

John Rawls, Socialist?

BY

ED QUISH

John Rawls is remembered as one of the twentieth century's preeminent liberal philosophers. But by the end of his life, he was sharply critical of capitalism.

Review of *John Rawls: Reluctant Socialist* (Cambridge University Press, 2017)

John Rawls was one of the twentieth century's preeminent liberal philosophers. His major work, *A Theory of Justice* (1971), redefined the field of political philosophy, shaping generations of subsequent scholarship on politics, ethics, and law. For many of his admirers, Rawls represents the best of the liberal tradition, and his theory of justice offers a rigorous defense of liberalism's most humane hope: a democratic welfare state that preserves capitalism while also keeping it in check.

For critics on the Left, Rawls's theory has often seemed insufficient for a critique of injustice. The just society derived from Rawls's famous thought experiment — where rational parties in an “original position” design a social contract unaware of their ultimate place in the society they create — largely mirrors the United States' basic social, political, and legal institutions. Rawls's basic theoretical approach risked

buttressing the existing order by making it seem like the inevitable product of consensual reasoning — obscuring rather than clarifying political possibility.

In *John Rawls: Reticent Socialist*, William A. Edmundson offers a left defense of Rawls by focusing on the philosopher's most mature and radical writings. By the time of Rawls's final work, released in 2001 and called *Justice as Fairness: A Restatement*, he had concluded that capitalism is incompatible with the political equality and fair opportunity that justice demands. Rawls envisioned two kinds of regimes beyond capitalism that might equally realize justice: "liberal democratic socialism" and what he called "property-owning democracy." Edmundson argues that Rawls's professed neutrality is misleading, and that his mature theory systematically favors socialism. Providing the rudiments of a socialist argument that he declined to carry out makes Rawls a "reticent socialist."

Edmundson is not so reticent, either in his support for socialism or praise for Rawls. He situates his conception of democratic-socialist politics squarely within the parameters of Rawls's theory of liberal democracy, claiming that more than any other prevailing theoretical framework, "Rawls's theory furnishes a common language in which people who are concerned enough about justice to want to understand it, and to bring it about, can communicate."

Edmundson makes a powerful case for a "socialist constitutionalism" that deserves a place in contemporary debates on the Left. Yet Rawls's reticence says more than Edmundson admits — and highlights the limits of Rawls's conception of political philosophy for socialist politics.

Justice as Fairness

Rawls didn't aspire to settle any immediate political debates in *A Theory of Justice*. His ambitions were deeper. He hoped that by developing a theory of justice that appealed to basic moral intuitions as well as

rational self-interest, moral theory could contribute to a public “sense of justice” that placed divisive conflicts in the context of agreed-upon principles. If we could agree about what “justice” means, our conflicting views about politics and economics might at least take place on common ground. Instead of talking past one another, we might focus on something that concerns us all: what it means to live in a just society.

Rawls explained his theory (which he called “justice as fairness”) by contrasting it with utilitarianism (the view that society should secure “the greatest good for the greatest number of people”). Utilitarianism, he reasoned, is insufficient for a theory of rights and an account of the public good. Under utilitarianism, the greater good can always be invoked to supersede fundamental rights and liberties, and maximizing average utility said nothing about what is owed to the least advantaged, who may end up worse even if utility rises in the aggregate.

These concerns motivated the two principles of Rawls’s theory of justice:

- 1) Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all.
- 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 positions and offices open to all under conditions of fair equality of opportunity.

The basic liberties protected by the first principle included the right to vote and hold public office; freedom of speech, assembly, and conscience; protection from arbitrary arrest and seizure; and “the right to hold (personal) property.” The second regulated distribution once these rights were guaranteed, and since no citizen can be said to benefit from an arrangement that leaves their basic needs unsatisfied, many argue that it implies a guaranteed social minimum.

Because Rawls wanted to guide rather than settle contentious debates, his theory left the door open for socialism. He speculated that a kind of

“market socialism” with liberal-democratic institutions could realize “justice as fairness” (unlike, he said, a single-party, Soviet-style system).

Still, his basic principles seemed to tacitly favor capitalism. By holding the first principle prior to the second, Rawls placed the right to “personal” property above distributional claims. While he argued that this priority was compatible with an egalitarian distribution of wealth and opportunity, he was clear that individual rights, and not the common good, must form the basis of the social contract. And rather than the socialist hope of shared abundance, his second principle evoked the image of economic growth as “the rising tide that lifts all boats,” implying that inequalities are legitimate if they improve prospects for the least advantaged.

When discussing the possible economic consequences of his theory, Rawls also spent more time discussing how it would apply to “a properly organized democratic state that allows private ownership of capital and natural resources.” Capitalism could be just if taxes, transfers, and public goods maintained equality of opportunity and buttressed political democracy.

“Justice as fairness” might have flirted with socialism, but it wasn’t hard to see why many saw it as a defense of welfare-state capitalism.

