that Rawls' rejection of capitalism can be decided by examining his application of the difference principle on its own. This is born out in his discussion of the 'property-owning democracy' when he says that

...the wide dispersal of property...is a necessary condition, if the fair value of the equal liberties is to be maintained. (Rawls 1971: 277)

and supported a little further on:

...inheritance is permissible provided that the resulting inequalities are to the advantage of the least fortunate and compatible with liberty and fair equality of opportunity. (278)

Clearly, then, there is some limit to the inequalities which will be permitted, although just what this limit will be is not open to detailed discussion within the context of constructing a theory of justice, since this is something which is reserved for its application. Such decisions are "a matter of judgment guided by theory, good sense, and plain hunch, at least within a wide range." (278).

Although we must reject a defence of Rawls' theory based upon the difference principle alone, it is clear that Rawls believes his theory taken as a whole to provide *guidance* on the acceptable level of inequality the well-ordered society can endure. It must do this for a reason which we have previously noted, that is, the requirement that the theory of justice should generate its own support. We turn now to consider those who view Rawls' principles of justice as committing him to a form of economy which clearly rejects capitalism as unjust.

IV

In Clark and Gintis(1978) we find the claim that Rawls is committed to an economic system "in which control of the production process resides in a democratic and participatory association of workers."(Clark and Gintis 1978: 303).

They see a fundamental tension in the liberal tradition's claim that private property rights are the proper basis for a society based upon individual liberties. Although the basis for rights ascription in capitalism is property, regardless of its

distribution, the democratic turn of the last one hundred years or so has concentrated invested rights in persons. An attempt has been made to avoid this tension by separating the economic and political 'spheres of social life' - - something which produces 'an untenable construct'.

Because of this, liberal theorists have in the past attempted to reintroduce the discussion of equality which covers both spheres. One way of achieving this is by introducing the notion of 'equality of opportunity', however, this is not one which fits well with the continuation of private property, since intergenerational transmission of wealth provides an unequal starting point for members of the next generation. Rawls of course acknowledges that this process will have effects upon the social system, but denies that these effects will necessarily lead to unjust outcomes. If these inequalities should fail to satisfy the difference principle, then justice will require that the system is amended so that they cannot recur. Clark and Gintis also hold that equality of opportunity generates expectations of equality of outcomes too, and liberal theory has avoided the question of private property entitlement by removing the question from the area of political theory, so that

Distribution of rights to ownership of productive property and of income from non-human factors of production is now relegated to an unspecified decision-making process outside the theoretical model.(Clark & Gintis 1978: 307)

with the result that it is now allocational efficiency which is used to justify the market centred account of liberal economy.

This is said to result in a welfare economics in which pareto-efficiency is held to ensure that individual needs are met to the best ability of any economic arrangement, provided that the initial distribution of assets is fair. Ethical theory is only involved at

the times when readjustment of the asset-spread is required. Just what the proper social welfare function will be is not the business of the ethical theorists, and it is this, claim Clark and Gintis, which presents the difficulty within a capitalist economy, since there is political disagreement about the level of the social welfare function, with the result that the popular decision will not necessarily be the just one.

This does seem to raise a real problem for Rawls, since his comments that, even in the model economy he constructs, any decision about the intervention in the market place will be a 'political judgment' (which, as already noted, involves considering factors external to the theory of justice), allows that such disagreement will fail to match the requirements of justice. A possible counter to this is suggested by the facts of moral psychology which are suggested by Rawls. If the well-ordered society succeeds, it does so in virtue of setting up the conditions under which the *capacity* "for a sense of justice built up by responses in kind" (Rawls 1971: 495) is actually developed in its citizens. Such a society will enjoy strong cohesion among its members -- as noted in previous chapters, this yields stability, and it is unlikely in this case that the citizens would be willing to consider a distribution of social goods which, by damaging the most important good of self-respect, effectively undermined the basis of stability by introducing something like the division between rich and poor which indicates the presence of class division. The well-ordered society *cannot* allow the development of classes with separate and opposed interests.

Clark and Gintis concede that in this sense Rawls *does* address the problem of determining the level of social welfare, but nevertheless claim that in retaining a commitment to a mixed economy, he commits himself to a model which is incompatible with the two principles of justice. They hold this to be the case for either of Rawls' claimed choices -- in the case of public-ownership or private ownership

of the means of production.

Their central contention is that if control of the means of production still resides with a minority (in the case of capitalism), then the majority's commitment to the well-ordered society would be reduced, since a large part of their self-respect would be undermined since in such a case they are not responsible for making decisions about their own life on a day-to-day basis¹⁴. The traditional case against worker-controlled organisations is that they are inefficient, but Clark and Gintis point out that studies have demonstrated the falsity of this claim. Also, it is important to note that Rawls' special conception of justice places considerations of liberty before questions of efficiency, so that it is not possible to override the requirements of justice on grounds of efficiency.

The hierarchical nature of the firm is the historical result of "a dynamic of interaction between technology and class relationships" (Clark & Gintis 1978: 313), and the result of this process, the lot of the workers under capitalism, is not improved under the realisation of the first principle of justice in its original form, since the rights it guarantees do not include right to control over the means of production. Clark & Gintis claim that it should include this right, since this would strengthen individual commitment to the principles of justice. Amending the first principle in this way would of course require Rawls to acknowledge his rejection of market-principles, and so would make him officially a critic of capitalism. Such a move would effectively disallow the model of just capitalism Rawls allegedly promotes. Their view of capitalism is that it fails on grounds of justice since it treats all aspects of the production process as commodities, *including labour*, and the results of this treatment are "the structure of hierarchical authority, job fragmentation, wage differentials,

¹⁴This issue has been addressed in the discussion of power in chapter two.

racism and sexism."(Clark & Gintis 1978: 313)

As Rawls treats control of the means of production as wealth rather than as a basic liberty (that status is allowed to personal property), this brings the question under the difference principle. Nevertheless, Clark and Gintis still maintain that capitalism is not consistent with Rawls' principles, since the capitalist production processes can be shown to result in non-Pareto-efficient results. The hierarchy of capitalist firms can explain this, since, for the management, profit-maximisation is the proper basis for all decisions, even if this means that the total produced is less than it would be possible to achieve if this was not the central consideration. In all cases, the overriding factor is the need to maintain conditions favourable to the continuity of capitalism, and that means endorsing production techniques which do not threaten 'capitalist social relations'. Of course, labour also falls within this constraint, and so:

In order to maintain forms of consciousness appropriate to capitalist social relations, production techniques which threaten prevailing assessments of interpersonal and interclass relations may be rejected, even though they are technically more efficient.

