JUSTICE BETWEEN INDIVIDUALS: JOHN RAWLS AND THE DEMANDS OF POLITICAL LIBERALISM

Thomas Ferretti[1]

Abstract

John Rawls proposed a *theory of justice* (1971) aiming at building consensus in democratic societies. In the middle of the Cold War, the Vietnam War, and the Civil Rights movement, while Americans were strongly divided, Rawls' *political liberalism* offered a method to build political agreement between people with different and conflicting values and interests, to preserve peace and other benefits of stable social cooperation. Fifty years on, while authors like Katrina Forrester (2019 a, b) suggest moving on from the ideal of political consensus, other voices such as Catherine Audard (2019) remind us of the relevance of public reason in a world full of divisions. This paper builds a dialogue between these two influential authors to assess the legacy and relevance of Rawls' political philosophy today.

Introduction

John Rawls proposed one of the most influential theories of justice of the second half of the 20th century. For him, the first role of political philosophy is to provide a conceptual framework to think rationally about justice in social institutions. While *value pluralism* is unavoidable in democratic societies, we all have a mutual interest in preserving the advantages of *social cooperation*. Therefore, despite fundamental moral disagreements, we have an interest in finding political agreements, or at least in reducing our divergence, to preserve mutually respectful and stable cooperation. Instead of applying a particular moral philosophy to political issues, Rawls' philosophy is political in its method: it seeks a *political agreement* between people with conflicting values and interests:

> although a society is a cooperative venture for mutual advantage, it is typically marked by a conflict as well as by an identity of interests. There is an identity of interests since social cooperation makes possible a better life for all than any would have if each were to live solely by his own efforts. There is a conflict of interests since persons are not indifferent as to how the greater benefits produced by their collaboration are distributed, for in order to pursue their ends they each prefer a larger to a lesser share. A set of principles is required for choosing among the various social arrangements which determine this division of advantages and for underwriting an *agreement* on the proper distributive shares. These principles are the principles of social justice: they provide a way of assigning rights and duties in the basic institutions of society and they define the appropriate distribution of the benefits and burdens of social cooperation (Rawls 1971: 4, *my italics*).

His *political liberalism* is "*liberal*" because a just society must respect the sovereignty of individuals in determining their moral views and does not abide by any natural law or pre-existing moral order, and it is "*political*" because a just society should be the product of individuals' free and rational judgments when seeking political agreement on social rules. For principles of justice to be freely and rationally agreed upon, they must treat everyone *impartially*, for no one would freely accept social institutions skewed against them. This requirement of impartiality gives rise to the *original position*: to anticipate which principles

[1] Department of Philosophy, Logic and Scientific Method, London School of Economics, UK

would gain public agreement, we should imagine ourselves behind a *veil of ignorance*, ignoring our particular values and interests or our position in society, and investigate which principles would gain our support (Rawls 1971, Audard 2019: 20-21).

Beyond providing a method of investigation, Rawls proposes *principles of justice* that he believes would be agreed upon in the original position. Public institutions should respect two principles: 1. "each person has the same indefeasible claim to a fully adequate scheme of equal basic liberties" and 2. "social and economic inequalities are to be arranged so that they are both (a) to the greatest benefit of the least advantaged and (b) attached to offices and positions open to all under conditions of fair equality of opportunity" (Rawls 1971: 83, 2001: 39-50). This conception of justice, *liberal egalitarianism*, can help us justify the structure of existing institutions or transform them if they are unjust (Rawls 2001: 1-5, Audard 2019: 72).

The publication of *A Theory of Justice* had a transformative and lasting influence on philosophy and politics (Audard 2019: 13-32, Forrester 2019: ix-x) and inspired people around the world: "Passages have been cited in US supreme court judgments [and] In 1989, copies were waved by protesting Chinese students in Tiananmen Square." (Coman 2020). But 50 years on, some ask whether Rawls' philosophy and method of consensus-building, seeking political agreement on principles of justice, is still relevant or is simply a product of its time that can no longer contribute to current political debates.

Two recent books by Catherine Audard, *La Démocratie et la Raison: Actualité de John Rawls* (2019) *(Democracy and Reason: John Rawls' relevance today*, my translation), and Katrina Forrester, *In the Shadow of Justice* (2019), take contrasting views on Rawls' legacy. While my sympathies lie with Audard, building a dialogue with Forrester's critical stance can shed further light on the relevance of Rawls' philosophy today. In this paper, I focus on three disagreements between them, which constitute the three-fold structure.

Section 1 justifies the ideal of *public reason* and our duty of civility: in public deliberations, we must offer public arguments accessible and acceptable by all. While Forrester believes that this framework has unduly constrained philosophical debates about justice, Audard helps us understand the normative importance of *public arguments*, as instruments to build political consensus and stability in the face of social fragmentation. She argues that one of the radical legacies of Rawls' philosophy is this demand to acknowledge the limits of our own judgment, exercise epistemic restraint, and seek political consensus.

Section 2 explains the demands of *individualism*: in public deliberations, we must avoid appealing to *social ontology*. Audard argues that Rawls rejects both libertarian atomism and communitarian holism, i.e. conceptions of justice *between groups*. I develop her claim further to respond to recent criticism. While Forrester believes that Rawls' individualism fails to address class or group struggles and group disadvantage, I provide further support to liberal individualism by arguing that it can incorporate concerns for structural injustice while avoiding the problems of group-based conceptions of justice.

Section 3 discusses the demands of *institutionalism*: we must investigate (radical) institutional reforms to realize background justice. While Forrester believes that liberal egalitarianism supports a sort of *status quo* and has *deradicalized* politics, Audard argues instead that Rawls' conception of justice can equip us with the right kind of *public* arguments to justify radical institutional reforms. She illustrates this with the debate on Property-Owning Democracy. Yet, sharing the conviction that radical change is needed to realize justice does not exempt us from our duty of civility to provide public justifications.

1. The demands of *public reason*: a duty of civility

Audard notes that Rawls' idea of *public reason* is central to political liberalism: citizens should imagine themselves as legislators and investigate which principles and laws would be reasonable to adopt, with the constraint that justifications should be *acceptable by all* behind the veil of ignorance (Rawls 1996: 216-226, Quong 2013, Audard 2019: 31). As a result, justifications must appeal to individuals' reasons but must be independent of any comprehensive doctrine. Moreover, for individuals to remain free to live by their own conception of morality, principles of justice should not apply to *individual behavior* but only to *social institutions*. As Samuel Scheffler notes, "the idea of a division of moral labour embodies a strategy for resolving the tensions to which pluralism gives rise. If social institutions are designed in conformity with the principles of justice, then… individual conduct within those institutions may legitimately be responsive to the various norms and ideals that govern our personal lives and interpersonal relationships" (Scheffler 2005: 250). For Rawls, despite disagreements about comprehensive doctrines, public reason can lead citizens to agree on a political liberal conception of justice that would protect equally a list of basic liberties and opportunities, give some priority to these liberties and opportunities, and distribute fairly all-purpose means to make use of their freedoms (Rawls 1996: 223, Quong 2013).

