

Interpretation

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John Rawls and the Flight from Authority: The Quest for Equality as an Exercise in Primitivism

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John Rawls', *A Theory of Justice* has been at the center of discussion of justice in the United States for two decades and has had a not negligible influence elsewhere. The book, along with Rawls' many second thoughts about its arguments, stands in a dominant stream of political theory, one of the Anglo-Saxon forms of liberalism, which self-consciously develops and refines the theory of the Social Contract. Rawls gives the Contract its most influential twentieth-century form.¹ The extended discussion of Rawls' position has led him to modify it at many points, indeed to abandon many of his original assertions. Yet neither in his nor his critics' revisions has what I would call his mythical quest for equality been seen in sufficient historical context, or subjected to the whole range of criticism to which it is vulnerable. This is the task of the present essay, which for the most part addresses Rawls' position as originally formulated, because this center of his thought has survived his revisions, except insofar—an important qualification—as Rawls now offers his theory as suitable to the constitutional democracies, rather than as a universal theory of justice to which all societies should aspire.

I will have accomplished something if I am able to show the provincialism and arbitrariness of Rawls' thought. Every philosopher has to work within a received tradition, but the best philosophers challenge and probe their tradition at every point, read outside it, and in some way refashion it into something larger. In some ways Rawls does this in his laudable attempt to find a viable alternative to utilitarianism and intuitionism, yet he seems to me hedged in by, even content with, a kind of received canon taught in most English-speaking philosophy departments which, despite the occasional reference to an Aristotle, does not go much beyond, first, the Anglo-American traditions, and second, north-European philosophy. Because many of his deepest assumptions embody a form of unexamined cultural imperialism, in some respects he is but one late example of a kind of secularized cultural Protestantism that still often dictates the agenda in Anglo-Saxon moral philosophy.² If by modern moral philosophy one means the traditions of the English-speaking schools, one can see the truth of such of his claims as that "During much of modern moral philosophy the predominant systematic theory has been some form of utilitarianism (p. vii)."³ But such claims look exceedingly odd from the perspective of, say, Spanish,

Italian, or Polish philosophy. Even where one is inclined to Rawls' conclusions, one must bridle at his unargued assimilation of terms like "person" and of ideas whose historical origins were in revealed theology into what is supposed to be a purely philosophical position. He tells us, in a passage full of the imprecision that mars his book, that "Each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override (3)."⁴ As far as I know, every legal code in the Western tradition before or outside the influence of Judaism and Christianity held the opposite: this indeed was at the heart of the Roman law distinction between public and private law.

His book seems to assume that, along with a few continental thinkers like Kant, the English-speaking tradition should set the terms of discourse. Of course a philosopher of law, even more than most, must begin with and speak to his own tradition. Yet Rawls also is a political philosopher, and here there seems to me to be a special obligation never to assume the rightness of one's own traditions. I can only suspect that ignorance of the traditions in which, say, Giorgio del Vecchio or Javier Zubirez stand makes possible the astounding praise Rawls lavishes on thinkers like J. S. Mill as a prelude to asserting that "we often seem forced to choose between utilitarianism and intuitionism" (p. viii and see p. 3). That is a choice forced only on those who think the English-speaking tradition adequate.

I do not want to belabor the point or win arguments by citing authors outside the Anglo-Saxon canon. Yet I must insist on the arbitrariness of Rawls' point of departure. He writes, "What I have attempted to do is to generalize and carry to a higher order of abstraction the traditional theory of the social contract as represented by Locke, Rousseau, and Kant" (p. viii, and see pp. 3, 11). As Jeffrey Stout has noted in a book from whose title I have appropriated the phrase "The Flight from Authority" for the present essay's title, nowhere does Rawls show the truth of the theory of the Social Contract. He stands, rather, in a tradition of "flight from authority" which has fastened, largely for historical, political, or prudential reasons, on first this and then that strategy for undermining or replacing some traditional authority structure which has fallen into disfavor. This "flight from authority" has come to assert the autonomy of morality, a language of rational individualism.⁵ Not just in his thought, the medieval "philosophy as a handmaid to theology" has been replaced by a modern "philosophy as a handmaid to politics." In the process primitivist modes of discourse, mythical points of departure for politics, which after more than a millennium of debate had been expelled from at least the Aristotelian branch of medieval Catholic thought, have reappeared at every step in the modern world.

In the larger flight from authority, the conclusion drawn from the appearance of Protestantism and the resulting conflict of authorities was that medieval ideas of authority were untenable. A new notion of politics had to be drawn in which the needs of the historical moment could shape a suitable notion and place for authority. In the manner of Descartes, one cast about for a rhetoric

disconnected from traditional authority, in this sense secularized yet capable of establishing a new form of authority. If one had a specific cause to advance in the Glorious Revolution (Locke), or a program to recommend to replace the *ancien regime* (Rousseau), one redefined or relocated authority accordingly.⁶ Of course it had always been so: the “handmaid” business had always been susceptible to politics and power. Political interest had had a perduring influence on political thought. Yet a shift from the category of “nature” to that of “history” clearly took place in the modern period. Machiavelli, the bellwether here, marks the shift from the political theory of the ancients and medievals, which had generally understood politics as the discovery of and submission to principles rooted in an order of nature, to the political science of the moderns, which has tended to see politics as the study of the exercise of power in a circumstance dictated by history.⁷

