

# Review

## ***Rawls's Political Liberalism***

Thom Brooks and Martha C. Nussbaum. New York: Columbia University Press, 2015. 224pp.

### Matthew Jones\*

The contribution that John Rawls has made to political philosophy, and liberal political philosophy more specifically, should not be underestimated. His two key texts, *A Theory of Justice* (1971), and *Political Liberalism* (1993), not only reinvigorated social contract theory, but set the foundation for much of the contemporary debate surrounding the nature of the liberal democratic state given the fact of reasonable pluralism. If the European philosophical tradition, as noted by Alfred North Whitehead, should be seen as a series of footnotes to Plato, then contemporary Anglo-American political philosophy, especially if it intersects with aspects of liberal political philosophy, could be seen as a footnote to Rawls.

Given the importance of Rawls within contemporary political philosophy, there already exists a considerable body of important literature dedicated to various aspects of his work. Indeed, the “Rawls industry” does not appear to be in any danger of ceasing any time soon! In an academic environment where so much continues to be published on various aspects of Rawls’ work, it makes it increasingly more difficult for any such publication to rise above the others, particularly with regards to originality or significance.

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\***Matthew Jones** is lecturer in political science at the University of Greenwich. He graduated from the University of Tasmania (Australia), and proceeded to complete his doctoral studies at Canterbury Christ Church University. He has held previous positions at the University of Westminster and Canterbury Christ Church University. His research focuses on liberal political philosophy, particularly with regards to competing rights claims within the liberal democratic state. His work has been published in *Parallax*.

Thom Brooks and Martha C. Nussbaum describe their text as a “critical reassessment” (2015: vii) of Rawls’ *Political Liberalism*, particularly in light the twentieth anniversary of its publication. Brooks and Nussbaum’s text aims to “shed new light on this work and its legacy, engaging with several central issues of Rawls’s work from different perspectives” (2015: vii). In addition to their own chapters, Brooks and Nussbaum’s bring together contributions from Onora O’Neill, Paul Weithman, Jeremy Waldron, and Frank I. Michelman, drawing on expertise in moral, political, and legal philosophy. I shall first briefly examine each of these chapters, then move onto a discussion of the text as a whole.

Nussbaum’s extensive introduction, which was originally commissioned for a new introduction of *Political Liberalism* by Columbia University Press, I found to be particularly enjoyable. As Nussbaum notes from the outset, “It is extremely hard to introduce a book that is by now a classic that is rightly regarded as one of the most important works of political philosophy of the twentieth century” (2015: 1). However, despite the difficulty of this task, Nussbaum does succeed in producing a highly engaging contribution not only to this edited volume, but also to Rawlsian scholarship. Its strength lies in her careful and systematic overview of Rawls’ political and philosophical project. Instead of getting bogged down in the minutia of *A Theory of Justice* and *Political Liberalism*, Nussbaum explores areas that have not received sufficient attention, or have been simply misunderstood. To this effect she draws from a number of Rawls’ publications other than *A Theory of Justice* and *Political Liberalism*, demonstrating that he used these as a means to address some of the concerns levelled at his work, as well as remedying self-identified weaknesses in his own arguments. Of particular interest to myself was the section on Rawls and his “historical antecedents” (2015: 10–16), which examines how he grappled with the important contributions of Hobbes, Locke, Rousseau, and Kant.

O’Neil’s contribution, entitled “Changing Constructions,” is primarily focused on the relationship and differences between *A Theory of Justice* and *Political Liberalism*. More specifically she focuses on some of the important shifts that Rawls has been forced to make when moving towards a *political* conception of justice, as opposed to one with strong Kantian undertones. Rawls situated *A Theory of Justice* within the social contract tradition, though noting that he wants to move “to a higher level of abstraction [than] the traditional conception of the social contract” (Rawls 1971: 3, in Brooks and Nussbaum 2013: 57). However, in *Political Liberalism* we see a move away from “contractarian” justification of the principles of justice, to a defence premised on those principles that can

be constructed by reasonable procedures. This move from a *contractarian* to a *constructed* justificatory procedure has a number of important implications which O'Neil teases out. She explores, for example, the important shift between "who counts" in the original position and the (original) reflective equilibrium, and "who counts" in *Political Liberalism*. We have moved from the abstract individual who know nothing about themselves to someone who is a concrete citizen of a bounded liberal democratic state.

Weithman's contribution, "Legitimacy and the Project of Political Liberalism," challenges the "standard reading" that explains Rawls' intellectual shift from *A Theory of Justice* to *Political Liberalism*. In this standard reading, Rawls acknowledges that his version of stability in *A Theory of Justice* is premised on Kantian claims which some members may reasonably reject. As a result of this, Rawls shifted his focus from the parameters of a *just* society to a *legitimate* society. Weithman posits that this "standard reading" of Rawls is mistaken. The concept of legitimacy is central to *Political Liberalism*, but it is wrong to suggest that it is overlooked in *A Theory of Justice*. The principle of legitimacy is present in *A Theory of Justice*, but it is expressed in terms of political duty. The purpose of legitimacy as expressed in *Political Liberalism* is to remind us "of conditions of political duty [as] laid out in *A Theory of Justice*" (2015: 109).