Audard argues in *La Démocratie et la Raison* that we have a duty to use public reason as an instrument to build political consensus between people with different values and interests, to preserve the stability of democracy and cooperation and prevent conflict (Rawls 2001: 184-186, Audard 2019: 60-81, 445-456). But in her book, *In the Shadow of Justice*, Forrester questions this ideal of political consensus in at least two ways.

1.1. *A long-gone historical consensus?*

Besides Forrester's contribution to the intellectual history of Rawls' theory of justice and the critical response to it, she also offers critical remarks on Rawls' legacy which are useful to anchor common objections. One of them is that Rawls mistakenly accepted the post-war idea that social life rested on the possibility of *consensus* and agreement on liberal democratic values (Forrester 2019a: xx). This vision of an actual or potential consensus was based on an idealization of American society and paid little attention to more radical social critiques advanced by some members of the New Left or the Civil Rights, Black Power, and Women's liberation movements (Forrester 2019a: 66-71, 261). These social critiques, Forrester claims, did not share the liberal vision of consensual and incremental reforms to existing social institutions, within the constraints of public reason. Therefore, if a post-war consensus on liberal democratic values ever existed, it was already eroding at the time Rawls was writing this theory and it certainly no longer exists today, as the American society grows more divided. Forrester concludes that Rawls' consensual conception of justice may no longer be relevant today and that philosophers should not seek a long-gone consensus but "understand Rawls's theory as a discrete chapter in the history of political thought… and… a product of its time" (Forrester 2019a: 278-279).

In response to this common objection, one of the central theses in Audard's book is that Rawls' consensual conception of justice is most relevant precisely when societies grow more divided because it offers a method to build political consensus and prevent conflict. Rawls had a personal experience of the frailty of democracy (Audard 2019: 33-44) and had no illusions regarding the many perils menacing its stability, such as the influence of money in politics, the pervasiveness of political divisions, and the risk of tyranny from factions and majorities (Audard 2019: 50-53). In the middle of the Cold War, the Vietnam

War, and the Civil Rights movement, Rawls proposed a systematic theory to think about the deep political conflict of his time such as debates over the best economic regime, military conscription, conscientious objection, or civil disobedience (Rawls 2014: 71-73, Audard 2019: 17, 27-28). Yet, by investigating how to use public reason to build political consensus between his contemporaries, Rawls aimed at proposing a general method to build agreement in times of deep political divides. This is why Rawls motivates his work, in *Justice as Fairness* and *Political Liberalism,* by referring to other periods of political conflict such as the European wars of religion, the English and American civil wars (Rawls 2001: 1), and the Second world war culminating in the Holocaust (Rawls 1996: lx). He believed that deep political conflicts are what makes political philosophy and the use of public reason necessary, as a rational method to find political agreement between people with conflicting values and interests (Audard 2019: 27-28, 33-50).

Therefore, far from idealizing a consensual society that never existed, Audard insists that political liberalism is best understood as proposing a method, *public reason*, to build stable political consensus and preserve democracy over time (Audard 2019: 33-81). While the erosion of liberal democracies' political culture may constitute an obstacle to agreement, the use of public reason may be fruitful across historical periods because, regardless of the particular conflicts of each era, the method to build agreement remains the same.

1.2. *A restrictive framework?*

Another of Forrester's critiques targets the idea of *public reason* itself. Both Audard and Forrester observe that public reason imposes *constraints* on what kind of arguments can justify principles of justice and institutions: only *public arguments* should prevail in political deliberation, i.e. arguments that could be *accessible* and *acceptable* by all behind a veil of ignorance (Rawls 2001: 14-18 Audard 2019: 446-460). Forrester argues that the widespread adoption of political liberalism, including the constraints of public reason, has "limited the ideological flexibility of political philosophy" and "came to act as a constraint on what kind of theorizing could be done and what kind of politics could be imagined" (Forrester 2019a: xx, 275). For example, political liberals insist on tackling *current distributive inequalities* between individuals through *institutional solutions*, meaning that "past injustices weren't relevant, and arguments that relied on historical claims were rejected. That meant that demands for reparations for slavery and other historical injustices made by Black Power and anti-colonial campaigns in the late 1960s and 1970s were rejected too" (Forrester 2019b).

To be clear, political liberalism only limits what kind of *arguments* can be invoked to justify policies but it does not constrain what kind of *policies* can be imagined to realize justice. As Audard clarifies, for Rawls, just institutions are incompatible with any form of racial or gender discrimination (Rawls 1996: 22-25, 2001: 167, Audard 2019: 39). As a result, his theory justifies demanding policies of income and wealth redistribution and structural change to secure equal opportunities to disadvantaged individuals, whether their disadvantage results from historic injustice, current discrimination, brute bad luck, or any other arbitrary factor. And as Samuel Freeman notes, since historic injustices such as slavery are among the many causes of unequal opportunities in American society, Rawls "recognized that preferential treatment for racial and ethnic minorities is needed to remedy a long and continuing history of unjust discrimination. Additional examples he mentions are corrective and compensatory justice, including reparations, that remedy civil and criminal wrongs, such as violations of individuals' basic rights and liberties, and infringements of their fair equal opportunities through racial, gender, and other forms of unjust discrimination" (Freeman 2020). However, as

Forrester asks, one could wonder why political liberalism and the ideal of public reason should limit the kind of arguments that can be invoked to justify these policies.

In response, Audard argues that the constraints imposed by public reason are desirable to preserve democracy and to take the challenge of *value pluralism* seriously (Audard 2019: 417-430). Value pluralism is not merely a contingent fact of current societies that could be resolved when people converge towards the "true" morality. Instead, it is an inevitable result of letting people free to make their own moral judgments. While some question whether moral truths even exist, Rawls more modestly proposes that our moral judgment is always burdened which means that even rational and reasonable people will permanently disagree. Indeed, moral concepts like freedom and equality are often vague and subject to difficult trade-offs, we may reasonably disagree about the relative weight of different principles, or even on the value of empirical variables such as economic growth (Quong 2013, Audard 2019: 423). This is why we should not be too quick in distributing blame and judgment and we should resist the temptation to regard our moral personal moral convictions as justifications for coercion. As Rawls explains:

> "political liberalism applies the principle of toleration to philosophy itself. The religious doctrines that in previous centuries were the professed basis of society have gradually given way to principles of constitutional government that all citizens, whatever their religious view, can endorse. Comprehensive philosophical and moral doctrines likewise cannot be endorsed by citizens generally, and they also no longer can… serve as the professed basis of society" (Rawls 1996: 10).