(Clark & Gintis 1978: 314)

Releasing production planning from such considerations may be expected to lead to an increase in the efficiency of production, so undermining the claims of those who endorse the (liberal) ideology that 'conditions of reasonable scarcity' are a necessary feature of societies.

In opposition to Rawls' model, Clark and Gintis propose a 'market socialism', in which democratic control of the production process is exercised. They hold that such a system

...is better able than capitalism to engender widespread acceptance of Rawlsian principles of justice, and to stabilise and validate these principles in practice.(Clark & Gintis 1978: 315)

Their explanation for why this should be so turns on an understanding of the way in which Rawls anticipates social relations developing in order to arrive at the well-ordered society. Their central point here is that capitalism requires the fostering of competitive attitudes on the part of 'participants', the scramble for the available resources and the attached social status provides no basis on which citizens would develop the spirit of co-operation which Rawls maintains will be a feature of the well-ordered society. The only aim of capitalism is "the accumulation of capital and expansion of marketable output." (316), and it is unlikely that this will suffice to generate "a conception of the whole system of cooperation that defines the association and the ends which it serves." (316).

Rawls' own choice is held to be a 'distribution-redistribution economy', and this introduces the problem mentioned above, namely, that the individuals in the society, aware of their own position in the economic system, cannot be expected to sanction the redistribution of income and wealth required by the difference principle. Clark and Gintis hold that this would require too great a strain on their commitment to the principles. Such a system, they maintain, would require the lexical priority of social justice over all other moral obligations and personal concerns, and this would be beyond the scope of any reasonable theory of moral behaviour.

There is a response to the above criticism, however. As noted in the exposition of Rawls theory, he draws the distinction between ideal theory and non-ideal theory, and it is clear that this puts immediate distance between Rawls' own economic sketch and the actually existing capitalism which was the subject of critiques since the economic form emerged in the nineteenth century. In fact, this distinction should give us good reason to question the kind of critique of Rawls which was set out above, since Rawls himself is keen to increase the distance between his sketch and any

existing economy, both because of his well known disclaimer:

[This sketch of a property-owning democracy]...does [not] imply that actual societies which have private ownership of the means of production are not afflicted with grave injustices. (Rawls 1971: 274)

and because of our earlier point about the ideal of society containing its own ideal of the person. Rawls' whole motivation for constructing his theory in this way is to attempt to gain clearance from the psychological chains formed by being in an actual social system. It is vital to avoid precisely what Clark & Gintis assume - - that Rawls is held to be *defending* a capitalist system in virtue of failing to engage in a direct critique of our present social system. The objections made by Clark & Gintis *assume* that the Rawlsian principles of justice require certain conditions for their realisation which are absent from the actual social world - - the focus for Marxist and socialist analysis and critique. It is an interesting claim, but one which cannot be substantiated, to say that capitalism with all its faults will be the inevitable *result* in the well-ordered society which allows *widespread* private ownership of the means of production - - that is, that such a system will inevitably produce the same class divisions in the arrangement Rawls sets out as have proved so devastating to our own society. Such a view would blatantly contradict Rawls' claims about the separability of considerations of justice from the contingencies of our immediate condition.¹⁵

Clark and Gintis base a good deal of their criticism of Rawls' model on the view that there are insurmountable obstacles to *realising* the well-ordered society, given the psychology of the present day. It would be odd if Rawls fell vulnerable to such

¹⁵ It would also seem to contradict the specificity of a purely Marxist analysis, since it is not acceptable to engage upon analysis of a non-existent form of society. Sketching ideal societies with no thought as to how they are to be realised is the mark of utopian schemes, and this is the charge that we examine in the next chapter. It is strategically valuable, therefore, to deny the claims made by Clark & Gintis, since it is by no means obvious how their own scheme (or any other) can achieve realisation without some underlying explanation of the force for change within a social system.

criticism, however, given his already quoted remarks about the want-creating quality of the economic system, unless we mistakenly identify the principles of justice as unproblematically applying to our own social condition and accompanying psychology, rather than in some way starting from a position much removed from that point. But of course, Rawls specifically denies the former course, as is made clear in his comments about the ideal nature of his project. As we shall see in the final chapter, this interpretation of Rawls' project is not without its own problems, but it has the effect of removing the discussion of the realisation of the special conception of justice from the close proximity to our own time and social world - - which indeed we expect from a theory which is not *itself* relative to a time and place.

The assumption that Rawls' model is capitalist cannot be substantiated within Rawls' theoretical framework, given his comments about the inability of his principles of justice to determine the form of the just economy in advance of an attempt at its realisation. The central point here is that the principles do not even serve to confirm Rawls' own sketch as acceptable, since this would be inconsistent with his comments about the necessity of building in other considerations when making such a judgment. All possible schemes are subject to scrutiny when realised - - that is, when one is already committed to the two principles of justice, and judgments that a given model is producing contrary results is enough to reject it. All of this does not of course deny the points which Clark And Gintis make about a lack of guidance provided by the principles of justice prior to realisation of the two principles, but this is something we shall put to one side until the final chapter. These comments also apply to those critics such as Schweickart(1980) who similarly seek to show that Rawls' principles *require* the selection of their own model over the one he sets up.

Given Rawls' stated commitment to equality over efficiency, Schweickart

claims that Rawls must reject his own 'ideal capitalism' in favour of Schweickart's Worker-controlled Socialism. Schweickart effectively concedes Rawls' claim that the question about the efficiency of the competing arrangements will only be settled empirically, but maintains that, if this is so, Rawls should acknowledge that the socialist system is closer to the requirements of his own principles of justice.

Schweickart has an extra twist to the arguments of Clark and Gintis discussed above, since the claim that Rawls should accept his own economic model on empirical grounds makes sense because of Rawls' supposed commitment to a greater likelihood principle of rationality. If this is correct, Rawls is committed to that economic model which is most likely to comply with the requirements of his own principles of justice, given the empirical facts of our own society. Again, all the points made above apply to the claim that no empirical facts about our own society can impinge upon the selection of an economic *model* within the well-ordered society, however, the claim that Rawls operates with a conception of rationality which might *force* him to concede that one model is better than another on grounds of justice would cause a serious reexamination of the claim that the principles of justice cannot deliver such a result.