There is a difference between Plato’s Myth of Er and Locke’s Social Contract, which might otherwise be taken to be similar attempts to find a “useable myth” on which to ground society. In Plato’s case the myth was offered for those not capable of understanding philosophy, of understanding that the observable inequalities of nature, the differences between people, dictate a hierarchy for society, and that each therefore should accept the place for which nature had fashioned him or her: those who used their reasons aright could conclude to the truths embodied for the less disciplined in the Myth of Er. Nowhere in Locke, that “story-teller,” (Glendon, p. 21) by comparison, are the notions captured in the Social Contract established independently by observation and argument. The attempt to find either an historical or ontological home for the contract has been notoriously difficult, thus Kant’s abandonment of such claims. It now seems, so far as the unaided reason can determine, that there never was, chronologically or ontologically, a first state of nature for man to be in. Such an idea is essentially the bringing into politics, the secularizing, of Christianity’s Eden or paganism’s dream of a Golden Age or Age of Saturn. The contract seems neither true of any moment in the past, when egalitarian conditions actually prevailed, nor of some founding moment of political life, in which authority passed from the people to a state. Rather, as Edmund S. Morgan has shown, the contract, the whole movement toward popular sovereignty in England and America in the seventeenth and eighteenth centuries, was a device for making the political argument that authority no longer was what it once had been, rooted in God: it was now to be placed in a fiction called “the people.” Ray Gunn has shown a similar process at work in the constant redefinition of liberalism in nineteenth-century America.⁸

Rawls is aware of the problems in determining the exact status of the seventeenth-century state of nature. Therefore, in redoing contract theory, he with Kant attempts to abandon nature and history for pure reason as the point of departure for thinking about justice.⁹ He begins from a purely hypothetical point of “original position” or “original agreement” on the principles of justice

(see esp. pp. 11–22, 118–92, 251–57). Although he allows that in every actual society discord and dissent are present, when he speaks of the “original agreement” not only does human historicity fall away, he writes as one might imagine Descartes reborn as an economist (cf. p. 14): the principles of justice “are the principles that free and rational persons concerned to further their own interests would accept in an initial position of equality as defining the fundamental terms of their association (p. 11).”¹⁰ It is as if the ideals of the Enlightenment had never been criticized, as if no one had noted that the liberal notion of rationality is impossibly neutral, presented under the pretense or delusion of being free from any specific tradition; and that the liberal sense of community is too narrowly political, or even economic.¹¹ As John Dewey, who is an example of an exceptional American rejector of the Social Contract, observed in 1888, “The non-social individual is an abstraction arrived at by imagining what man would be if all his human qualities were taken away” (quoted in Menand, p. 54).

Rawls does not clearly see that, as Stout (especially in chapters 2–3) puts it, the age begun by Descartes, originating in the attempt to overcome scepticism by some form of foundationalism, and ever since fluctuating between these two, has ended with each party inflicting mortal wounds on the other. According to Rawls, persons unqualifiedly free, that is without historical determination or necessity, are nevertheless asked to act as if they had interests and could commit themselves to some specific act, some mode of historical existence. Besides this God’s decision to create the world seems small potatoes. As Stout queries in his discussion of what Rawls terms “the veil of ignorance” (see especially Rawls, pp. 136–42), “What language is spoken behind the veil of ignorance?” If they speak a language the original contractors will already be determined by history, that is will not be free and rational without qualification, will be unable to achieve an agreement that is universal. For that a universal language would be necessary, but such a language, because “neutral with respect to belief, would be meaningless.” As Stout dryly observes, the contractors would be under no small disadvantage.¹² In sum, Rawls, like Kant, is mistaken in thinking that reducing the “state of nature” of traditional theory to a “purely hypothetical situation” (p. 12) leads to a conception of justice: it merely empties the traditional theory of what little meaning it had had. If Rawls is trying to discover what principles ought to apply to all irrespective of natural differences, this is not a thought experiment of likely success.

If we grant Rawls “the traditional theory of the social contract” in his updated version, it is clear that he has much of importance to say. But why grant the theory? It is clear that there are historical reasons for using the theory, but what are the philosophical reasons for granting it? One can see many historical reasons for the grounding myth of his system, but, as with many modern points of departure, not reasons for valuing the system except in the historical situation which generated its grounding myth. For instance, so sure is Rawls that a