While personal comprehensive doctrines can guide our private lives and even motivate our political action, they should be invoked to justify political reforms and public policies unless they are presented alongside public reasons acceptable by all. To illustrate this, Rawls cites an example from Martin Luther King Jr's *Letter from Birmingham City Jail* (1963). As he notes, religious doctrines underlie King's arguments against the injustice of segregation. For King: "An unjust law is a human law that is not rooted in eternal and natural law… All segregation statutes are unjust because segregation distorts the soul and damages the personality". But alongside this, he also appeals to the idea of public reason which makes discrimination unjust because it is unacceptable by those discriminated against. For King, "A just law is a code that a majority compels a minority to follow that it is willing to follow itself… An unjust law is a code inflicted upon a minority which that minority had no part in enacting or creating because it did not have the unhampered right to vote" (Rawls 1996: 250, Audard 2019: 453). This illustrates how moral doctrines can be used alongside public arguments.

For Audard, this matters because the very freedom and pluralism allowed by democracies make them fragile: the coexistence of a plurality of value systems sometimes leads to *polarization* and *cultural fragmentation* (Audard 2019: 417-430). Alexis de Tocqueville, in the early days of the American experiment, had already noted how democracies have a tendency to degenerate into soft despotism and may lead to a tyranny of the majority (Audard 2019: 16, 35-36). Individuals may become increasingly inclined to impose their moral convictions onto others and to reject tolerance or compromise. Whenever majorities or powerful factions try to impose their moral beliefs, this inevitably requires the oppressive use of state power, which threatens freedom of conscience, equal political liberties, and fair opportunities for those who do not share the same beliefs (Rawls 2001: 187-188, Audard 2019: 35-36). Unfortunately, we observe this tendency today, as authoritarianism, ethnonationalism, and uncompromising moral and religious ideologies are on the rise, to various degrees in democracies such as Brazil, India, France, Poland, and the USA, and

in more authoritarian states such as Belarus, China, Hungary, Russia, Saudi Arabia, and Turkey. Opponents of liberal democracy exploit divisions to undermine the ideals of pluralism, toleration, and democracy while explicitly proposing illiberal models of government (Rhodes 2019: 3-66). If citizens are not careful, authoritarianism and cultural fragmentation can seriously undermine democratic cultures and institutions.

In the face of such democratic fragility, Audard argues that citizens have a duty to abide by the constraints of public reason and to use public arguments as instruments to build political consensus. To begin, while we should be free to choose our own moral or religious doctrine and to pursue our own reasonable conception of a good life in private association, the principle of toleration towards a plurality of moral and religious doctrines should only extend to doctrines that are reasonable enough to acknowledge that people living by other doctrines can be reasonable too (Audard 2019: 64, 422). Moreover, when investigating principles of justice and discussing the design of social institutions to adjudicate conflicts, we have a *duty of civility*. Each of us must avoid the temptation of seeing our own doctrine being instituted as coercive laws to govern society. This duty of civility requires a kind of *epistemic restraint* when arguing about principles of social justice: we must set aside our own moral beliefs, abstain from appealing to any comprehensive moral *doctrines* or *arguments*, and only appeal to public arguments that could be *accessible* and *acceptable* by others (Rawls 1996: 224-225, Quong 2013, Audard 2019: 60-72, 445-460, 2020: 2).

1.3. *One example of the duty of civility*

To illustrate this duty of civility, Audard discusses the evolution of the public discourse of some British Muslim organizations, from the creation of a new collective religious identity in response to the publication of *Satanic verses* by Salman Rushdie in 1988 (and Ayatollah Khomeini's fatwa condemning it in 1989) to the transformation of their agenda to political and socio-economic demands consistent with public reason.

In the United Kingdom, when Rushdie published his novel partly inspired by the life of the prophet Muhammad, some Muslim organizations initially appealed to religious, non-public justifications to protest against it. They argued that the author, himself a Muslim, had committed "apostasy" and "blasphemy" by mocking their faith. But these reasons are not accessible or acceptable by people with different beliefs and cannot justify legal action against it[2]. Later, these organizations progressively turned to reasons more likely to be shared in a liberal democratic culture, by appealing to existing legislation against religious or racial hatred. In this way, Audard argues, they started framing their demands in terms of public reasons, at least to some extent. More recently, the evolution of their political agenda continued and turned to socio-economic demands for equal access to housing, employment, healthcare, and social programs for groups of Muslims amongst the least well-off in British society. This illustrates how, without abandoning their identity, many turned to public reasons to enter democratic debates (Audard 2019: 456-460).

This evolution, Audard argues, is desirable to preserve a democratic culture. Respecting freedom of conscience means that religious believers living in secular democracies must accept that some co-citizens will not share their beliefs. Except in flagrant cases of religious hatred or harassment, states should not restrict people's freedom of thought and

[2] In England and Wales, blasphemy laws were repealed only in 2008, but the last prosecution for blasphemy was in 1976 "when a private action by Mary Whitehouse succeeded in securing the conviction [for blasphemy] of Denis Lemon, the editor of Gay News" (Travis 2001).

expression, and denying the existence of God does not in itself undermine religious freedom or constitute discrimination. Believers of any faith have no claim over other people's conscience and, for example, cannot demand atheists to change their belief on the ground that atheism erases their identity. As Jocelyn Maclure and Charles Taylor argue, "just as freedom of religion does not include the right not to be exposed to religious symbols, the price to be paid for living in a society that protects the exercise of freedom of conscience and expression is the understanding that we will be exposed to beliefs and practices we judge false, ridiculous or hurtful" (Maclure & Taylor 2001: 108-109). To build democratic compromise, we must set aside metaphysical disagreements, and frame our demands by appealing to public arguments that could be *accessible* and *acceptable* by others.

Audard's elaborations on public reason and the desirability of the constraints imposed by our duty of civility are a welcomed contribution, not only to respond to Forrester's critique but also to illustrate how political liberalism can guide individuals in their role as citizens. Our duty of civility is most important and hardest when we feel certain about our moral beliefs or when we are confronted with moral doctrines or ways of life that we do not understand or find abhorrent. As offended as we may be by others' moral conceptions, we should reign in our emotions and try to build consensus about social institutions by providing others with public reasons that they could accept. Audard argues that one of the radical legacies of Rawls is this demand to acknowledge the limits of our own judgment, exercise epistemic restraint, and seek political consensus.

2. The demands of *individualism*: avoiding appeals to social ontology

Audard underlines Rawls' commitment to *liberal individualism* and respect for *persons*, which is at the core of his conception of justice (Audard 2019: 114-115). Public arguments must appeal to individuals' reasons and how social structures influence the distribution of resources between individuals. Indeed, just as the constraints of public reason prevent us from appealing to any particular moral or religious doctrine, they also prevent us from appealing to any particular *social ontology*, i.e. any particular way to understand the relation of individuals to the social groups they constitute. While Audard and I have slightly different interpretations[3], we converge in observing that Rawls rightly rejects both libertarian atomism and communitarian holism (Audard 2019: 114-118). But Forrester believes that liberal individualism and its distributive paradigm fail to address group disadvantage and "class or group struggles" (Forrester 2019a: 267).