However, while it is true that Rawls mentions a principle of greater likelihood, it is mistaken to attempt to apply it to the selection of the economic model for the well-ordered society¹⁶. Rawls discusses these principles of rationality for the selection of life-plans by individuals *within* the well-ordered society. These are principles employed by individuals in a specific context, moreover, no one of the three enjoys

¹⁶ Rawls identifies three principles of rationality which are employed in the well-ordered society in reasoning about what life-plan it is rational to follow. The other two principles are the principle of effective means and the principle of inclusiveness. The former says that, given a particular objective, we should realise it with the least expenditure of means, or to the fullest possible extent (given that there is equality of efficiency). The latter says that we should prefer the plan which achieves all our aims plus one (or more) additional aims.

precedence over any other. It is not clear that Rawls would accept them as suitable criteria for the selection of an economic model - - there is certainly no indication that this is what he has in mind, particularly when set against his, quite explicit, comments to the contrary, which were earlier in this chapter.

V

The above critics have all taken the second course we set out at the beginning of this chapter, and it is clear that they fail to take into account the nature of the relationship between the well-ordered society and the economic sketch which Rawls sets out. However, as noted, there is a different approach which stresses the distance between Rawls' account of justice and the reality of any private-property ownership based economic system, without explicitly arguing for any alternative model. While it may be plausible to claim that Rawls' sketch is nothing like the capitalism we have experienced, we can still maintain that Rawls does not properly consider the Marxist analysis of capitalism, with its deep criticism of the relationship between the capitalist and the worker. This line begins from an *acceptance* of Rawls' view that his theory of justice cannot answer the question of which economic arrangement is just because of the nature of his project, and proceeds to maintain that this is a dire failing for any theory of justice, for example:

...Rawls' account is fettered by his ignoring of social and economic realities and what we can learn from political sociology.
(Nielsen 1978: 205)

and:

...Rawls...does not see the exploitive relations inherent in capitalism."(Macpherson 1978: 345)

Whether or not his project is *fettered* by this omission is another thing entirely.

There are potential replies to this line of attack, one of which is found in Schweickart(1980), when he says that it is only possible to make sense of Rawls' claims that justice is neutral between the two economic models

...if one holds that an ethical theory cannot condemn a social formation unless injustice can be shown to inhere in it as a matter of necessity.
(Schweickart 1980: 22)

We have already seen that Schweickart's own attempt to force Rawls into socialism failed since he mistakenly applied Rawls' greater likelihood principle to the decision procedure for selecting an actual economic model. Here, however, he is surely correct to note that Rawls' disagreement with the left-wing critics is based upon their understanding of their own analyses of capitalism and its effects.

Rawls is correct in maintaining that no analysis of capitalism touches the process of ideal theorising since this process does not *begin* with the assumption of realisability. The exercise of ideal theory construction may well provide the guidance for future reform, but it should not be understood as itself fettered by a failure to acknowledge the current understanding of the failings of *our* social and economic systems.

However, it is understandable that the left-wing critics here take Rawls' economic model to be a proposal for change within our current society, and find it an inadequately prepared model for that purpose, since Rawls himself provides the justification for such a view when he says that

At the start I assume that the regime is a property-owning democracy
since this case is likely to be better known.
(Rawls 1971: 274 - - emphasis added)

But why should this case be better known to us? Even those critics who are

sympathetic to Rawls' sketch do not pretend that it is not radically different from any economy we could identify in the real world. It is surely not because of its retention of private-property, since the level of equalisation it sets out places it beyond the experience of the citizens of the most egalitarian regime currently existing. Rawls is surely guilty of misleading us here by the suggestion that we are in some sense able to relate more directly to the organisation of an economy along such lines. This *must* be the case, since his remarks about the influence of the economic system on the expectations of those operating within it, makes it doubtful that any model which is not sufficiently close to our own would be familiar enough for us to understand the pattern of expectations which arise from participation in it. If *we* find the economic system sketched by Rawls familiar, this can only be because it produces very similar expectations to our own economic system - - but this would be disastrous for Rawls' account, since our own economic system has been subject to a searching critique since the time of Marx and J.S. Mill, and Rawls' own development of it would be vulnerable to just these critiques.

The only alternative open to Rawls is to abandon his claim that those living within a capitalist society will find his sketch more familiar than any alternative. This has the effect of restoring his sketch to the unfamiliar setting of the well-ordered society, from where it would be possible to assess its success as realised. However, the price to pay for such an adjustment may be very high, since it now becomes a burning question to what extent the theory of justice as realised in the well-ordered society can provide any kind of assistance to us in making judgments regarding the justice or course for reform towards justice within our non-ideal societies. This is the theme of our final chapter, to which we now turn.

Chapter 4

Is Rawls a Utopian Liberal?

Summary

Rawls' theory is now understood as abstracting away from the criticism raised so far. This distancing leads to the consideration that Rawls' theory is utopian - - that constructing an account of ideal justice without due consideration of the point from which this must be achieved, reveals a poor grasp of the actual limitations upon realisability. Rawls understands ideal theory to guide the course of reform in actual societies, but there is no clear way in which this is possible - - Rawls seems to have given insufficient thought to the way in which ideal theorising must be able to be applied to society in a way which can be acknowledged by the members of these societies.

Finally, a possible response to this view is that Rawls should be understood as a liberal ironist in the Rortian sense. Read in this way, his theory is not an attempt to provide philosophical foundations for liberal society, and so is not a *defence* of liberalism as such. Rather, he is providing a restatement of the liberal ideal which is best understood as a political response to the left. This point is not developed further.

I

We have seen how the resources of Rawls' theory provide responses to the critics whose work we have considered up to now. In order to achieve this, however, we have had to abandon many potentially straightforward accounts of the relationship between the principles of justice and our own sense of justice (as it has been formed

through living in an advanced capitalist democracy). Unfortunately, such an approach now presents a further difficulty, since the distance between the demands of justice as seen by Rawls' theory and our own circumstances seems so great that we shall find it impossible to make sense of the theory of justice. In one way or another, the concern that Rawls does not give *us* any guidance underlies much of the criticism that has been addressed, but the overall form of criticism is captured in what I take to be one of the most serious leftist charges against Rawls' theory of justice - - that it is utopian. We shall consider two versions of this claim, and suggest that the terms in which it has been presented actually prevents the full extent of the problem from being seen. Having reconstructed the problem, I then go on to show how its implications strike very deeply at the heart of Rawls' project, since a theory of justice must at least be capable of being understood as a theory *applicable* to some society. Finally, a tentative suggestion is made that we can understand Rawls' project in a rather different way from that of his left-wing critics - - the cost of escaping them in this way may, however, prove too great. We begin by setting out the first version of the charge that Rawls' theory is utopian.