theory of justice is to be raised on the supposition of equal persons, rather than, say, on an idea of the common good, that he holds that some questions can only “be answered in a certain way”: he says, as an example, that religious intolerance is assuredly unjust (p. 19). I would merely observe that, whether we are talking of inquisitorial Spain, socialism with a human face, or Walter Lipmann’s quest for a “public philosophy,” the desire to live a public life of shared values in human solidarity is very deep-rooted, and by definition not possible without some form of “religious intolerance.” Current debate about “political correctness” and “multiculturalism” centers on the fact that “Even free and open societies devise something akin to an ‘official’ knowledge.”¹³ As I have argued elsewhere, the First Amendment to the American Constitution, directed initially against above all the Puritan tradition, is intolerant of any form of religion which sees its fullness to lie in expression in a public order manifesting the beliefs of that religion.¹⁴ Rawls justifies the use of force by the tolerant against the intolerant when the latter threaten the liberty of all (p. 219), and this makes good sense on his principles. Yet he does not seem to realize that, unless there are no shared or public values, any tradition to be a tradition must set up some form of intolerance.¹⁵ Religious bigotry certainly has been part and parcel of the liberal tradition itself, with its various forms of *kulturkampf* and May Laws that have been used, for instance, to pressure Catholics to accommodate to Protestant majorities. I think more than forcing the intolerant to play by liberal rules is involved here: Rawls only makes sense on the premise of an individualism or atomism of individual ends limited in its radical pluralism solely by the preservation of liberty itself. He robs us of most of our humanity in the name of an impossibly abstract, mathematical, and procedural view of what life in society, what community, is about. Or to speak more sharply, he is blind to the intolerance of his own position, hidden by its starting point in the myth of equality, “the shattering of the ‘givenness’ of existence as symbolized in the hierarchical representation of being.” (Sandoz, p. 29, uses this phrase in an attack on moral relativism.)

It has been observed that one aspect of the recent collapse of the communist states is the inability of a state ordered to a specific notion of good, attempting in the modern world a “communitarian Age of Faith,” to stand up to modernity, that is to the dissolving ideas of freedom and democracy (Vree, p. 4. See also Buruma, “Heimat.” Cf. on the retreat of the state, Ascherson, pp. 13–14.). Some of us may even have some sympathy for the more spiritually inclined of the former subject peoples, somewhat reluctant to join politically with the West, and wondering whether what glitters in Berlin is anything more than gold. However benighted one might think this or that quest for a shared public life ordered to a specific view of the world, there are serious questions involved here. Rawls’ kind of liberalism seems incapable of dealing with these. It does not clearly see that, because its point of departure is itself theological, lying in the idea of equality, it outlaws all forms of religion which are not “Protestant.”

Ruled out is all religion which is unwilling to restrict itself to the private and individual, which sees itself as about more than God and the soul. I am not referring to classical Protestantism here, but to that remade Protestantism of the Enlightenment, which, classical Protestantism having failed roughly as much as Catholicism in its practice of intolerance (pp. 215–16), adjusted itself to the “pluralism” necessary for there to be for instance an American republic. As Will Herberg showed thirty-five years ago (as at p. 271), this was at a tremendous price paid by Judaism and Christianity, which in the United States abandoned most of their prophetic dimension and, instead of criticizing the American way of life, became its prime boosters.

Rawls emphasizes “equal liberty” and “the priority of liberty” (p. viii, with pp. 195–257, 541–48). Such liberal preferences are perfectly intelligible within the context of a modern “pluralist” society. In such we protect ourselves from each other’s orthodoxy by (on the surface, it turns out) disestablishing all orthodoxies and displacing the ancient ends of politics, education and goodness, above all what was called the “common good.” Emphasis shifts from truth and virtue to liberty, itself a new kind of orthodoxy hidden from careful identification by the terms “pluralism” and “liberalism.” Just as Locke refashioned natural-law theory into natural-rights theory without abandoning all the language and commitments of the past, so Rawls has refashioned the “common good” to reorient authority around justice, liberty, and the individual. If in Rawls we miss convincing arguments justifying such a shift, this is because they hardly exist. Rawls may in fact sometimes argue from nature, but this he formally impugns. The shift is better explained as dictated by a new historical circumstance.¹⁶ One can see how in a modern atomist society justice moves to the fore as that which protects each of us from notions of virtue with which we do not agree, but why should a philosopher accept the licitness of this development, in a sense become the (somewhat flatfooted) Virgil of the American Experiment, without any proper grounding of the priority of liberty or justice? My argument is that such notions embody an ancient and mythical pattern of thought and set of ideas still living in Rawls’ thinking. The Kantian bath may have cleansed this thought from its grosser historical claims to be an actual account of the race’s first condition, but in the now abstract or hypothetical “original position” almost point for point the age-old claims reappear. This thinking indeed is circular or merely re-expresses the myth. To show this, and to connect it with what has already been said of the Social Contract, background is needed.

If what writers like Mircea Eliade have said is true, there is hardly a culture or religion in the world without a myth of a “once upon a time,” a primordial state of life, now lost, with conditions radically different from the present. To stay with the Western tradition, in the 1930s and 40s Arthur O. Lovejoy and George Boas massively documented the ubiquity of the idea of the Golden Age in ancient and medieval thought (see now Elliott, and Olsen, “Recovering” pp. 104–7 and “City”). I am inclined to call this in all its variations the central

myth (imaginative representation of reality) of our culture, if not of the race. Hundreds of times we find either cultural primitivism, an early form of the idea of the noble savage, in which the first state of the race is seen as morally pure, harmonious, etc., or of chronological primitivism, in which the best is seen at the beginning. The Christian myth of Eden is an example of the common combination of elements from both forms of primitivism. Although few pictures of the Golden Age were identical, very commonly the “once upon a time” was seen as a time of unity; harmony both between human beings and between God or the gods, the animals, and humans; and of the absence of hierarchy, law, and the state—people naturally did the right thing.