2.1. *An individualist understanding of structural injustices*

Despite Rawls' commitment to liberal individualism, he insists that *individual life prospects* are deeply affected by the basic structure of society (Rawls 1971: 3-4, Audard 2019: 123). He notes that: "citizens [are] born into society... they enter that social world only by birth, leave it only by death" (Rawls 2001: 55). He thus rejects libertarian atomism which reduces society to individuals freely contracting with one another without constraints and accepts whatever results from these free transactions (Audard 2019: 115-116, 130-135). In a nutshell, Rawls acknowledges that existing inequalities and unfair social norms and structures affect the relative bargaining power and vulnerability of contracting partners,

[3] Audard (2019: 120-122) proposes that Rawls' conception of "society" and "social structures" assumes a social ontology inspired by Ludwig Wittgenstein according to which individuals are concerned about justifying their actions to others through language and, thus, conceive of their choices through internalized social norms of communication. But we converge in observing that Rawls rejects communitarian holism.

which affects the fairness of contracting terms. Therefore, a fair distribution of the benefits of social cooperation cannot merely result, as libertarians believe, from private contracts between free and autonomous individuals because, in unfair societies, inequalities in bargaining power would perpetuate injustices between privileged and vulnerable individuals. Given how individual life prospects and opportunities are inevitably influenced by how social institutions are structured, these institutions must be designed according to principles that all could agree on behind the veil of ignorance, as if there was no inequality in bargaining power between individuals. Therefore, against libertarians, Rawls believes that public institutions can legitimately regulate private contracts to guarantee a fair distribution of the benefits of cooperation and to mitigate individual vulnerability and unfair disadvantage (Rawls 1996: 262-269, 2001: 10-12, Audard 2019: 130-135).

Nevertheless, Rawls' commitment to liberal individualism and respect for *persons* means that political liberalism focuses on how *individual life prospects* are affected by social structures. Therefore, his theory also rejects communitarian holism which subsumes the individual into *social groups*. Audard sees the influence of Ludwig Wittgenstein in Rawls' conception of institutions, which are not understood as existing *entities*, but as systems of rules influencing *individual interactions* (Audard 2019: 119, 134). While she gives little detail on the consequences of Rawls' individualism and his rejection of communitarian holism, I propose to develop this claim further to respond to recent criticism.

Indeed, a crucial feature of political liberalism is that it proposes an *individualist* diagnostic of *structural injustice*. Contrary to *direct* discrimination, when individuals or laws explicitly engage in unfair differential treatment, *structural* discrimination refers to legal or societal mechanisms that do not intentionally discriminate but *de facto* perpetuate inequality of opportunities between individuals based on arbitrary characteristics such as gender or race. Political liberalism incorporates this concern whenever arbitrary inequalities between *individuals* (not *groups*) are perpetuated by unfair structures. As Rawls remarks:

> "Okin in her critical though not unsympathetic discussion of [*A Theory of Justice*] has said that there is implicit in it a potential critique of the family and gender-structured social institutions. This critique can be developed, she thinks, first, from the fact that the parties in the original position do not know the sex of those they represent; and second, from the fact that the family and the gender system, as part of the basic structure, are to be subject to the scrutiny of its principles. I should like to think that Okin is right… If we say the gender system includes whatever social arrangements adversely affect the equal basic liberties and opportunities of women, as well as of those of their children as future citizens, then surely that system is subject to critique by the principles of justice (Rawls 2001: 167-168).

A good example is how women's opportunities are affected by inadequate parental leave policy leading them to pause their careers more often than men. In Europe, the vast majority of parental leave takers are women, as the case of France illustrates, where only 4.4% of beneficiaries are men. Among various explanations for this fact, the very structure of parental leave policies can create a financial incentive for women to pause their careers. If parental leave policies give parents a percentage of their previous taxable income (e.g., 70%) for a certain period (e.g., 6 months) and let couples choose which partner takes parental leave, they avoid *explicit discrimination* against women. But in most societies, men typically make more money than women because of arbitrary social norms and differences in socialization. Therefore, it is financially rational for a typical couple to have the highest earner (the man) maintain their full income while the lowest earner (the woman) takes a reduced income, because this results in a smaller loss of total household

income (Gauthier-Chung 2016: 57, EIGE 2020). Importantly, this is true despite the policy avoiding explicit discrimination and even if the couple is committed to gender equality.

This is a problem because it reduces women's *individual life prospects* and opportunities based on arbitrary characteristics. Individual women have a higher probability to face financial incentives to repeatedly delay career advancement, which can further impact their long-term careers prospects and their likelihood to get positions of authority and responsibility. A solution is to offer a bonus if both parents share parental leave: "for example, Sweden has a 'gender equality bonus' or a 'father's quota' that allocates an additional 90 days of the leave to fathers. If the fathers do not use it, the family loses both the leave and the financial benefit associated with it" (EIGE 2020, see also Gauthier-Chung 2016: 57). A more equal sharing of parental leave can foster fair equality of opportunity by increasing the participation of women in the labor market, reducing gender pay gaps, and increasing men's participation in household work (EIGE 2020). This is why many conclude that strong principles of gender justice and demanding structural reforms can be justified within a political liberal framework (Quong 2013, Schouten 2013, 2017 Gauthier-Chung 2016).

This example illustrates how political liberalism focuses on how *individual prospects* are unfairly affected by *social structures*. Slightly departing from Audard, I believe that Rawls' rejection of atomistic and holistic social ontologies is compatible with methodological individualism, on the rise in 20th-century social sciences. Joseph Heath notes that methodological individualism is not normatively charged: "Weber himself cautioned that 'it is a tremendous misunderstanding to think that an 'individualistic' method should involve what is in any conceivable sense an individualistic system of values'" (Heath 2020). Introduced as a methodological principle in social science, this approach holds that "social phenomena must be explained by showing how they result from individual actions, which in turn must be explained through reference to the intentional states that motivate the individual actors" (Heath 2020). But applying this method in social sciences is compatible with explaining how individuals build social norms and structures and how these, in turn, influence individual behavior. Thus, methodological individualism does not deny that social structures influence individual behavior, it only adopts an individualist method to explain how.

From a normative perspective in political liberalism, an individualist approach to social institutions abstaining from any particular social ontology is desirable to facilitate a political agreement between people with different conceptions of social ontology. The parental leave example illustrates an individualist diagnostic of how social structures affect individual choices and life prospects. Based on this individualist explanation, we then use a normative theory to justify why these inequalities are unfair. For instance, parental leave policies must be reformed to realize the liberal principle of *fair equality of opportunity* for every individual. But importantly, parental leave policies are unfair because they perpetuate inequalities of opportunities between *individual* men and women, not because they undermine their "*group interest*" or "*class interest*" (Audard 2019: 128-129, 134).