II

The discussion of the charge is found in Buchanan(1982) and in substantially the same form in Peffer(1990). Buchanan reconstructs Rawls' arguments for his principles of justice and also for their application, before going on to consider a range of 'Marxian'¹⁷ objections to Rawls' theory - - only some of which he regards as serious or effective. The relevant section begins:

Having articulated and argued for his principles of justice, Rawls then

¹⁷ Buchanan's expression for a broadly left-wing critique of Rawls - but one which does not take place within the strict ideology of *Marxism*.

provides a brief account of how the basic structure of *our* society could be arranged so as to satisfy those principles. *This account does not purport to be a detailed blueprint for the just society*, but it *is* intended to serve two important functions. (1) It helps to specify further the content of Rawls' principles of justice by examining their practical implications. (2) An attempt to apply the principles of justice to the basic structure of *our* society is *necessary* if we are to evaluate Rawls' arguments from considered moral judgments.
(Buchanan 1982: 120 - - emphasis added)

Buchanan suggests that without seeing how Rawls' principles work in a practical context which is familiar to us, we will not be in a position to judge to what extent Rawls' theory better matches our considered moral judgments - - and so to what extent Rawls' theory beats its rivals.

The section of *A Theory of Justice* which Buchanan takes to be concerned with the application of Rawls' theory to our society is Rawls' discussion of what would constitute a just economic system - - which Buchanan interprets as being "mainly [focused] on the institutional arrangements he thinks would satisfy the Difference Principle." (120). We have discussed aspects of this section in chapter three, and here we develop some of the themes arising from that discussion. After some initial remarks on the proposal that the four-branches model of government (allocation, stabilisation, transfer, and distribution) would secure the difference principle, Buchanan points out that:

What is crucial to note...is that Rawls believes that his principles of justice could be satisfied in *our* society without the abolition of competitive markets and the adoption of socialism.
(Buchanan 1982: 121)

Two corrections must be made to Buchanan's claims which will lead us elsewhere in our search for Rawls' views on the application of his theory. First,

evidence can be found in the same section (section 43) that Rawls does *not* intend his discussion of the structure of just economic systems to be taken as a discussion of *our* society¹⁸. For example, in the introduction to this section, Rawls describes his immediate task:

I shall give a brief description of...[the] supporting institutions...[which ensure the fairness of the social and economic processes] *as they might exist* in a properly organised democratic state that allows private ownership of capital and natural resources.
(Rawls 1971: 275 -- emphasis added)

Here we are given notice that Rawls is still not talking about an application of his principles of justice to *our* society in any *direct* way, but is instead involved in the initial stages of constructing his well-ordered society -- the status of which will concern us in due course. This is supported by remarks made at the end of section 42:

The ideal scheme sketched in the next several sections makes considerable use of market arrangements...Because there exists an ideal property-owning system that would be just does not imply that historical forms are just, or even tolerable. (Rawls 1971: 274)

The second point follows from the first; Buchanan's claim that Rawls believes that his principles of justice could be satisfied in *our* society without the abolition of competitive markets and the adoption of socialism is not supported by his evidence. The only claim which *is* supported by his evidence is that Rawls believes that his principles of justice are not *necessarily* incompatible with capitalism in some form or other. This view reflects the conclusion of the third chapter, although it is important to note that the substantial question we are now concerned with, i.e., the relationship between Rawls' principles of justice and actual situations of application, has gathered

¹⁸ This is the point made in defence of Rawls in the previous chapter -- those critics who suggest that Rawls must be committed to a rejection of capitalism due to the requirements of his principles, misunderstand the different nature of the decisions involved in selecting the form of economy and selecting the principles of justice. This point relates back to the argument deployed against Daniels in chapter one, since there are different levels of knowledge required to make such judgments.

force because of the treatment of Rawls' theory developed throughout this work. All the developed defences of Rawls' theory against those critics employing evidence from the social sciences have had the effect of increasing the distance between this theory and explicit criticism of our own society. This brings us back to the beginning of our chapter - - how are we to understand the claim that Rawls' theory of justice is utopian?

III

The charge of utopianism is first advanced in Wolff (1977). The charge is essentially the same as that made by Marx and Engels against the utopian socialists - - namely, that in down-playing the role of material interests in the creation of human perceptions of themselves, and the role of class interests in determining what courses of action will be regarded as acceptable, the utopian socialist/Rawls has a theory which is idealistic - - that is, relies upon the mysterious power of the theory to change the hearts of individuals and so to achieve its objectives¹⁹. The net effect of this is vagueness about the most important aspect of any political theory - - how to *realise* it in practice.

Buchanan considers a claim that the force of this objection is mitigated by the fact that Marx's own theory of transition is defective - - so Marx's own theory is no better off than that of Rawls. However, quite rightly, he rejects such an argument; why the fact that another political theory has a defective theory of transition mitigates the force of the charge that Rawls' theory of justice fails because it has no theory at all is elusive. *Any* political theory which has a normative content stipulating that society

¹⁹ Of course, one may answer the materialist critic by developing or defending a version of idealism, but it is not obvious that Rawls would wish to adopt such a course. He shares sufficiently many of the concerns about the effect of material circumstances upon the possibility of justice in society for him to be temperamentally closer to Marx than to Hegel.

must be organised along this or that line has a commitment not only to say why that line should be the one we follow, but also to say how we get there from where we are now. To perform this task requires in turn saying something about where we are now - - and what is wrong with it. The lack of an obvious critique of where we are now, together with the position developed throughout this thesis that to attribute such a critique to Rawls is to misunderstand his theory, places Rawls in a very poor position.

