Abstract:
In political philosophy as in political action there is not enough meaningful discussion between "radicals" and "liberals", this paper is an attempt to fill a bit of that gap. John Rawls' Theory of Justice is one of the most influential books ever written in political philosophy, and it has been commented, criticized, and celebrated by many. This paper will analyze some criticisms coming from Marxist perspectives. Using contemporary Marxist research this paper will go through three possible criticisms of Rawls from a Marxist perspective: 1) That justice conceptualization is a wholly ideological and seeks to legitimate social inequalities, 2) Rawls does not focus enough on the inequalities in the work-place, 3) that appeals to justice are politically ineffective. Rather than being serious problems for Rawls' theory the Marxists criticisms are more or less compatible with Rawls’ theory and can be incorporated into it, making it a more developed theory.

When John Rawls' published *A Theory of Justice* in 1971 it sent shockwaves through the intellectual community. Almost everyone close to the subject felt compelled to respond. In this paper I will sketch one strain of critical reaction to Rawls coming from Marxist perspectives. In doing so, I will develop three Marxist criticisms of Rawls’ theory of justice, give a Rawlsian response, and see if the criticisms of Rawls gives any serious problems for Rawls’ theory or can be incorporated into his theory.

One of the first questions to look at is: What is Marx’s conception of justice?

This is a controversial subject for Marxist scholarship. Kai Nielsen states,

Marxists, theorists sympathetic to Marx, and Marxologists are divided both over whether Marx thought and over whether Marxists should think that some social formations (such as capitalism) are unjust and others just, or whether such terms of appraisal are not altogether inapplicable to whole social formations.¹

By way of an example Nielsen points to two respected analytic Marxist philosophers: Allen Wood, author of *Karl Marx* (1982), and G.A. Cohen, author of *Karl Marx’s Theory of History: A Defense* (1978). “Wood argues that concepts such as justice were for Marx through and through ideological constructions which could have no critical content for appraising capitalism or any social formation…Cohen, on the other hand, argues that Marx condemned capitalism as unjust, in a suitably nonrelativist sense, and that such a moral critique should be a central element in contemporary Marxist theory.”

The point of this controversy for Rawls is that if the Marx who “was moved to laughter at the thought that ‘now even political economy is to be dissolved into twaddle about ‘conceptions of justice’!”’ is the “true” Marx, then Marx would criticize Rawls for even committing himself to justice-talk. However, if the Marx of the *Critique of the Gotha Programme* is the “true” Marx, then justice-talk would not necessarily be contrary to the Marxist project. Marx in the *Critique of the Gotha Programme* seems to be making a normative distributive justice claim in the slogan: “From each according to his ability, to each according to his need!” However, the emphasis put on distributive justice rather than, for instance, productive justice would still be subject to criticism as Marx criticized socialist of his time for this perceived error.

Even if Marx allowed for justice-talk, meaning the elaboration of conceptions of justice so as to transform society according to such conceptions, it is quite clear that he

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2 Ibid., p. 213
had serious reservations and problems with such talk. One criticism that the anti-justice-talk Marxist would claim against Rawls is that justice is fundamentally and wholly ideological. The meaning of ideological is vague, and subject to many usages. By the claim that conceptions of justice are ideological, a Marxist can mean that conceptions of justice are “[bodies] of ideas characteristic of a particular social group or class” or “ideas that help to legitimate a dominant political power”. For a Marxist, the particular social group or class in question would be the capitalist class, the bourgeoisie, or the owners of the means of production.

So does Rawls’ theory, as a conception of justice, seek to legitimate capitalism or the ruling by the capitalist class? I think the answer is clear enough. No. If the theory that Rawls envisions was put into practice it would lead to serious losses for ruling class interest. Rawls’ rejects many other conceptions of justice that would be much more in accordance with dominant class interests.