2.2. *Against group-based conceptions of justice*

Forrester objects to Rawls' individualism, noting that for political liberals, "the action-guiding obligations of citizens were understood not in terms of conflict between plural collective groups or classes, but in terms of individuals and against state institutions" (2019a: 71). As a result, she believes that Rawls' individualism fails to address "class or group struggles" (2019a: 267) and has kept theories framing society in terms of domination and oppression *between groups* "outside of the philosophical mainstream" (Forrester 2019a: 225, Forrester

2019b). She has in mind Marxist, feminist, or critical race theories, including Iris Marion Young's influential work on justice and the politics of difference. For Young, taking Rawls' idea of the "basic structure" seriously requires paying attention to the subtle ways in which social structures affect distributions, domination, and oppression *between groups*:

> "Identifying equality with equal treatment ignores deep material differences in social position, division of labor, socialized capacities, normalized standards and ways of living that continue to disadvantage members of historically excluded *groups*…. Some institutional rules and practices, the operation of hegemonic norms, the shape of economic or political incentives, the physical effects of past actions and policies, and people acting on stereotypical assumptions, all contribute to produce systematic and reinforcing inequalities *between groups*" (Young 2008: 80-83, *my italics*).

There is a lot to learn from these theories: they identify how legal systems and other social norms and structures perpetuate gender, racial and other injustices and they understand the need for political organization to bring about change[4]. While giving an adequate picture of their richness is not possible here, I want to focus on one feature that influential variants of these theories have in common. They conceive of societies as composed of *social groups* with an identity, group interests, and sometimes intentionality. In a nutshell, justice is not about reaching a political consensus between individuals on distributive shares, but about giving justice to group interests and tackling injustices that disempower members of these groups (Young 2006, 2008, Forrester 2019a: 214-224, 259-269, 275-279, Jugov & Ypi 2019). In other words, these theories assume a specific *social ontology*.

In response, I argue that the political liberal conception of justice addresses concerns regarding how social structures unfairly affect *individual life prospects*, as illustrated in the parental leave example, while avoiding problems arising from social ontology. Indeed, the general problem with group-based conceptions of justice is that there can be no possible public agreement on how to define "*social groups*". This leads to three related problems.

First, there is no possible public agreement on how to define *group boundaries*. This can be illustrated with nationalism. As a result of nation-building policies and various cultural representations, some individuals believe that their "nation" exists as a group. Individuals conceiving themselves as members of a nation can develop a feeling of identity towards this group, which is an imagined political community. As David Axelsen notes, "this does not mean that such communities are false or unimportant, but rather that the realm in which they exist is the human consciousness" (Axelsen 2013). While the *personal* feeling of national belonging may be inoffensive and should be respected as a reasonable conception of the good, it becomes harmful when *political* nationalists want to use social institutions to impose their particular conception of the nation. Indeed, political nationalists such as the French far-right or the Chinese communist party reject pluralism because they believe it underlines national values or the unity of the nation. They may feel targeted whenever one points at historical wrongs committed by their country or hold a grudge about historical injustice their nation faced, even if they did not experience them. As a result, they may be willing to severely undermine the liberties or wellbeing of dissident citizens or outsiders with different values through coercion, re-education, assimilation, or exclusion, for the sake of preserving the unity or common good of the nation. The problem is that there is

[4] Recurrent conservative backlashes against Marxist, feminist, and critical race theories are not justified and often based on misunderstandings or false claims. It remains important to learn about the history of privileges and disadvantage and to listen to the experiences of people facing discrimination and oppression.

no possible public agreement on how to define a nation and its boundaries. While some French nationalists may consider that sharing their conception of French values and rejecting public displays of religious symbols are conditions to be included in their nation, other French citizens may disagree. As Audard notes: "the people in a democracy being always plural and elusive cannot exist as an empirical unified community" but only through institutional mechanisms (Audard 2019: footnote 1)[5]. Therefore, while personal feelings of national identity must be respected, a public conception of justice aiming at shaping social institutions should not rely on any particular conception of national identity or group.

Second, there is no possible public agreement on the value of a groups' *aggregate properties*, such as its collective prosperity, independently from the benefits experienced by individual members. This can be illustrated with utilitarianism, at least unsophisticated variants. Utilitarians avoid the nationalist problem by including everyone's wellbeing when calculating collective wellbeing. But utilitarians claim we must maximize aggregate utility in society, i.e., the total or average wellbeing of its members. Thus, utilitarians famously fail to take seriously the distinction between persons, i.e., to consider individual wellbeing independently from the aggregate (Rawls 1971: 27, Audard 2019: 167-170). Taking a simple example, total utilitarians facing the choice between a society (A) of moderate size with high individual utility, and a society (B) with a much larger number of people living miserable lives, must prefer the second if aggregate utility is larger. This conclusion results from the fact that utilitarians value aggregate wellbeing regardless of the distribution of wellbeing between individuals. The problem is that there can be no public agreement on the value of aggregate properties because most individuals value their own wellbeing. Therefore, a public conception of justice should focus on improving individual conditions.

Third, group-based theories often assume the existence of *group interests* in a way that fails to acknowledge value pluralism within groups (Audard 2019: 134) and what some have framed as the problem of minorities within minorities and "conflicts that arise within minority groups" (Eisenberg & Spinner-Halev 2005). This can be illustrated with some Marxist approaches to justice. Some variants of Marxism understand societies as being composed of subgroups such as "capitalists" and "workers", constituting two classes with specific "class interests". As with other group-based theories, the *group boundaries problem* arises when deciding who belongs to which class, given ambiguous cases where workers have pension plans invested in financial markets. But assuming a holistic group interest also forgets the pluralism of values and interests *within* classes.

To begin, *moral disagreements* could arise if some workers hold a well-considered judgment that giving a portion of the fruit of their labor to capital investors is desirable to incentivize savings and investments necessary to job creation and innovation, which may serve purposes they value. Marxists might object that this constitutes exploitation and that their belief goes against their "class interest" but we might want to respect workers' judgment. Moreover, some suggest that the Marxist class analysis overlooks the potential for *conflicts of interests* among members of a particular class. As Heath underlines, this is a common fallacy of 19th-century social science "based on a widespread tendency to ignore the potential for collective action problems in groups, and thus to move far too easily 'down' from an identification of a group interest to the ascription of an individual interest" (Heath 2020). For

[5] One way to understand why Rawls discusses justice between "*peoples*" in *The Law of Peoples* (1999) is that he understands peoples as societies of *persons* cooperating within one basic structure and organized by a *government* (Freeman 2007: 424) which is compatible with the rejection of communitarian holism.

example, Marxists often assign shared intentionality within a given class and claim that "capitalists retain a 'reserve army of the unemployed' in order to depress wages. This means that individual capitalists must stop hiring new workers at a point where marginal benefits still exceed the marginal costs" (Heath 2020). But as Heath underlines, there is no clear incentive for any particular capitalist to do so: "They have an obvious free-rider incentive to keep hiring, since the benefits stemming from depressed wages would largely be enjoyed by rival firms, whereas the benefits of further hiring would flow to the bottom line" (Heath 2020). Heath uses this example to illustrate that while maintaining a reserve army of the unemployed might be in the "interests of capital", individual capitalists may not have any incentive to do so. The result is that there can be no public agreement on the nature of the "group interest" given the pluralism of values and interests *within* groups. Therefore, a public conception of justice should not rely on any particular conception of group interests.