The Christians, heirs to both the Eden story and the manifold Golden Ages of classical literature, conflated these two traditions, and writer after writer of the first centuries argued that in man’s first state, before the Fall, there was no private property, government, or law. All were equal and no one dominated. Peter Brown’s splendid *The Body and Society* has recently shown us that the greatest of the Latin thinkers, Augustine, no longer fits as neatly into this tradition as he did for the brothers Carlyle (volumes 1 and 3) early in the present century. In part this is because Augustine was one of those relatively rare persons Lovejoy and Boas had labelled antiprimitivist. But Augustine was an exception among Christians, more generally among ancients. Most saw the race as god-descended and as having lost the unity of an earlier and better life. Rare was the Aristotle, the thinker with no myth of man’s origins to tell, no outrunning of the historical record, no myth of a better state or original society on which to erect his political thought. Or rather, rare in the ancient world, for from the twelfth century Aristotle came to enjoy an influence he had never had in the ancient world. In a Christendom largely still embracing notions of an original equality and absence of human authority (God’s authority in Eden was presumed), Aristotle’s counterproposal that political society is rooted in nature, and should reflect the nature of people as we find them in the historical record and not as they allegedly were in some mythical first state, made deep inroads. Ultimately this counterproposal was to lie at the basis of much political thought in Catholic culture. The earlier notions of the Church Fathers, on this point discredited or at least partly abandoned in medieval Aristotelian university circles, would have a new life with the Reformation, along with a general revival of much that was chiliastic. In time they would find their way into the Social Contract of the seventeenth-century thinkers, a reversion, as I have observed, to a primitivist or mythical mode of departure for political thought: this is part of what I meant when I said that philosophy in the north of Europe maintained Protestantism at the cultural level, just as in the south it maintained Catholicism.

Once again we must drop back to the beginning, this time to the origins of the alternative of conceiving society as natural or conventional. Although the brothers Carlyle, in the first of their six-volume history of medieval political

thought, only saw this antithesis as appearing with Cicero, it clearly was a commonly understood contrast centuries earlier and is described in Book 2 of Plato's *Republic*.¹⁷ Here Glaucon in puzzling over whether Socrates had really vanquished Thrasymachos in the previous book, touches on one of the great alternative ways of conceiving political life. Plato-Socrates himself rejects what Glaucon says "countless others" hold. Yet at least some scholars have noted the distinct resemblance of the ideas Glaucon describes to the Social Contract of the seventeenth century, as well as to other aspects of what has come to be termed a liberal politics and theory of rights (Cornford translation, pp. 41–42). Glaucon gives the argument that justice is mere social convention. For those who hold this, the customary rules of morality are not discovered in "nature," but are forged by the human intelligence and rest on tacit consent. They are neither laws of nature nor divine enactments, but conventions which man made and can alter. Listen to Glaucon describe this position he takes to be common;

. . . when people do and suffer injustice in dealing with one another, and taste both, those who cannot both escape the one and take the other think it profitable to make an agreement neither to do nor to suffer injustice; from this they begin to make laws and compacts among themselves, and they name the injunction of the law lawful and just. This, they say, is the origin of justice . . . (2. 358–59, Rouse translation, p. 156)

A few lines later, after an account of the self-seeking of both the so-called just and unjust of which Hobbes could have been proud, the story of Gyges is recounted.

In chapter 2 Socrates responds in a manner that associates nature with inequality. Men, he argues, are born neither self-sufficient nor alike. Therefore organized society, in which people are interdependent and specialize according to innate aptitudes, is both natural and advantageous to all. Aristotle of course later works out more thoroughly the observation that men are by nature unequal, but the basic insight that the inequalities of nature lead to the inequalities or complementariness of society is shared with his teacher. As Aristotle has it, the race cannot continue without the union of male and female. The individual cannot survive infancy without a "family," that is, a stable association to supply its wants. The family cannot go much beyond the satisfaction of daily needs, and hence the village is born to develop the more distinctively human capacities of the individual and the family. Finally, the limitations of all lesser forms of natural association are overcome by the polis, a community large and diverse enough to perfect all human possibilities. As I will note in a moment, we can readily acknowledge the time-boundness of what Aristotle takes to be natural here without undermining his main point, that whatever the historical progress, the smallest viable social unit is the family, not the individual, which left to itself literally dies. No society was ever formed of autonomous individuals who came together. Moreover, the individual's full humanity is only re-

vealed in a differentiated society which allows for leisure and thus for the highest human pursuits, above all philosophy. That is, man is by nature, rather than by convention, a social animal.