Rawls’ difference principle explicitly rejects efficiency as a sole conception of justice. Rawls writes, “in justice as fairness the principles of justice are prior to considerations of efficiency.” Rawls rejects both liberal equality and natural liberty in favor of democratic equality. Natural liberty is a free-market capitalist system, one that a libertarian capitalist would argue for, and one that is in accordance with Hayek and Nozick’s positions. Hayek believes inheritance, natural talents, and social fortunes are justified inequalities, because any system of distributive justice would be contrary to

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5 Taken from www.marxists.org; http://www.marxists.org/glossary/terms/i/d.htm#ideology
7 ibid., pg. 69
8 ibid., pg. 74-5
negative freedom. Nozick’s entitlement theory would justify any inequality that is “freely” transferred.⁹ Rawls states that the flaw in natural liberty is that “it permits distributive shares to be improperly influenced by these factors [natural assets, accident and good fortune] so arbitrary from a moral point of view.¹⁰

Rawls settles on the difference principle or the democratic interpretation of equality that he believes, “is a strongly egalitarian conception in the sense that unless there is a distribution that makes both persons better off, an equal distribution is to be preferred.”¹¹ Some commentators such as Ronald Dworkin in his article “Original Position” have said that Rawls’ difference principle is egalitarian as principles can be.

The difference principle would have to reject many forms of exploitation (unless it can be argued correctly that it is to the advantage of the worst off), and I see the difference principle as imposing serious limitation to the interests of the ruling class. Instead of Hayek or Nozick’s view of distributive justice, Rawls says that inequalities must justify their existence, and puts the burden of proof on inequalities. I think one is hard pressed, at least in the respect of distributive justice, to claim that Rawls’ theory seeks to legitimate political and economic power, since the difference principle would have us living in a more or less social democratic (or democratic socialist) society that would be very different from our society and antithetical to the interest of the capitalist class that would seek to further open up markets through deregulation and trade liberalization and the privatization of public institutions.¹² Therefore, Rawls’ *Theory in

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¹⁰ Rawls, John. *A Theory of Justice*, pg. 72
¹¹ Rawls, John, *A Theory of Justice*, pg. 76
particular does not seek to legitimate ruling class power, but is a deep challenge to the current capitalist class interest, in respect to distribution.

I have argued that Rawls’ theory does challenge ruling class interest with an important caveat, in respect to distribution. Marx criticizes movements that focus too much on distribution, and the same can be said of Rawls, who focuses primarily on distributive justice. Robert Paul Wolff, in his critical study of Rawls’ *Theory*, writes:

> By focusing exclusively on distribution rather than on production, Rawls obscures the real roots of that distribution. As Marx says in his *Critique of the Gotha Program*, ‘Any distribution whatever of the means of consumption is only a consequence of the distribution of the conditions of production themselves. The latter distribution, however, is a feature of the mode of production itself.’

The Marxist reason for emphasis on production instead of distribution stems from historical materialism. As Marx states, “[t]he sum total of these relations of production constitutes the economic structure of society, the real foundation, on which rises a legal and political superstructure and to which corresponds definite forms of social consciousness.” So we can see where the criticism comes from, but what exactly is it saying? The criticism can be stated as follows: Rawls’ *Theory* is bound to fail because it neglects a fundamental inequality between capitalist (owner of the means of production) and worker.

Lucky for us we have what Rawls says to this criticism. In *Justice as Fairness: A Restatement*, published in 2001 and written shortly before his death Rawls replies to some of Marx’s criticisms. Rawls writes

> Marx would raise another objection, namely, that our account of the institutions of property-owning democracy has not considered the importance of democracy in

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the workplace and in shaping the general course of the economy. This is a major difficulty. I shall not try to meet it except to recall Mill’s idea of worker-managed firms is fully compatible with property-owning democracy….should such firms be granted subsidies, at least for a time, so that they can get going?…For example, would worker-managed firms be more likely to encourage the democratic political virtues needed for a constitutional regime to endure? If so, could greater democracy within capitalist firms achieve much the same result? I shall not pursue these questions. I have no idea of the answers, but certainly these questions call for careful examination. The long-run prospects of a just constitutional regime may depend on them.\(^{15}\)