2.3. *Two examples of the group boundaries and group interest problems*

We are accustomed to discerning when moral or religious views affect political arguments, but how particular social ontologies do so is more subtle. A recent example of the *group boundaries problem* is the controversy over author J.K. Rowling's comments on transgender women. The position of prominent feminist figures such as J.K. Rowling or author Chimamanda Ngozi Adichie is that being a woman has to do with biological sex which is attached to a specific phenomenology or experience of the world such as having specific body experiences or having faced specific kinds of injustices like violations of reproductive rights and sexism. For them, this definition of the "group of women" does not include transgender women but it does not deny them equal respect and dignity as human beings. By contrast, queer feminists and transgender rights activists, and actor Daniel Radcliff who released a statement via the Trevor Project, affirm that "transgender women are women" and that they should not be definitionally excluded from the gender group to which they identify because this erases their identity, creates hurtful distinctions and risks further harm and discrimination (Brooks 2020, Radcliff 2020, Favreau 2022).

Importantly, both sides rightly agree that transgender and non-binary people deserve equal respect and dignity, that discrimination against them is wrong, and that we must do more to remove the discriminatory barriers they face. "Rowling underlines that she also wants trans women to be safe" (Brooks 2020), and Adichie rightly supports crucial policies advocated by the trans community such as access to gender-affirming healthcare and equal access to social services, employment, or housing (Favreau 2022). These policies matter to enable individuals to freely live their life without discrimination. One source of tension is that each side assumes a specific social ontology: they disagree about who should be included in the "group of women". The difficulty is that all social groups, from "nations" and "classes" to the group of "women" are social constructions. In this case, its definition and boundaries are contingent upon subjective beliefs prioritizing either sex or gender. The group boundary problem further deepens when considering the intersectional identities of individuals fluidly belonging to multiple intersecting social groups. Therefore, there can be no public agreement on group boundaries that would be acceptable by all, even *within* social groups. This is bound to lead to endless disagreements.

I am not in any position to adjudicate this ontological debate and articulating a complete liberal response is beyond the scope of this article, but I want to illustrate how political liberalism might offer a path to reconciling the two sides. As in the religious belief example, respecting everyone's freedom of conscience requires letting people be free to conceive

of their group identity as they prefer as long as others are free to do the same. There are good reasons to respect everyone's preferred identity in personal interactions, but one cannot expect everyone to adopt their social ontology[6]. Instead, it can be useful to set aside ontological debates and seek a political agreement on how to design *policies* and *institutions* guaranteeing freedom, equal opportunities, and safety for both cisgender and transgender women. To take a narrow example, public arguments exist to justify gender-neutral bathrooms while remaining agnostic regarding group boundaries. Gender-neutral bathrooms may be desirable as "an accommodation for trans and other gender-nonconforming individuals" because they avoid any hurtful distinctions, but they can also appeal to a larger constituency because they provide a safe private space for all women and empirical evidence shows that "firms have an opportunity to reduce the number of facilities and cut costs by making them all gender-neutral without increasing waiting times" (Marcoci & Bovens 2020). These public arguments demonstrate that all parties can derive benefits from gender-neutral bathrooms and are more likely to generate agreement. While policy disagreements may remain, the task of finding agreement is simplified if we do not expect people to converge on the social ontology of groups boundaries.

A different example, this time of the *group interest problem*, can be found in the work of political theorists such as Iris Marion Young (2006, 2008) and more recently Tamara Jugov and Lea Ypi (2019), who have published influential research on structural injustice. Like Rawls, they think that "a social structure can be understood as a system of rules (both formal and informal) responsible for the relative power positions and the distribution of resources among the different agents complying with such rules" (Jugov & Ypi 2019). But contrary to a liberal individualist approach focusing on how *individual life prospects* are affected by social structure, they insist that structural oppression affects *groups*: "A social structure can be said to be unjust when the rules perpetuated through it persistently disadvantage some social groups vis-à-vis others [and] structural oppression must affect *all* members of disadvantaged groups" (Jugov & Ypi 2019)[7]. One difficulty consists in explaining common cases of individual members of oppressed groups who accept the existence of structural injustices towards their group but deny that they are personally affected by them. For example, "women in academia who agree that in general their social group (women in academia) suffers from some form of structural injustice but affirm that they are immune from it" (Jugov & Ypi 2019).

In these cases, a political liberal approach acknowledges that *individual life prospects* are deeply affected by the basic structure of society and, even if a woman has not yet been the victim of structural injustice, there is still an injustice if prevalent social norms and structures increase her *probability* of facing injustice sometime during her life. Yet, it remains conceivable that individual trajectories or intersectional cases, where some privileges protect from disadvantage, can leave some individuals unaffected. Instead, Jugov and Ypi maintain their claim that structural injustices must affect *all* members of a disadvantaged group by arguing that women in academia claiming to be unaffected are necessarily mistaken. Like Marxists asserting that some workers misunderstand their

[6] Professional organizations supporting transgender and non-binary people victim of discrimination recommend respecting their preferred identity in personal interactions to avoid hurtful distinctions (Radcliff 2020). Moreover, it is simply respectful to defer to people's own conception of their identity when addressing them. However, merely disagreeing about social ontology does not amount to discrimination.

[7] Jugov and Ypi (2019) claim that their approach does not assume a social ontology because "social groups cannot be said to precede structural injustice… they are also constituted by social rules and practices, often structurally unjust ones". Yet, while this denies a pre-political ontology, it seems to assume a particular social ontology, namely one that defines social groups as being constituted by social rules and practices.

genuine class interest because "false consciousness" prevents them from recognizing injustice, they argue that these "exceptional" women either are unaware of how structural oppression affects them, are alienated and have internalized oppressive rules through anticipatory deference, or are even complicit with the oppressive system because they benefit from it (Jugov & Ypi 2019). While each of these phenomena may exist, claiming that *any woman* who claims to be unaffected falls into one of these categories seems unnecessary to give a convincing account of structural injustice.

The elusive nature of social groups creates difficulties for any approach focusing on giving justice to group interests. While individuals may reasonably conceive of themselves as part of a group and base their identity on this conception, one should not expect everyone to share their specific conception of social ontology. There can be no public argument *accessible* and *acceptable* by all regarding social ontology because social groups are constructions that exist in the realm of subjective human consciousness. Because individuals will inevitably have different reasonable conceptions of "*social groups*" and their "*group interests*", political liberalism suggests that the task of building political agreement is simplified by setting aside metaphysical or ontological debates and focusing on policies improving *individual life prospects* through *structural change*.