In Marx's case, his materialist theory of history provided him with an account of where we are going, and gave him a powerful analytic tool with which to dissect the problems of his own time and in this he has the better basis for defending his view in the way in which society should be arranged²⁰. Marx's comments on 'where we're going *to*' were sketchy at best - - and understandably so, since, by his own analysis, he was ill-placed to conceive of how post-class society would be configured, the form of such a society is not something to be conceived in advance of its realisation, although its form is constrained by the time and place in which class divisions are eventually overcome. It is this last thought which leads to the charge of utopianism against the 'utopian socialists'. They understood their theories and practices to be discoveries which just happened to have been made at that point in time - - and their motivation to expound their theories was closely linked to that motivating the bourgeois theorists writing at the time of the French Revolution; this motivation stresses the dominant role of reason in the process of changing society. Utopian socialists, Rousseau and other bourgeois theorists have a commitment to the 'kingdom of reason', the idea that what is right for society can be identified purely using the faculties of reason, and that, once discovered, it is possible, simply by propagation of the arguments, to bring this

²⁰ Although there is some dispute about whether Marx's critique involves a theory of justice. The form of the post-capitalist society may not, therefore, be constrained by anything like Rawls' theory. For the controversy surrounding Marx and Justice see Wood(1972), (1979), Husami (1978), and Geras(1985).

state about. The utopian socialists had, between them, rightly identified the bourgeois nature of the principles for the organisation of society put down by Rousseau and others, but had made the same mistake, that is, the mistake of assuming that their own works (both practical and theoretical) were in some sense the product of their own clear sightedness to be contrasted with the blindness of others. Engels identifies the inevitable outcome of such a belief:

...as absolute truth is independent of time, space, and of the historical development of man, it is a mere accident when and where it is discovered...[each individual's conception of absolute truth, reason and justice] is again conditioned by his subjective understanding, his conditions of existence...[etc.] there is no other ending possible in this conflict of absolute truths than that they shall be mutually exclusive one of the other."(Engels 1986: 404)

The claim against Rawls' is that we should understand the well-ordered society as his utopian vision which, he is suggesting, we must strive to realise, with the result that he relies upon the strength of *our* sense of justice in order to affect the change from our present situation.²¹ As Buchanan notes:

...there is no reason to believe that our sense of justice will be strong enough to overcome our allegiance to the existing order, especially if we profit greatly from its injustices. (Buchanan 1982: 148)

Importantly, as Buchanan understands it, Rawls' account of the way in which the basic structure of a society effects the 'interests and deepest values' of its citizens commits him to give some account of the way in which "the sense of justice can become an effective force for change" (Buchanan 1982: 149) regardless of whether or not he adopts or rejects Marx's account of the way in which changes in the material base are reflected in changes in the ideological superstructure. Buchanan suggests

²¹ It should be apparent that critics of Rawls cannot both claim that Rawls is a utopian *and* that he is an apologist for the status quo - - although this does seem to be precisely what R.P. Wolff does claim.

that the lexical priority of the principles of justice *itself* acts as a limit on action permissible in establishing the well-ordered society, and thus represents Rawls' attempt to provide guidelines about the actions acceptable to achieve the well-ordered society, only to reject this interpretation as inconsistent with certain distinctions Rawls makes. These distinctions, however, generate further confusion over the correct way in which to understand the relationship between the well-ordered society and the principles of justice, lexically ordered as we shall now see.

IV

We must first consider what Rawls has to say about the choice made by the parties in the original position.

By putting these principles [of justice] in lexical order, the parties are choosing a conception of justice *suitable for favourable conditions* and assuming that a just society can in due course be achieved. Arranged in this order, the principles define then a perfectly just scheme; they belong to *ideal theory* and set up an aim to guide the course of social reform. (Rawls 1971: 245 - emphasis added)

But what about situations which are less than favourable? Rawls clearly links favourable conditions to the lexical priority of the first over the second principle, but adds great confusion to any interpretation by making it unclear what extra condition is implied by the second half of the sentence, "*and* assuming that a just society can in due course be achieved". A strong reading of this sentence would say that Rawls is suggesting that both parts of the conjunction must hold for the lexical ordering to be chosen. A weak reading suggests that both parts are *assumed* by the parties in the original position in their acceptance of the lexical ordering. This view reflects the argument put forward in the first chapter, according to which it is clear that the parties

take the matter as a precondition for their deliberations, since knowledge of their particular situations is not open to them, nor is knowledge of their particular socio-historical location. The well-ordered society must be assumed to be achievable, or the process of deliberation can have no point. This view points to a strong awareness in Rawls of the need to avoid principles which cannot be realised; this is the thrust of his remarks upon stability, the strains of commitment, and the development of a sense of justice harmonious with that contained in the principles of justice.

The parties in the original position assume that the two parts of the condition can be met, and select the lexical priority of the first principle over the second on that basis. If they did not do this they would not choose the lexical priority (or, at the worst, as noted, they would not engage upon the task of selecting principles of justice) - - and this is simply not compatible with the well-ordered society, because only when arranged in this lexical order do they "define a perfectly just scheme.". In such a situation, the two principles "aim to guide the course of social reform."

However, if the principles are selected in situations which are 'less than favourable', how are we then to understand the relationship between the principles and the institutions of that society? In such a case, Rawls says:

The intuitive idea is to split the theory of justice into two parts...the ideal part assumes strict compliance and works out the principles that characterise a well-ordered society under favourable circumstances...[n]on ideal theory...is worked out after an ideal conception of justice has been chosen; only then do the parties ask which principles to adopt under less happy conditions.
(Rawls 1971: 246)

His account has become rather unclear, however, since the parties in the original position seem to select the principles of justice, lexically ordered, *whatever* the circumstances in the society to which they are applied. The difference between

ideal and non-ideal situations is simply that in one case we can achieve the ideal, while in the other we cannot - - there seems to be nothing about the principles, or about their lexical priority, which could lead us to judge our own situation to be ideal or non-ideal, since only time will tell whether we are able to realise the well-ordered society or not. Indeed, it does not make any difference whether the situation we are in when choosing is ideal or not, since in either case, we attempt to *realise* the ideal.

The ideal/non-ideal theory distinction is not held to apply in quite this way, however. By non-ideal theory, Rawls means those occasions on which we are required to judge which institutional structure is least unfair. This is achieved using the mechanism of the original position, except this time, the parties already know what the ideal theory is, and their task is to derive new principles which apply in these cases, but which do not interfere with the attempt to achieve a well-ordered society. In any particular case, our judgment as to how best to proceed will be governed by the two principles of justice and their lexical ordering - - this is one of Rawls' psychological claims of uncertain status. He appears to be claiming that once we know what is [ideally] just, we will find that somehow our considered judgments in non-ideal situations will reflect this knowledge, and so the principles, while belonging to ideal theory, are 'generally relevant'.

However such an understanding conflates two things which we might reasonably be said to require from an (ideal) theory of justice, first, that the theory help us to determine what is just here and now, and second, that the theory help us to determine why the circumstances which forced us to make this judgment occurred in the first place, in order that we may seek to remove them. And it is not clear that the first role is compatible with the second.