There are many issues to deal with. The first issue I am forced to bracket is whether there is continuity between *Justice as Fairness* and *Theory of Justice*. The second issue is the question of what is a property-owning democracy, for the later Rawls. Property-owning democracy is contrasted with laissez-faire capitalism, welfare-state capitalism, state socialism with a command economy, and liberal (democratic) socialism, of which the first three Rawls quickly rejects. But what is this unfamiliar term: property-owning democracy? It comes fully developed from J.E. Meade’s *Efficiency, Equality, and the Ownership of Property*, and Rawls presents it as “an alternative to capitalism.”\(^{16}\) The basic idea seems to be “to put all citizens in a position to manage their own affairs on a footing of a suitable degree of social and economic equality.”\(^{17}\)

Now *prima facia* Rawls ideas shift, but the important point is that the above quote states that worker-control of the means of production is compatible with Rawls’ later work. And not only is it compatible, but Rawls says that “the long-run prospects of a just constitutional regime may depend on”\(^{18}\) worker-control of the means of production.

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\(^{16}\) Rawls, John. *Justice as Fairness: A Restatement*, pg. 135-6

\(^{17}\) ibid., pg. 139

\(^{18}\) ibid., pg. 178-9
More importantly for Rawls’ work in *Theory* is another reply that is rooted in the original position that also can be employed by a Rawlsian to counter the claim that Rawls’ focus on distribution neglects an important conduit for the development of inequality, namely, the capitalist-worker social relation. A Rawlsian could claim if there is a fundamental inequality (in decision-making or income) between capitalist and worker, then the contracting parties in the original position behind the veil of ignorance would not choose a society in which the capitalist-worker relationship existed. The inequality of capitalist and worker is one of authority, as well as wealth. For Rawls, both wealth and authority are subject to the difference principle. He writes, “the second [principle of justice] holds that social and economic inequalities, for example inequalities of wealth and authority, are just only if they result in the compensating benefits for everyone, and in particular for the least advantaged members of society.”

With this established, it is not a far leap to state that the contracting parties in the original position would not choose a society in which the capitalist-worker inequality is present if, a) there is in fact such an inequality, as a Marxist would claim, and if b) a society without the capitalist-worker social relation would actually make the position of the least advantaged better off. With these qualifiers, Rawls seems theoretically forced to take such perceived inequality seriously, as the contracting parties in the original position would because they know the general facts of society. Rawls, late in his career, states the importance of the possibility of transcending the capitalist-worker social relation, and if his later theory is congruent with his earlier theory in this respect, such considerations are compatible.

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I think a Marxist would still be justified in criticizing Rawls for focusing too heavily on inequalities of distribution, and not heavily enough on “productive” inequalities. If Marx’s theory is correct in this respect, the productive inequalities to a large extent create inequalities in distribution, and a more expedient way to abolish this inequality. Nonetheless, I have tried to show that Rawls theory is compatible with such Marxist considerations of the inequalities of capitalist and worker, and the original position would force a Rawlsian to take this inequality serious. In this respect Marxist criticism has not refuted Rawls’ theory, but given it a needed push in the right direction.

So far I have looked at the claims that Rawls’ theory of justice is ideological, meaning it seeks to legitimate ruling class power, and we have seen that Rawls’ theory does present serious challenges to ruling class interest. The other Marxist claim, of a similar origin to the ideological claim, is that Rawls’ theory of justice neglects the productive side of justice and the social relation of capitalist and worker, instead focusing on distribution. This claim as I have tried to show does not harm Rawls’ theory, but helps it, if it is correct. Later in Rawls’ career he was interested in worker self-management and the original position would force a Rawlsian to take seriously this Marxist claim, because one would not know if one were a capitalist or a worker if one were in the original position.

The third, and last, claim I will look at can be traced to the initial discussion of the usefulness of justice-talk. Marx is seen by some to be claiming that appeals to justice for social transformation are historically ineffective. The argument centers on what is called by Allen Wood the class interests argument. He states, “Marx believes that our actions are historically effective only insofar as they involve the pursuit of class interests, and
that the historical meaning of our actions consists in their functional role in the struggle between such interests.”