3. The demands of *institutionalism*: evaluating social regimes

Rawls proposes to use principles of justice to evaluate *ideal types* of social regimes and their ability to realize justice. With a picture of what just institutions would be in an ideal, well-ordered society as a benchmark, we can identify necessary institutional reforms to tackle structural injustices in real-world societies. Importantly, for Rawls, justice is a virtue of *social institutions* and his *institutionalist* approach means that we can only realize justice through establishing and maintaining just institutions (Rawls 1971: 3, 1996: 265-269, 2001: 201, Scheffler 2005, Ferretti 2021). While Audard argues that Rawls' theory can equip us with the right kind of arguments to justify ambitious reforms going far beyond capitalist welfare states (Audard 2019: 379-416), Forrester objects that Rawls' focus on *ideal theory* supports a sort of *status quo* and attempts by subsequent liberal egalitarians to domesticate or incorporate demands from more radical conceptions of justice has "squeezed out possibilities for radical critique" (Forrester 2019b, 2019a: 268-269).

3.1. *Bridging the gap between ideal principles and institutional reforms*

Forrester objects to Rawls' reliance on ideal theory because it purportedly neglects non-ideal realities and interests (Forrester 2019a: 277, Freeman 2020). The extensive literature on ideal and non-ideal theory cannot be adequately summarized here (Valentini 2012) but Forrester's concern seems to be that relying on idealized abstractions – e.g., comparing *ideal types* of social regimes and their ability to realize justice – has "deradicalized" political problems and failed to motivate collective politics (Forrester 2019a: 267, 277). In the face of societal questions arising in non-ideal circumstances, such as racial injustice and reparations for historic injustice, social norms perpetuating gender inequality, or epistemic injustice, she argues that "liberal egalitarians have some of the tools to deal with these changes, but our questions also require new frameworks that depart from one invented in a period of ideological battles quite unlike today" (Forrester 2019b).

Audard and Freeman respond to this common objection in two ways. To begin, they note that Rawls was far from neglecting non-ideal realities. The realization that conflicts of values and interests are unavoidable in pluralistic societies and that pervasive injustices

make liberal democracies unstable is at the core of Rawls' conception of justice (Audard 2019: 417-460). He was also well aware that "American society still contains 'grave injustices' and that existing political, social, and economic inequalities violate his principles of equal political liberties, equality of fair opportunities, and economic justice" (Freeman 2020, see also Audard 2019: 51). Martin O'Neill illustrates this with an exchange between Rawls and Brian Barry:

> "In a 1973 exchange with Brian Barry, who had charged him with thinking that the United States in that period was "nearly just", Rawls's withering response was that "I would find it very difficult to see how anyone who has lived in this country for the past decade or so could think that it is a just or nearly just society as I define justice." If this was Rawls's view even in 1973, before the dismal acceleration of inequalities of income and wealth during the 'neoliberal' period from 1980 onwards…, then his judgement that the reality of capitalism is characterised by systematic injustice seems an even more secure assessment in 2020" (O'Neill 2021).

Moreover, Freeman notes that Rawls' principles of justice function precisely as a benchmark by which to evaluate flawed institutions, assess structural injustice, and demand institutional reforms (Freeman 2020). With a picture of what just institutions would be in an ideal, well-ordered society, we can identify gaps in current institutions pointing at necessary reforms to better protect equal basic liberties, promote fair equality of opportunities, and maximize the prospects of the least advantaged. Our duty to establish and maintain just institutions requires bridging the gap between principles and political action by investigating how structural injustices affect individual prospects in non-ideal circumstances and by demanding institutional reforms. For Rawls: "establishing and successfully maintaining reasonably just (though of course always imperfect) democratic institutions over a long period of time, perhaps gradually reforming them over generations, though not, to be sure, without lapses, is a great social good" (Rawls 2001: 201).

To this end, Pierre-Etienne Vandamme outlines steps to bridge the gap between principles and policy proposals. The first step, on which Rawls focuses, consists in clarifying and ordering normative principles. In a second step, philosophers use these principles to evaluate particular cases, which requires the input of social sciences to anticipate and compare the effects of various institutional reforms or policies, given feasibility constraints. Here the role of philosophers is to evaluate whether these effects are consistent with normative principles. The third step consists in "expanding the normative horizon by *considering new alternative policies* (and their effects)" which can be guided by ideal types of social regimes. The fourth and final step consists in considering the political achievability of competing options and perhaps engaging in social organization to eventually move the frontier of political feasibility (Vandamme 2021: 269-275).

Audard also underlines that Rawls' theory is a *work-in-progress* and it only offers an incomplete picture of what a just society should look like (Audard 2019: 31). While he aims at providing a language and a framework to build consensus on principles of justice and social institutions, outlining how to fully realize a just society goes beyond Rawls' ambition. This requires the input of social sciences to complete the picture of a liberal egalitarian society in a way that remains consistent with new societal challenges. As Rawls explains: "I outline a family of policies aimed at securing background justice over time, although I make no attempt to show that they will actually do so. This would require an investigation of social theory" (Rawls 2001: 135). Forrester herself surveys how, in decades following the publication of Rawls' ideas, "liberal political philosophers extended these ideas in debates about famine, basic needs, the New International Order, overpopulation, and environmental survival"

(Forrester 2019a: xxi). A vast and global liberal egalitarian literature has applied Rawls' principles of justice to a variety of concrete policy debates to complete the picture of a just and well-ordered society, including efforts to outline preferable economic regimes (O'Neill 2021) or structural reforms to achieve gender justice (Quong 2013, Schouten 2013, 2017). Liberal egalitarianism is far from confining itself to idealized abstractions.

3.2. *Comparing social regimes instead of isolated policies*

There is, however, a more fundamental reason for Rawls to focus on *ideal types* of social regimes. Rawls' institutionalist approach and his focus on the regulations necessary to secure background justice relies on the conviction that realizing justice requires looking at entire *social regimes* instead of isolated policies or individual actions. As Rawls remarks, "an institution may be unjust although the social system as a whole is not" for instance if "within the structure of an institution or social system one apparent injustice compensates for another" (Rawls 1971: 57). To begin, institutional roles may require agents to act in ways that do not directly aim at solving injustices, such as market competition, but end up contributing to a just society. Moreover, realizing principles of justice such as fair equality of opportunity and the difference principle requires coordinating numerous agents and institutions which makes evaluating policies or individual actions in isolation impossible. Finally, social regimes must be arranged so that they can be maintained over time and avoid erosion, so we need to ask "what kind of regime and basic structure would be right and just, could it be effectively and workably maintained…while a regime may include institutions explicitly designed to realize certain values, it still may fail to do so. Its basic structure may generate social interests that make it work very differently than its ideal description" (Rawls 2001: 137, see also O'Neill 2021). Altogether, this means that it is hardly possible to evaluate how just or unjust an isolated policy or individual action is unless we have a global picture of the whole system (Rawls 1996: 265-269, 2001: 54, Ferretti 2021).