The reason for thinking them to be incompatible lies in the unclarity

surrounding the idea of the ideal theory 'influencing' non-ideal theory. If, as Rawls seems to suggest, in our non-ideal world, we are to use the ideal principles as a guide when selecting the non-ideal principles which apply to our society, this appears to undermine the strength of ideal theory as a prompt to social reform. In other words, if our non-ideal situation is governed by non-ideal principles derived from the ideal principles on the basis that ours is not an ideal society, and so is not covered by the ideal principles *directly*, what force is left to the ideal principles to affect social reform? Of course, we know that Rawls' principles of justice are realised in the well-ordered society, but what we want to know is how to apply them beyond that situation - - and the only answer Rawls is prepared to give is that they are applied *indirectly*, through the non-ideal principles. But what we want is some explanation of the way that, with knowledge of the ideal principles, we are sufficiently motivated to act in order to achieve their realisation directly, that is, to act in order to bring about the well-ordered society. Rawls provides us with no such account, and far from the lexical ordering of the principles of justice specifying the limits to permissible action in achieving the well-ordered society, the whole mechanism destroys any motivation the inhabitants of an unjust society may have for attempting to realise the well-ordered society.

It should be clear that the defence of Rawls developed in the previous chapters makes the position considerably more difficult, since on this reading the principles of justice, lexically ordered, are applied only in the well-ordered society, the nature of such a society being indeterminately distant from our own; the well-ordered society need not, from anything Rawls says, be sufficiently familiar to us to yield principles which apply to our society. Instead, beginning from our own knowledge of our social system, we may attempt to derive principles which reflect this state of affairs. Such a

theory could not hope to remain neutral on the question of what constitutes the just economic system, for example, nor fail to take into account the gross inequalities of wealth which exist.

An important missing element, then, is an account of why the well-ordered society is worth struggling to realise - - it is not enough to say that it is worth realising because it is perfectly just (that is, it realises ideally just principles), Rawls must also say why he thinks that it is a goal that we should strive for from the perspective of our current situation. And this is just to say that Rawls must say that our present society is unjust, in what ways it is unjust, and that the well-ordered society is *achievable* from our starting point. There seems no way of doing this without simply rejecting the idea that non-ideal principles should play any role at all in a theory of justice. We can summarise this claim by saying that the parties in the original position must be uncompromising with regards to justice - - that is, if any society does not realise the principles of justice, lexically ordered, then that society is unjust, and no state of injustice is able to be judged preferable to any other - - the unjust basic structure must always give way to the just.

Such an account looks like Rawls could be committed to supporting any means to establish a just state - - there is at any rate, nothing in the substance of his theory to contradict this idea, for Rawls must not harbour any sentimental attachments to a currently existing society, as he has no principled reason for having such sentiments.

This view is acknowledged in Peffer(1990), where we find an interpretation of Rawls which fails to rule out any means to achieve the well-ordered society. The following is said to amount to a defence of Rawls against those who accuse him of utopianism:

Although he doesn't discuss in detail more radical forms of opposition, such as revolt or revolution, he does state that "when a society is

regulated by principles favouring narrow class interests, one may have no recourse but to oppose the prevailing conception [of justice] and the institutions it justifies in such ways as promise some success." If this is added to his statement that "in certain circumstances militant action and other kinds of resistance are surely justified," we have a recipe for revolt. (Peffer 1990: 413)

It is questionable whether this amounts to a defence which Rawls would be happy to accept, however, since the utopian charge is rather sharpened by such a position. If the realisation of the theory of justice requires large scale revolt in order to bring it about, it is even more important for Rawls to provide some account of how such mass support would be achieved in our society. Once again, the defence of Rawls constructed in the first three chapters gained force from the abstract nature of the theory of justice, and this is at odds with an account of social change prompted by a theory of justice which contains no explicit critique of contemporary society²².

We shall see a way in which he might construct an answer to this problem when we move on to consider remarks he makes in section 82 of *A Theory of Justice*. First, however, we must consider a possible objection to this way of understanding Rawls.

V

It may seem a plausible response to the above account to claim that it rests upon a mistake about the nature of the well-ordered society. This response stresses the way in which the well-ordered society is to be understood as a realisation of the principles of justice, but will itself then stand in a certain relation to the real world. That relation is one of ideal to real, so that, instead of the principles of justice, lexically ordered, being taken to relate to actual (non-ideal) circumstances via non-ideal

²² Although there is certainly no explicit critique of our society in Rawls, it is possible to discern an implicit critique. I attempt to point out the potential for such an understanding in the conclusion of this work.

principles, they are now taken to apply to the non-ideal world through the example of the well-ordered society which is, after all, simply the realisation of the two principles.

We do not now need to worry about the non-ideal principles dissolving the motivation for the attempt to establish the well-ordered society, since the well-ordered society is itself an exemplar of justice, and because of this, is able to "guide the course of social reform." (Rawls 1971: 245).

Under this interpretation, there is no sense in which the principles of justice are ever applied to non-ideal situations - - they are only ever applied to the well-ordered society. This view is consistent with that developed in the third chapter as a defence of Rawls' claims about the economic form of the just society. If we ask now why the establishment of the well-ordered society is to be our target, the response is simple - - we can see in it the embodiment of perfect justice, and we recognise it as such. We do not seek to achieve the well-ordered society, it is not a utopia, rather, just as a navigator on a ship uses the pole star to orientate herself, so we use the well-ordered society to orientate our sense of justice with respect to the basic structure of society. Our use of the well-ordered society is analogous to the navigator's use of the pole star for the purpose of navigation - - she uses it in this way without ever seeking to reach the star. In such a case, we can understand the way in which the well-ordered society can be said to guide social reform without all of the difficulties of providing an account of the transition to the well-ordered society from where we are now. Instead of asking 'Why should we attempt to realise the well-ordered society from where we are now?', we ask, 'Why should we attempt to alter the basic structure of our society in accordance with our (developed) sense of justice?' and it is clear from such a view that the well-ordered society has been brought back to the real world, because it is *our* sense of justice (suitably refined) which is projected in this way, and nothing more.