This idea can be traced to Marx’s belief that ethical claims and well-formed arguments matter little to the ruling class and do little to change the circumstances.

A Rawlsian could grant the class interests argument, and ask what are ways in which classes come together to change their historical circumstances. Appeals to justice and appeals to ethics have and will continue to play a role in bringing people together to struggle for social change. And one may add that these appeals, while very well may do nothing on their own are instrumental in solidifying a collective will and inspiring action.

Besides this general critique of justice-talk and ethics-talk that persuade some immoralist Marxists, there is a more Rawls-specific argument against his formulation of the difference principle and commitment to working towards implementing it. Richard Miller has argued that Rawls’ *Theory of Justice* “presuppose a relatively low estimate of the extent and consequences of social conflict.” As I have argued above, the best off will take serious losses if the difference principles are implemented. We must take this seriously. “It might be said,” Richard Miller states, “that the best-off people will generally find it intolerable to give up great advantages in order to maximize the situation of the worse-off…They would claim that the best-off people in any exploitive society cannot be made to give up their privileges except by force.” So, then, if the best off will loose some of their social privilege (be that wealth or authority), it seems unlikely that they will do so willingly. To be clear, Miller is not here objecting to the original

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20 Wood, Allen. “Justice and Class Interests,” pg. 19
22 ibid., 175
position and veil of ignorance as a fair tool for acquiring the principles of justice, even
for the best-off class. Miller is claiming that there is a big difference between being
behind the veil of ignorance and being out of the veil of ignorance.

Rawls’ view is that commitments to the two principles of justice are based, in
part, on “the condition of publicity… when the public recognition of its realization by the
social system tends to bring about the corresponding sense of justice.”23 The collective
understanding of the principles of justice produces a sense of justice in people, which is a
natural capacity but can be developed in society.24 Rawls also relies on what he calls the
“principle of mutual benefit”. Rawls states

To begin with, it is clear that the well-being of each depends on a scheme of
social cooperation without which no one could have a satisfactory life. Secondly,
we can ask for the willing cooperation of everyone only if the terms of the scheme
are reasonable. The difference principle, then, seems to be a fair basis on which
those better endowed, or more fortunate in their social circumstances, could
expect others to collaborate with them when some workable arrangement is a
necessary condition of the good of all.25

Both the best off class and the worse off class acquire their well-being through social
cooperation. This social contractarian point is that all classes would be better off than in
a situation were social cooperation did not exist. This is true, but it does not mean that the
best-off or ruling class will not see the difference principle as antithetical to their
interests, and thereby oppose, generally speaking, such measures.

This type of Marxist objection deals with implementation, not theory. I think the
objection is, on the whole, warranted, but this does not mean that the two principles of
justice and Rawls’ theory should be committed to the flames. As I have noticed with the

23 Rawls, John, A Theory of Justice, pg. 176-7
24 Rawls, John, “Sense of Justice” in The Philosophical Review, Vol. 72, No. 3 (Jul.,
1963), pp. 281-305
25 Rawls, John, A Theory of Justice, pg. 103
Marxist criticisms of Rawls, there are many points of conflict, and Rawls does not take into account important aspects of Marxist theory (though he cannot do everything). But Rawls’ theory can incorporate many of Marx’s objections to make a fuller theory. My current understanding is that a Marxist criticism of Rawls helps Rawlsian theory and can be incorporated into it, at least in the respects I have mentioned.

The Marxist objection that Rawls’ theory assumes a low level of class conflict needs to be incorporated into Rawls’ theory if we wish to seek the implementation of the two principles of justice. One point of the objection and one point that people committed to social change are all-too aware of is that fundamental social change is difficult. Such change that Rawls envisions will take years of struggle, if it even be possible to fully actualize. But we cannot know the future, and Rawls’ vision is at least worthy of action. The theory is important, but if these ideas really mean anything, working towards the realization of such a theory will come as well. This is why a Marxist critique is important for Rawls, it helps a Rawlsian better understand social reality in order to change it.
Work Cited