But far from squeezing out possibilities for radical critique, Rawls' institutionalist approach opens the door to radical institutional reforms by asking us to consider *alternative social regimes*. He rejects centralized economic regimes such as state socialism because they unnecessarily limit individual liberties of association and occupational choice. He also rejects laissez-faire capitalism and weak contemporary welfare states because these regimes neither protect the fair value of political liberties (i.e. wealthier people have an outsized influence on politics and society), nor secure fair equality of opportunity (i.e. large inequalities result in unfair access to social positions), and they preserve unnecessary large income and wealth inequalities incompatible with the difference principle (Rawls 2001: 135-140, Freeman 2007: 219-224, Audard 2019: 379-416, O'Neill 2021). Instead, Rawls leans towards a Property-Owning Democracy in which, "institutions must, from the outset, put in the hands of citizens generally, and not only the few, sufficient productive means for them to be fully cooperating members of society" (Rawls 2001: 137-138).

Research on how to realize a Property-Owning Democracy suggests radical policies such as substantial progressive wealth taxes and policies favoring universal access to wealth, and even democratic reforms in the economy such as the promotion of alternative forms of economic organizations allowing workers to have a share in productive property and control over economic decisions (Audard 2019: 379-416, O'Neill, 2008, 2021). Rawls himself opens the door to such alternatives to capitalist organizations:

> Mill's idea of worker-managed firms is fully compatible with property-owning democracy… Mill believed that… these firms would increasingly win out over capitalist firms. A capitalist

> economy would gradually disappear and be peacefully replaced by worker-managed firms within a competitive economy… Would there be advantages from doing this that could be *justified in terms of the political values expressed by justice as fairness*?... For example, would worker-managed firms be more likely to encourage the democratic political virtues needed for a constitutional regime to endure?" (Rawls 2001: 178, *my italics*)

However, political liberalism demands that these policies be *justified by public arguments compatible with a liberal political conception of justice*. The constraints of public reason require refraining from making moral judgments about relations within organizations and trying instead to demonstrate that democratic reforms in the economy are necessary to realize distributive justice. By contrast, Elizabeth Anderson favors similar reforms to make the authority in workplaces accountable to workers and more responsive to their interests, but appeals to the principle of relational equality and the need to avoid unaccountable power (Anderson 2017: 66-69, Kolodny, *in* Anderson 2017: 99-102). She famously argued that "the point of equality" is not merely that resources or opportunities be fairly distributed but that individuals should stand in relations of equality: "Egalitarians base claims to social and political equality on the fact of universal moral equality... egalitarians seek a social order in which persons stand in relations of equality. They seek to live together in a democratic community, as opposed to a hierarchical one" (Anderson 1999: 313-314).

One difficulty with justifying democratic reforms in the economy on relational egalitarian grounds is that, while keeping their moral equality, some workers may reasonably prefer working in hierarchical firms in exchange for other benefits such as higher wages, more flexible schedules, or less responsibility (Cowen, in Anderson 2017: 108-106). Moreover, state governments representing all citizens equally may judge that, all things considered, tolerating firms' hierarchical structures is acceptable. As Gregory Dow argues, "there might be good reasons for withholding control rights even when workers do want them. The interest of society as a whole may demand that other goals take priority, perhaps including efficiency goals" (Dow 2003: 42). For instance, tolerating capitalist, hierarchical firms could improve economic growth and increase governments' ability to tax and fund social services.

Instead, liberal egalitarians have developed public arguments to justify democratic reforms in the economy. O'Neill argues that (besides relational arguments), such reforms may be necessary to fairly distribute *all* social primary goods – including income and wealth, powers and prerogatives attached to positions of authority and responsibility, and the social bases of self-respect – and fully realize the difference principle. Indeed, a common misunderstanding of Rawls' difference principle is that large inequalities are justified *as soon as* they marginally *improve* the life prospects of the least well-off. Instead, this principle essentially takes equality as a baseline and justifies inequality *only if* necessary to *maximize* the life prospects of the least well-off. This is a very demanding principle. For O'Neill, the difference principle can justify exploring alternatives to capitalism because *ex-ante* inequalities created by capitalist organizations are unnecessary and weak *ex-post* redistribution schemes are insufficient to fully realize the difference principle (O'Neill 2008, O'Neill & Williamson 2012: 75-93, Audard 2019: 409)[8]. Property-Owning Democracy advocates should "have an interest in ways of broadening ownership of productive capital [including] efforts to turn control over entire enterprises to workers or to local neighbourhood organizations" (O'Neill & Williamson 2009: 8).

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[8] In his response to Forrester, Freeman (2020) also notes that "although Forrester concedes that Rawls explicitly endorsed property-owning democracy… she says he only distinguished it from the welfare state late in life... But the radical implications of Rawls's difference principle were clear from the beginning".

The possibility to provide liberal egalitarian arguments in favor of ambitious democratic reforms in the economy supports Audard's conviction that Rawls' theory can offer tools to justify radical institutional change. But sharing the conviction that we must implement radical policies to redistribute wealth and fight structural injustice does not exempt us from our duty of civility to provide public justifications acceptable by all.

Conclusion

As John Rawls already noted in his doctoral dissertation, *A study in the grounds of ethical knowledge*, his approach to justice was motivated by a central worry: "facing a variety of ideological wars, pushed by propaganda apparatuses supported by institutions, people may not only doubt the efficacy of reasonable principles, but even doubt their existence" (Rawls 1949, cited by Forrester 2019a: 6). In response to this worry, Rawls' theory of justice was an attempt at providing a conceptual framework to think rationally about reasonable principles of justice for our social institutions. While he believed that the motivation to protect democracy and to realize justice would arise from the democratic culture in a well-ordered society, he also believed that it was our duty in non-ideal circumstances to build and maintain a democratic culture by relying on public reasons to seek political agreements with fellow citizens (Rawls 2001: 101, Audard 2019: 33-53).

Interestingly, Audard's account identifies at least three demands of political liberalism. The first derives from the ideal of *public reason* and justifies a duty of civility: in public deliberations, we must offer public arguments accessible and acceptable by all, and exercise epistemic restraint by setting aside non-public moral arguments (Audard 2019: 60-72, 417-471, 2020: 2). The second derives from *individualism*: in public deliberations, we must set aside both libertarian atomism and communitarian holism (Audard 2019: 114-134). In this article, I developed this claim further to defend an individualist understanding of structural injustice, against group-based conceptions of justice. The third derives from *institutionalism* and requires investigating perhaps radical institutional reforms to realize background justice (Audard 2019: 379-416). But I argued that sharing the conviction that we must implement radical policies to redistribute wealth and fight structural injustice does not exempt us from our duty of civility to provide public justifications acceptable by all.

While Katrina Forrester believes that John Rawls' political liberalism is a product of its time and that philosophers should turn to alternative theories more adequate to our times, Catherine Audard offers a convincing response to argue that political liberalism is more relevant than ever, in times of deep political divide such as ours. Most importantly, the duty of civility, to provide public justifications in public deliberations and to actively build political agreements with others, is a demanding responsibility. It requires spending time and efforts on what President Obama (2017) once called "the most important office in a democracy: citizen". The future of democracy may depend on it.

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