Waldron's chapter, "Isolating Public Reasons," is perhaps the most unusual contribution to this edited volume in that it does not deal directly with *Political Liberalism*, nor with Rawls, in any substantive way. Rather, Waldron grapples with a specific interpretation of public reason "that is quite different from the way it is set up in *Political Liberalism*" (2015: 113). The Rawlsian approach to public reason is a method of developing "basic laws and institutions that are convincing and can command consent across the board rather than being rooted in any particular conception" (2015: 121). At the core of Waldron's argument is the effect of what he refers to as the "public reason constraint" (2015: 128): when forced to develop justificatory arguments that are shorn of any wider comprehensive doctrine, the public reason constraint separates these reasons from their wider context that gives them their weight in the first place. Waldron develops a cogent argument, and I believe that it has merit in and of itself. However, by weakening the public reason constraint in order to develop "truthful" justificatory arguments, there is a risk that these arguments will become too embedded in their comprehensive doctrine, and thus not necessarily acceptable (although not inherently unacceptable) to others.

In a move away from exegesis, Brooks' contribution, "The Capabilities Approach and Political Liberalism," focuses on two key issues, with much of the chapter dedicated to the second of these. First, Brooks examines and rejects two claims that Rawls' solution to the issue of political stability are unsuccessful. The first of these, put forward by thinkers such as Kurt Baier, Brian Barry, George Klosko, and Edward McClennen, posits that "Rawls' solution does not succeed because it is *unnecessary*" (2015: 146), and the second, held by thinkers such as Kent Greenawalt, Michael Sandel, Leif Wenar, and Iris Marion Young, holds that such an overlapping consensus is simply "too fragile to secure political stability" (2015: 139). Brooks rejects both of these claims, arguing that "these objections rest on a mistake easily overlooked" (2015: 139), as they each "fail to recognize the central importance of the social minimum in securing political stability" (2015: 140). However, it is the second part of Brook's chapter that I found to be particularly insightful. Here Brooks argues that political stability, which is at the heart of Rawls' *Political Liberalism*, could be strengthened if it were to be "understood in terms of the capabilities approach" (2015: 140). Brooks draws a distinction between his approach and that of Nussbaum with regards to how the capabilities approach can offer a more robust account of the social minimum. Nussbaum views her account as an important *addition* to political liberalism, whereas Brooks' account should be viewed as a *revision* within political liberalism. Brooks' version of the potentially positive relationship between political liberalism and the capabilities approach stems from Amartya Sen's critique of Rawls' theory of justice, who argues that Rawls fails to see "the important distinction between 'doing something' and 'being free to do that thing'" (2015: 159).

Michelman, in "The Priority of Liberty: Rawls and Tiers of Scrutiny," approaches Rawls and *Political Liberalism* from a legal and constitutional point of view. In his chapter, Michelman asks "can the political philosophy of John Rawls shed any light on technical, legal-doctrinal choices such as that expressed by the TTM [two-tiered model]" (2015: 178), which is a feature of American constitutionalism. Furthermore, "might the pursuit of *that* question shed any light on Rawlsian political philosophy" (2015: 178). To this effect Michelman explores how a Rawlsian judge would interpret a Rawlsian constitution which is underpinned by Rawlsian political philosophy. As illustrative examples, Michelman examines the constitutionality (in light of Rawls) of mandatory health insurance, a blanket prohibition of physician assisted suicide, and female genital mutilation. It is clear from his

chapter that Michelman holds that both Rawlsian political philosophy and American constitutionalism are quite congruent.

Having provided a brief overview of each of the contributions to this edited volume, we can now examine the contribution of this text as a whole to Rawlsian scholarship. Whilst the individual contributions in this text are all of a high standard and worthy of publication in their own right, it is my opinion that when collated together as an edited volume, this text falls short. This is not due to any theoretical fault or weaknesses contained within the chapters themselves, but rather that there appears to be no common thread that unites the disparate chapters other than Rawls.

Take, for example, Nussbaum's introduction. I have previously stated that I found Nussbaum's introductory chapter to be particularly enjoyable. However, despite the merits of her contribution (of which there are many), it does not function as an introduction as well as it could have, and would have worked better as a stand-alone chapter in its own right. This introductory chapter contains no mention of the other authors, how their respective contributions further the aims of this edited volume, or how the chapters related to each other. Indeed, I found each of the chapters to be rather isolated from each other in that there is no cross referencing here between them. This is perhaps best illustrated in Brooks' (otherwise excellent) contribution which embeds the capabilities approach within political stability. Nussbaum is one of the leading scholars in the field, yet there is no interaction here between these two authors. This oversight had the potential to a very rewarding contribution.

Finally, I wish to address who the intended audience for this text may be. This is not a text suitable for someone wishing come to terms with the central ideas contained in Rawls' *Political Liberalism*. The focus of the various chapters contained within are very narrow, specific, and at times quite technical. Accordingly, this text is better suited to a reader who is already familiar with the key ideas Rawls has developed over his long career. Nussbaum's contribution is perhaps the only chapter that is accessible by someone who is not already steeped in Rawlsian political philosophy.

To produce work that has a significant contribution to Rawlsian scholarship is a difficult task. Drawing from a diverse body of moral, political, and legal thinkers demonstrates both the impact that Rawls has had, and opens up the potential scope of this text. However, whilst I think that the individual chapters in this text do make a worthy contribution in their own right, the edited volume itself is less successful for the reason outlined above.