While the above account seems plausible, it does not in fact overcome the difficulties which have already been identified. The central reason for this lies in the account of the well-ordered society Rawls gives in section 82 of *A Theory of justice*. Here he makes it clear that there *is* a process which results in a society which realises the two principles of justice lexically ordered. Crucial to this section is the claim that the well-ordered society need not be well-ordered from the beginning. Here, Rawls sketches the way in which a society comes to realise the special form of the principle of justice, that is, of the two principles, lexically ordered. Prior to this, the general conception applies, but with the requirement that equal liberty can only be sacrificed if this sacrifice will "enhance the quality of civilisation so that in due course the equal freedoms can be enjoyed by all." (Rawls 1971: 542)

Rawls believes that he has shown how it is rational from the point of view of the parties in the original position to accept this ranking of general to particular theory, but clearly indicates the way in which he sees the achievement of a well-ordered society as a process. This can be seen in the following:

The lexical ordering of the two principles is the long-run tendency of the general conception of justice consistently pursued under reasonably favourable conditions. Eventually there comes a time in the history of a well-ordered society beyond which the special form of the two principles takes over and holds from then on. (Rawls 1971: 542)

The only reasonable conclusion to be drawn from the above is that the well-ordered society is something to be *achieved*, and as this is so we are required to reject the above attempt to sketch the well-ordered society as a navigational device. It is seen to lack support in Rawls' own work. However, another difficulty becomes apparent when the comments on the well-ordered society are compared with those set out earlier, since now we have the idea of a well-ordered society being achieved only

at the end of a process in which the *general* conception of justice as fairness applies - - and that conception lacks the strict lexical priority of the special conception.

We now understand Rawls as saying that the general conception of justice holds until the circumstances in which the special conception can apply are secured. Thereafter, the development of the individuals' sense of justice is such that they refuse to accept the justice of sacrificing liberty for economic or social gain (at the level of basic structure, of course). But prior to that point, such a sacrifice is permissible providing that it leads to a situation in which "social conditions...allow the effective establishment of these rights." (Rawls 1971: 542).

If this is so, how are we to understand the relationship between the general conception of justice and the non-ideal principles which Rawls believes to apply in conditions which are not 'reasonably favourable'? Here Rawls is at his most confusing, since in his presentation of the principles of justice in their final form, he particularly points to the need to avoid applying the general conception routinely in non-ideal cases - - he suggests that the lexical ordering of the special conception possesses valuable priority rules which we must seek to retain in making our judgments about justice in non-ideal situations. This suggests a fundamental flaw in the way Rawls understands his own account of the well-ordered society - - since the general conception is at the same time to be both avoided in non-ideal cases, and embraced as the principle from the application of which the special conception of justice can be applied in the well-ordered society. There is simply no way to reconcile these two roles Rawls attributes to the special conception of justice, and this indicates that he is shifting between the interpretations of the well-ordered society offered above. It must both play the role of exemplar to considerations of justice in our current situation, and stand as the end towards which we strive.

A further difficulty is suggested when we recall that the non-ideal principles were to be derived from the ideal principles - - so that the latter must be settled upon before the former can be identified. Yet the general conception of justice *precedes* the special conception, and if a society is to seek to establish the special conception by following the general conception, there seems to be no role for the non-ideal principles to play; once again, their role is taken over by the application of the general principle. There is no mechanism in Rawls' theory to allow for the reverse to occur, that is, for the application of the general principle to be rejected in favour of non-ideal principles derived from the special conception, since the realisation of the special conception - - as the well-ordered society - - is only achievable on Rawls' view if the general conception "is consistently pursued under reasonably favourable conditions." (Rawls 1971: 542).

All of the above suggests that Rawls is unsure of the extent to which the well-ordered society is an achievable goal - - he would have to maintain that it *is*, of course, since the well-ordered society is only the realisation of principles of justice which are derived from our own sense of justice processed through the original position, and what sense would it make to claim that the most sophisticated expression of our own sense of justice was not something which we strove to realise?

But if this is the correct understanding of Rawls on this point, he does owe us two things, first, an account of the way in which our own society fails to embody these principles, and second, how he understands the process of achieving the well-ordered society. Depending on the answer to these questions, Rawls may or may not be putting forward a theory which is utopian. Without attempting to answer them, he is not offering us anything which we can use to understand the nature of our own society and our own future. The question which remains unanswered is, 'Does Rawls offer us a

vision of the future or a justification for where we are now?'.

VI

The conclusion reached above seems rather bleak for Rawls' theory; in order to escape the objections which have been raised against it, we are left with a theory which is too abstract to answer our presently pressing questions about the justice of the basic structure of our own society. This is surely a failing in a theory which is supposed in some sense to capture our basic intuitions about justice.

Clearly, the problem arises because Rawls remains curiously uninformative about any of the issues which have been seen as crucial to the political debate in the twentieth century - - there is no principled defence of pluralism, for example, it is assumed as a fact of human society that the theory has to accommodate. And yet, recent history yields numerous examples of the collapse of such pluralistic societies at the hands of extremists of one type or another. It seems then, that Rawls is not concerned to shore up liberalism against external threats - - to put it another way, he is not concerned to produce irrefutable theoretical *foundations* for liberalism. Such a project takes on an air of desperation in a world in which liberalism is held by many of its proponents to stand in need of such a defence in order to secure from outside attack. It would be odd if this was Rawls' project, since his method patently fails to deliver these secure foundations.

There is another possible interpretation of his theory which is not based upon such a foundationalist view. Rorty(1989)(1990) proposes that we understand Rawls as a pragmatist political theorist. On this reading, the very possibility of providing a defence of liberalism by philosophical means is rejected as a false hope for the survival of liberal society. To place this weight upon the philosophical project risks failure

since in this way attention is directed against the position one wishes to promote. The same failure has been noted by Rorty and others in the epistemological enterprise, in which the repeated failure to provide a foundation for knowledge claims has led to a general loss of confidence in such claims. For him, it is a matter of urgency that philosophy abandons these pretensions and concedes that no theory *could* satisfy these foundational urges in epistemology, philosophy of mind, moral and political philosophy - - to respond that the failure is merely a failure *so far* mistakes the point being made - - continued commitment to the project undermines the plurality which is the celebratory feature of liberalism. In this sense, rather than attempting to put down the radical objections raised against liberalism, we should celebrate their continued existence in a liberal society, and fight for that existence wherever it is threatened.

This reading of Rawls is very contentious, and draws upon the later works in a way which falls outside the scope of this thesis, however, we end by noting that a pragmatic reading of Rawls does seem to offer the chance of a response to his left-wing critics which is not so much a philosophical argument but a *political* one.

Conclusion

I

Stability is central to Rawls' account of the well-ordered society, and it is clear why this should be - - the requirement that the principles selected in the original position should be such that they can be acknowledged by the citizens of the society in which they are realised is an important test for any moral theory. It is this understanding which leads Rawls to reject utilitarian conceptions of justice, and explains why this notion, together with the publicity condition, have featured throughout the thesis as integral features of the arguments raised against Rawls. In one form or another, Rawls' opponents articulate doubts about the impact of his principles of justice upon the raw material from which the well-ordered society must somehow be manufactured.