Let me, by way of contrast to the egalitarianism and individualism of the conventional tradition, which we might call theological, ideological, or counterfactual, call this a scientific politics. By this I mean that Plato and Aristotle see the observable differences found in nature and history as replicated in and the basis of social and political life. This is one of the things Aristotle means when he says man is by nature a political animal. Society perfects what is incomplete or potential in the individual, and is necessary and natural to that completion. On the one side then we have the natural or scientific politics of Aristotle, on the other the conventional or counterfactual politics of Glaucon's unnamed "many," of most of the Church Fathers, of the Social Contract, and of Rawls and his kind of liberalism. The one assumes that politics works from and respects the natural inequalities between human beings, the other that politics exist to diminish or eliminate these natural differences. Rawls actually writes of looking for "a conception of justice that nullifies the accidents of natural endowment" (p. 15 and see p. 102). The natural or scientific approach has no myth of human origins or human ends to tell; the conventional or liberal approach is commonly rooted in both, first in a myth of an original equality. Thus Rawls explains that he carries the Social Contract "to a higher level of abstraction" by replacing "the compact of society . . . by an initial situation that incorporates certain procedural constraints on arguments designed to lead to an original agreement on principles of justice" (p. 3). The "initial situation" and the "original agreement" have, as has been suggested, a greater bloodlessness than the seventeenth-century form of the contract, but encourage in turn a myth of human ends, the use of politics to attain a state like that of the original hypothetical situation. This seems one more example of Eric Voegelin's claim that most modern politics is Gnostic (chaps. 4–6).¹⁸

Again, I do not want to be misunderstood. Aristotle is not the last word in politics. We can understand but deplore a certain ahistorical nature to his thought, in which he does not grasp that we have no cases of "pure nature," that is a nature unconditioned by history. He has little to say on the vexing question of whether what we find in history can ever be called "natural" in anything but a qualified sense, that is, as qualified by some particular set of antecedents and some particular context. Like the confusion still found in, say, Gerda Lerner's feminism, he assumes that by looking at the historical record from its beginnings we can discover a "natural" innate human relations, a *gener purus* which has been overridden by history.¹⁹ I do not think he was completely mistaken in his turn to what he calls the natural, but I do not think he clearly saw that reason cannot recover or discover any unhistorically qualified "natural."

Similarly, there is an issue treated too superficially in virtually all classical

philosophy which is almost exactly matched by what seems to me a lack of thoughtfulness in Rawls' position. Plato and Aristotle clearly believed that the actual hierarchy of their societies was not just, that some were shoemakers who should be soldiers, and some slaves who should be citizens. That is, they understood that the inequalities of actual society were not necessarily built on natural inequalities, but on things such as different social positions at birth. Plato clearly had a mechanism for dealing with this by force, the reassignment of people to the class to which they were suited, but the more historically minded Aristotle, more willing to work with inherited institutions, glosses over how the polity is to sift natural inequalities from "accidental" ones like the family one is born into. Rawls would be right to criticize classical philosophy for not giving more attention to this problem. Yet, presumably because his thought is built on contract, convention, and the individual, he seems to me unsatisfactory at the heart of his own position in the treatment of what he calls the "deep inequalities" (p. 7), those rooted in people having different starting places in life that have nothing to do with personal merit. I can only make one observation about Rawls' treatment of this most vexing question here. Because he sees society as composed of individuals, rather than, as in the scientific or Aristotelian tradition, of families, or more fully, of various levels of social incompleteness, like the family or village for the completion of which the polis exists, Rawls is willing to attack nature in a new way. He renders problematic all labor of families to provide for offspring. The family, for him, stands in the way of equality.²⁰ The criticism of Plato by Aristotle in the *Politics*, that finally he forgets that the state exists to perfect rather than destroy the lesser forms of society of which it is composed, is a criticism not without relevance to Rawls' liberal individualism. On this issue, then, one can be unhappy with the incompleteness of ancient thought but see Rawls as no remedy.

Let me summarize my argument. A primitivist mode of affirming an original state of the race very different from anything found in history is found across the cultures. Such a point of departure is replicated in hundreds of forms as we pass through our own history, in for instance the Renaissance attempt to overcome the Middle Ages in order to recover the classical Golden Age, or in the Reformation attempt to recover an original form of Christianity. It lies behind the Social Contract, even when purified of any explicitly chronological claim, and runs in myriad ways through European and American history to the present.²¹ I do not think that in some Comteian way the race or the individual passes from a mythical through a theological to a scientific stage. Rather, one role of reason is to reflect on myth, on the function of primitivist and similar modes of thought, which are always with us. Thus we may discover a proper boundary between the unifying vision which myth attempts, and the sense of human limitation that reason produces.²² It is always the myths that provide some sense of the whole, some sense of a place in being and perhaps of a direction in which to move. At the level at which reason examines them they

are expressions of inchoate desire, of something in our nature yearning for more than reason and history can provide, a harmony perhaps between all beings. The myths cannot validate themselves and they cannot be validated by reason, although reason can perform the very important function of pointing out conflict between myth and what observation can discover, and thus help to hedge our imaginations into proper limits. Because the desire for wholeness and unity seems to lie within our nature, the myths may perform a utopian or paradigmatic function, not unlike that of political theory. Held in check by reason, they may suggest not that our world can become radically different from what it has been, but somewhat different. The myths are not clear enough, the natural desires too imprecise, for a political system to be built on them. If they have more than an imaginative function, that lies beyond reason and history.