To develop this metaphor a little further, they think that the practice of suggesting a finished product without taking stock of the processes available to the would-be manufacturer is one doomed to failure. That Rawls is guilty of such a failure of vision is made manifest in the absence from his work of any sign that such a review has occurred.

Typically, the review includes a critique of current arrangements, which also serves as an impetus for the move towards something which is, in some sense, better, so that, for example, the failure to acknowledge the faults of capitalist society is also a failure to provide the motivation to reject our current position in favour of something which is more just. As we have endeavoured to show, the failure is a real one only if the Rawls' project is read in a particular way - - as suggesting a form of the just society

which is interpreted as a foundational defence of liberal tradition. The final chapter developed a tentative alternative to this reading which may turn out to be the most effective way of responding to Rawls' critics. In the remainder of this conclusion, however, an attempt is made to suggest a way in which Rawls' project may be understood as containing the supposedly absent critique of contemporary society, although, once again, a problem is raised which defeats this attempt.

II

The final objection, that Rawls fails to appreciate the utopian aspects of his system, has revealed a fundamental uncertainty in Rawls' view of his own well-ordered society. The attempt to produce a consistent view of the relationship between his theory and the world in which we live may proceed in the following way.

As already stated, stability is inextricably interlinked with justice, and this may be the clue to the way forward, since Rawls can be understood as saying that any society failing to meet the principles of justice is unstable. Even though he says that his theory is neutral on economics etc., there are many occasions throughout *A Theory of Justice* on which he indicates that our society fails to meet the standards he establishes. In that this is so, isn't Rawls offering us a challenge to our reaction to our current arrangements? He believes that there are certain features of our psychology which render the possibility of change real - - he does not argue that, as we are, so we shall ever be. *Given the right conditions* the way in which humans interact can generally improve in the ways in which he indicates. It is our task to bring that improvement about. The question remains of the account of social change which Rawls can embrace.

An answer can be found in his emphasis on stability and publicity. These are

constants in Rawls' theorising, and are as basic as the laws of moral psychology to the construction of the well-ordered society.

If, as he *does* say, the unstable society is doomed to unravel, he seems to be offering both a criticism of the current status quo *and* a way therefore of accounting for social change - - the non well-ordered society is unstable, and as such can be made to move towards a state of stability - - coincident with a state of justice. This view of Rawls is given textual support when he notes that:

The beneficiaries of clearly unjust institutions...may find it hard to reconcile themselves to the changes that will have to be made. But in this case they will know that they could not have maintained their position anyway. (Rawls 1971:176)

We might add that even those who are *not* currently beneficiaries of unjust institutions will find the changes hard to bear - - in this, we find support in Rawls stated view about the cooperative basis of human society - - it is our tendency to find some way to engage in cooperative endeavours *regardless* of the current socioeconomic conditions. It is this tendency which is refined and harnessed within the well-ordered society to provide stability based upon widespread acceptance of openly acknowledged principles of justice. The tendency becomes a full blown sense of justice in the well-ordered society, but it is present in us all, and this presence provides the possible motivation towards change.

Any critique of current society based upon justice *must* anticipate change occurring as a result of a process of persuasion - - any revolution will take place in the way we think before it filters through to action. The task of the political philosopher is to prompt reflection on the nature of the society we would *wish* to have from the point of view of justice. The availability of this prompt is guaranteed by the unstable

nature of the unjust society.

In this, Rawls also seems to have much in common with the views of Talcott Parsons, for whom the phenomenon to be avoided in a society is '*power deflation*', a term which we have already dealt with in chapter two in such a way that further parallels Parsons' treatment of society. In circumstances of loss of confidence in those who are given power in virtue of their role in furthering the goals of the collectivity, society begins to unravel, the deflation in power is analogous to the *monetary* deflation which occurs in times of loss of confidence in the money-making institutions. Dangerous instability is the result, as the downward spiral is self-reinforcing.

In such a case, the inevitability of change makes it imperative that the citizens of this society are clear about the essential form of the values which must be realised in any new structure which comes about. The crises must end, and they *do* end when the two principles of justice are realised in the basic structure of a society - - until then, instability is a feature of those societies which are unjust. On this reading, Rawls does not extend his two principles to cover the unjust society because they have effect only when these societies are erased in favour of the well-ordered society. One cannot realise a just basic structure without ending the instability which is present in our own societies.

Change is inevitable but the *form* change takes is not. It is important to become clear about the form it *should* take, and this is Rawls' project.

Rawls differs from the left-wing critics is in his understanding of the place of moral theory in the social sciences, and in the emphasis he places upon the use and function of power in a society. This latter concept was shown to be very similarly understood (after some reconstruction) by both Parsons and Rawls, and stresses the fundamentally co-operative nature of power - - although of course the problems which

Giddens finds in Parsons are then also problems for Rawls.

III

One of the major difficulties is the way in which the idea of 'power deflation' is expressed in psychological terms - - as a 'loss of confidence'. Rawls similarly understands instability to be a matter of not endorsing the conception of justice as it is realised in a society. Stability is the corollary of that, and we noted, even in the first chapter, the extent to which Rawls' treatment of this subject was bound up with his contractarian method and the evidence which could reasonably be ascribed to the parties in the original position.

This problem, which has occupied us throughout the thesis in one form or another, is now seen to result in the most difficult problem for Rawls, since his insistence that his theory cannot pronounce upon questions of justice in economic systems mirrors his insistence that it *can* be clear about the psychological states necessary for the establishment of the just society, and this rules out any attempt to relate justice to the economic conditions of presently existing societies. On the reading developed throughout the thesis, he cannot reasonably talk about such things, based as they are upon an analysis of the economic form of our current society, but he has thereby removed his theory from the position we hoped it would occupy - - it would tell us something about our own society and *its* possibility for justice.

Of course, Rawls scores over Parsons in seriously addressing the sources of power *inflation* in a society, since the realisation of the principles of justice is the source of the power inflation present in the well-ordered society, but he has, ultimately, failed to provide an account of just *how* power deflation occurs in our current societies, in so far as he obviously rejects an analysis of current social systems as

areas of class conflict. Given this, we must also question the applicability of his assessment of power inflation, since his theoretical activity is too abstract to allow us to be sure that what Rawls describes as the basis for stability, and so power inflation, occurs within the social formations within which we live. One cannot allow co-operation as the basis of social systems per se - - rather, it is necessary to identify the nature of the instability and stability in the society from which the well-ordered society must emerge. This is something which Rawls has failed to do, and must lead us to question the basis of his psychological account of social change.

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