NOTES

1. Pages cited with no further identification are to *A Theory of Justice*. The criticism, defense, and modification of Rawls' ideas may be explored through Rawls, "Political not Metaphysical," and "Priority of the Right." See also Pogge, Neal, and Kukathas and Pettit, especially chapter 2, on contractarian positions. *Ethics* 99, no. 4 (July, 1989), is entirely on Rawls. I wish to thank my colleague Bruce Landesman for calling some of the literature referred to in the present study to my attention, for allowing me to read three of his unpublished papers, and for making available to me Rawls' own unpublished commentary on his book "Guided Tour." The direction of Rawls' recent thought is to bring to the fore the "pragmatic" or "game" aspects of his earlier position, and thus to drop the truth claims found in his book. Against a position that makes no truth claims there can be no properly philosophic criticism, and in this sense the present essay *must* address the earlier Rawls, who thought he was doing something more than finding a theory of justice which would work for those who want a liberal democracy. Rawls, *Political Liberalism*, was not yet available to me at the time of composition of the present study. See also Weinreb. Steel draws out the sense in which the dream of equality is utopian.

2. See Stout, pp. 71–72, for the argument that, with Romanticism in poetry, modern philosophy is a "continuation of Protestantism by other means" (p. 71). Although the historical analyses of this book are very illuminating, they often oversimplify. In general the medieval ideas of authority were more varied, and Trent more complicated, than Stout suggests. As at p. 114, he seems overreliant on the not-always-reliable descriptions of Aquinas given by Hacking. Stout's quotation from Aquinas (p. 107) contains ideas of authority and probability that do not square with the oversimplified position ascribed to Aquinas (pp. 7, 38–39, etc.). George Grant, as at pp. 58 ff., brilliantly portrays the interrelations between liberalism, Protestantism, and English-speaking philosophy.

3. Some of Rawls' descriptions of classical positions do not seem to me very accurate. Thus, in ascribing to Aristotle a teleological theory which directs society to the principle of perfection (p. 325), Rawls says slavery was justified as necessary for the culture to develop philosophy, science, etc. Aristotle, rather, argues that by nature some are not suited to being citizens, and it would be unjust, for them and for society, to make them citizens. On p. 383, Rawls does not recognize the variety of historical "divine right" theories of government, and says that in them "subjects have only the rights of suppliants." This would be news to many medieval and natural-law forms of this position. Rawls presumably is aware of historical discussion of topics like regicide, but his further statement that subjects "cannot disobey" implies considerable ignorance of medieval, more generally Catholic, political thought. As too frequently, we are given some form of reduction of such positions to a type commonly found from the time of Luther.

4. George Grant (p. 33) notes the sentimental retention of “person” by Rawls. Rawls returns to this question in “Political not Metaphysical.” His distinction (p. 245) between the person’s public identity, defined by the free and equal individual, and the person’s nonpublic identity, in which other than liberal ideals may be embraced, seems to replicate the schizophrenia of the privatization or isolation of religion from public life in America. For Rawls, one’s public and nonpublic identities can hold quite different views of the good. Pogge (chap. 2) rightly defends Rawls against common misreadings of his idea of the person, but without seeing that the deeper issue is his use of the idea at all.

5. Stout, pp. 218–23, 226, 232–35, 238–41, on Rawls. Rawls’ comments (pp. 389–90) on the kind of parallel authority found in the sciences and in a democratic society, while in my opinion describing neither accurately, reveal particularly well his idea of autonomy (see pp. 513–20 for more detail), which is more a credo than anything else: “Equals accepting and applying reasonable principles need have no established superior. To the question, who is to decide? The answer is: all are to decide, everyone taking counsel with himself, and with reasonableness . . . it often works out well enough” (p. 390). Here we have Rawls’ strange and continuing shift from an opening theoretical, mythical, and unearthly equality, where by definition authority is not needed, to judgments about man in time (“it often works out well enough”) which are no truer than their opposites (“it never works out very well,” if I may coin my own phrase), and simply reveal the irrationalism of stubborn belief in Enlightenment notions about human reasonableness. See also Nagel. George Grant, as at pp. 11 ff., on the aridity of the Social Contract, makes a number of criticisms of Rawls similar to those found in the present paper.

6. Ruth Grant surveys the controverted literature on Locke and defends him as nonideological against the kind of reading he receives from Stout. Also arguing for the coherency of Locke’s thought is Rapaczynski. Shapiro is much sharper in both his treatment of Locke as ideologue and of Rawls.

7. Budziszewski (*Resurrection*, p. 11) attacks the “historical retreat from the idea that Nature—human nature—somehow provides the rule and measure for human life,” engaging Rawls; and extends the analysis in *Nearest Coast*.

8. Morgan, *Inventing*, and “Fiction.” See also Sommerville (pp. 57–66). Reiman (pp. 12–14 and throughout) makes a thoughtful attempt to defend the contractarian idea by providing foundations Rawls does not. Rawls (p. 454 n. 1) briefly considers the Myth of Er. With MacIntyre (p. 392) on the prerational foundations of the liberal project, I am inclined to regard most American political debate as between various forms of liberalism.

9. Rawls, in spite of his denial of this, seems to me frequently to argue from nature. In a way common in the liberal tradition, he bases his ethics on natural inclinations, passions, or interests. In so doing, because he rejects an Aristotelian teleology, he opens himself up to the very thing he arguably is trying to avoid, the naturalistic fallacy (see above n. 3 and below n. 12). When he describes nature he refashions it at critical points by assumptions that come from the a priori of equality. Thus the convoluted discussion of how general the capacity for a sense of justice is. Some of what is at issue here is laid bare by Rapaczynski in his argument that a doctrine of human nature must undergird a liberal polity, and in the somewhat similar argument of Reiman. Sandoz, who sees the centrality of discussion of human nature, weighs in on the side of a significantly classical, Christian, and liberal republicanism and of Locke, acutely criticized. Again, Rawls by making self-respect so central to a just society, and securing it (p. 545) “by the public affirmation of the status of equal citizenship for all,” does not confront the “natural” question of the likelihood that a country can long survive in which decisions requiring high expertise, as in the areas of foreign policy, economics, or ecology, are influenced by a general citizenry which will be underinformed.

10. In a highly original critique of the ideal of autonomy, Kass wonders in Augustine-like fashion whether an isolated individual would be capable of self-knowledge. If John Paul II and at least one school of phenomenology (let alone trinitarianism) is right that persons can only be defined in relations, Rawl’s form of the liberal project collapses. For further criticisms see Wolfe.

11. Galston pursues the question of neutrality, especially concerning individual definitions of the good. Cf. the description of Georg Simmel’s critique of Kant in Balthasar, especially pp. 611–12, and the argument of Frank, especially p. 146. Many of the criticisms Donoghue makes of

the thought of J. Hillis Miller apply analogously to Rawls: "He wants to start the world over again and to act as if there were only the present tense and a future of his devising" (pp. 49–50). Gauthier has given a new form of the Social Contract, which departs from Rawls in significant ways. Paul et al. note "Gauthier's contract is an agreement between real and distinct people, whereas Rawls' is not" (p. viii).

12. The quotations are from Stout (pp. 220–21). Stout's point is that because, with David A. J. Richards, Rawls accepts that "meaning and substance cannot be separated," a "universal language . . . would be meaningless" (p. 221). The goal of Stout is to show that (p. 3) "the quest for autonomy was . . . an attempt to deny the historical reality of having been influenced by tradition." Along this line I would observe that, because all languages are used in a specific historical form (Old English, Middle English), if people behind the veil are speaking at all, they cannot satisfy such of Rawls' conditions as not knowing their stage of civilization (p. 287) or where they stand in the generations. The earlier one stands, that is the more primitive one's language, the more Rawls' conditions would be approximated. Rawls expresses his ideal as "a kind of moral geometry . . ." (p. 121). Rawls idea of community is developed on pp. 258–65 and 395–587. Clearly he holds that "justice as fairness has a central place for the value of community," and that an individualistic conception of justice leads to valuing associative activities (p. 264). Here the question is what kind of community results from an Enlightenment idea of the individual. What seems decisive is the way Rawls contrasts the right and the good (pp. 446–52), holding all to the right but not to the same good. See further pp. 520–29. It is clear that Rawls holds for the complementariness of human society: this commonly is not at issue between "conventional" and "natural" positions. Cf. George Grant (pp. 16 ff.) for a somewhat different account of the significance of the state of nature for Locke, and the suggestion that Rawls' position is generated by the desire to avoid the "naturalistic fallacy." For criticism of the fallacy, see Veatch.

13. Hacker (p. 18) in regard to Schlesinger. I will consider political correctness in "Political Correctness," and have considered or will consider multiculturalism in "Ethics of Conquest" and "1492."

14. Olsen, "Christian Culture," *Deconstructing*, and "Morality." Olsen, "Catholic Moment," also contains an attack on the Enlightenment model of community, found throughout Rawls, as a kind of "debating society." Lasch describes an earlier criticism of both church-state separation and civil religion. Wood (p. 26) describes the manner in which liberal democratic historians even wrote the Puritans out of American history. Genovese contains an amusing attack on the left from the left for excluding the scholarship of conservatives on the place of religion in the American founding: "However much some of us may wince, the conservatives who our profession is treating as nonpersons . . . are publishing much of the work that promises to provide the basis for an intellectually and politically honest reassessment of our constitutional history . . ." (p. 338).

15. One wonders whether in spite of Rawls' tolerance of "religion," what he really aims at is a Kantian "religion within the limits of reason alone." Is this not the force of "If a religion is denied its full expression, it is presumably because it is in violation of the equal liberties of others" (p. 370)? Rawls hopes for some forms of the moral unanimity (pp. 263–64) natural-law societies have hoped for, but seems to lay the burden of the achievement of such on persons acting rationally, rather than on all the force of tradition that natural theories of society have tended to assume necessary to shape thinking reeds." This is particularly evident in chapter 8, where the "morality of authority" is the lowest form of a sense of justice. Rawls' whole schematic movement from a morality of authority to the higher senses of justice again embodies an "Enlightenment" ideal. Wolfe (pp. 123–24, 223) notes the influence of Lawrence Kohlberg here, on whom see Olsen, *Deconstructing*, p. 15. It seems to me that societies as a whole never rise above a preponderant morality of authority. Sometimes, as in the following quotation, Rawls strikes me as touchingly naive and ignorant of "man in history," as well as retaining some traces of a progressive (culturally Protestant) view of history: "Eventually there comes a time in the history of a well-ordered society beyond which the special form of the two principles [of justice] takes over and holds from then on." I can see why Rawls has to say, "One must suppose [that individuals have] . . . equal capacity for the activities and interests of men as progressive beings . . ." (p. 210), but what if such a position goes against observation? If "equal justice is owed to those who have the capacity to take

part in and act in accordance with the public understanding of the initial situation" (p. 505), would it even be owed to a majority?

16. Rawls (p. 528) specifically rules out the idea of a society having a dominant end. I agree with him that dominant-end views are vague and do not give much information on how precisely to rank social activities, but I do not see that this should be called a weakness if the purpose of the dominant end, say to know God, is a way of announcing that man's final ends lie beyond politics and philosophy, but have some implications for both. Because what Rawls says in criticism of teleological theories (p. 560) might be taken to apply to natural-law moral theories, demur from his analysis is in order. He believes teleological theories are misconceived because they first try to arrive at the good independently (of the right), and then try "to give form to our life" by the good. This, if intended also as a criticism of natural-law theories, seems to me to confuse two issues. Such theories only attempt to decide how to act in each choice by reference to an objective definition of good: the sum of such choices does not give a "plan of life" in Rawls' sense. The only "form" that natural-law moral theories give to life is that which comes from accumulated choices of the good (character or habit). The discussion of liberty on pp. 201–5 is inadequate, even refusing to define the meaning of the term. In saying "The controversy between the proponents of negative and positive liberty as to how freedom should be defined . . . is not concerned with definitions at all, but rather with the relative values of the several liberties . . ." (p. 201), Rawls shows little sense of the difference between, say, the Augustinian *liberum arbitrium* and *libertas* (this despite his discussion on p. 202).

17. Volume 1, pp. 17 and 63 show that the Carlyles knew that the idea of the social contract went back to Plato. Arguably, although I do not know that anyone has pointed this out, Herodotus' story of Deioces (*Histories*, Bk. 1, chaps. 96 ff.) is also an early example of the formation of a "Social Contract."

18. For a disapproving view of Voegelin's use of "gnosticism," see Dupré. I thank Professor Dupré for calling this article to my attention. The contrast between the natural and conventional is a contrast between tendencies or models, and especially in conventional positions we find fragments of the opposite tendency. Rawls (pp. 108–17, 333–91), for instance, retains the notion of natural duties, such as not being cruel, while deriving notions of obligation from the contract or the principle of fairness. The idea of beginning with an order of nature is retained to a certain (unclear) point, although the nature is already one of "equal moral persons" (p. 115). Rawls fairly clearly understands what is at issue between a natural and a conventional view, but of course, as at pp. 328–31, can reject the natural because it leads to a drastic alteration of the original position. See in addition to n. 9 above, Raz. Aquinas, *Summa Theologiae*, II, II, 66, 2, reads the patristic and canonistic association of common property with the natural law in such a way as to avoid speculation about man's first state: he holds that community of goods in the natural law does not mean common possession, but the absence of distinction of possessions, that is regulation of property, which is in the province of positive law.

19. I am in sympathy with Stout's attempt to overcome the tradition of Descartes and Kant without falling into an unqualified historicism (pp. 3 ff.). Clark's work is an important challenge not only to views like that of Rawls, but implicitly to the historical argument of Stout.

20. On pp. 73–75, Rawls attacks the Aristotelian idea of the family, but I cannot discover a coherent position (see index under "Family"). Families by definition limit autonomy and embody the irrationalities of history, and especially from the child's point of view, cannot be viewed as contractual. Liberalism of Rawls' kind tends to avert its eyes from them. Locke of course had already attacked the patriarchal family: see Bellah, "Church," and Wolfe, pp. 101, 108–9, 123–26, 193. On p. 512 Rawls suggests that his whole theory of justice as fairness might have to be revised if one should attempt a more complete "metaphysics." (Like many modern philosophers, Rawls uses such words with virtually no regard for their original meanings, and very little meaning at all. Whatever it means in this context—"view of the world"?—it has little to do with ontology.) I could not agree more. In regard to his statement "I assume that a state of near justice requires a democratic regime" (p. 363), one might ask if there are ever "near just" regimes in history.

21. The world of scholarship on primitivism in American history may be entered through Bozeman, Wood, Hughes, and Hughes and Allen. Bellah describes the "ontological individualism"

of Americans by writing that “the individual has a primary reality whereas society is a second-order, derived or artificial construct” (p. 334). This is pursued, especially in regard to Locke, in a successor book *Good Society* (see above n. 20). For primitivism and “misguided utopianism” in European history, see Buruma, “Hirohito,” pp. 32, 45, and for a ferocious attack on primitivism and the Social Contract, see Berlin, an essay marred by the author’s uneven historical knowledge.

22. What Garver remarks of the relation between reflection and action in society might also be said of reason’s critique of myth: “The possibility of being a part and yet apart from a society, of recognizing that one cannot stand outside society yet can still be critical, depends on the ability of a system to recognize its own incompleteness” (p. 161). On myth as always with us, see Blumenberg and Kolakowski. In addition to what Blumenberg has to say of Freud, Balthasar (pp. 508–13) lays bear the primitivist core of Freud’s thought.

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