Reconsidering Capitalism

When Rawls wrote *A Theory of Justice*, after the legislative achievements of the Civil Rights Movement and toward the tail end of the postwar boom, he was hopeful that liberal democracy was progressing on a basically just, egalitarian path. But by the mid 1990s, he worried that liberal democracy was in decline. Edmundson quotes one of Rawls’s former students, the philosopher Joshua Cohen: “[Rawls’s] hopefulness has been shaken by the world. His feelings have soured.”

While other liberals celebrated the end of history, Rawls was troubled by

how private funding of elections allowed organized wealth to dominate the political process. Political liberties — like running for office, using free speech and association to affect legislation, and voting in fair elections — might be formally granted to all, but if the power of wealth superseded the power of ordinary people in determining political outcomes, these rights would not have “fair value” for all citizens. In Edmundson’s telling, the imperative to ensure fair value for all citizens’ political liberties was the central issue that drove him toward socialism.

In the *Restatement* Rawls emphasized a longstanding aspect of his general theory, now called its “central organizing idea”: the notion of society as a fair system of social cooperation. While Milton Friedman viewed society as “akin to a game or lottery which everyone agrees to enter with the anticipation of winning a jackpot prize,” Rawls viewed society as a cooperative endeavor that should benefit everyone. For Rawls, social cooperation operates in tandem with a just legal order, itself upheld by a democratic state that all citizens have a fair chance to influence. But if the wealthy dominate the political system, the result is class domination rather than popular sovereignty — submission to commands rather than cooperation according to rules.

A few decades earlier, Rawls had thought that welfare-state capitalism could approximate his ideal of a just society. After the damage wrought by the Reagan Revolution, he concluded that it could not.

In his mature writings, Rawls argued that welfare-state capitalism’s central flaw is that it “permits a small class to have a near monopoly of the means of production.” This kind of control allows the few to “enact a system of law and property ensuring their dominant position, not only in politics, but throughout the economy.” While welfare-state capitalism’s commitment to redistribution implied “some concern” for equality of opportunity, the fact that it permits concentrations of power that corrode democracy not only means that it fails to protect political liberty: it “rejects the fair value of political liberties.”

At the end of his career, Edmundson argues, Rawls was a socialist.

“Liberal Democratic Socialism” and “Property-Owning Democracy”

Rawls still left room for ambiguity. In the *Restatement*, he wrote that both “liberal democratic socialism” and “property-owning democracy” might realize justice. Much of Edmundson’s book revolves around clarifying how Rawls might have more fully assessed the decision between these two regimes.

The basic distinction between them centers on what kinds of ownership their constitutions would permit (a very specific distinction, because they share significant similarities). In both cases, the goal is to secure the fair value of political rights and equal opportunity — no privileged class can be allowed to arise that translates economic power into political dominance. Both also preserve political rights and the rule of law, encourage a robust public sphere, and ensure fair elections.

In the socialist case, public ownership of major means of production would guarantee that all citizens are co-owners of the assets they need to be cooperating members of society as a matter of constitutional right. In Edmundson’s telling, these means would include banking and finance, transport, communications, insurance, and some major industries (but he leaves the category’s specific boundaries unclear). “The key idea,” Edmundson writes, “is this: the means of production are those capital assets that, if not owned by everyone jointly, are known to lend themselves to relations of dominance and subordination between those who own and those who do not own, and between those who collect rents and those who must pay them.” What occurs beneath the “commanding heights” of a liberal socialist regime is less clear, though both Rawls and Edmundson suggest market competition among worker-owned firms.

What about “property-owning democracy”? In Rawls’s view, worker-owned firms and public ownership are also possible in a property-owning democracy, but unlike socialism, private ownership of the means of production is “permitted.” Still, Rawls does see property-owning democracy as an alternative to capitalism — while capitalism is “based

on” private ownership, property-owning democracy only “permits” private ownership of major capital when it can be distributed widely. In contrast with extensive public ownership and de-commodification, property-owning democracy emphasizes “education and training of various kinds,” “a basic level of health-care provided for all,” the use of taxation to limit inequality within and across generations, and anti-monopoly provisions that ensure “the widespread ownership of productive assets.”

Because Rawls did not rule out socialist elements in a property-owning democracy or private ownership below the commanding heights in democratic socialism, Edmundson argues that we need to bring the distinction to a very fine point: it amounts to whether major means of production should always be candidates for private ownership, or whether we should constitutionally prohibit privatizing means of production. The socialist option would acknowledge that democracy is incompatible with private citizens owning and extracting rents from the major assets that everyone needs to be a cooperating member of society.

The distinction is useful for Edmundson’s argument, and it allows him to explore powerful Rawlsian reasons for favoring public ownership: co-ownership of essential productive means expresses reciprocity and fosters stability better than disputes over whether we each have enough of our private share, for instance. But by classifying these options as distinct constitutional “regimes,” Edmundson transposes important practical debates to the terrain of higher law. His focus on higher law not only helps push thorny questions about what happens below “the commanding heights” to the side, but risks making socialism a matter of constitutional debate rather than a terrain of practical struggle.

Rather than constitutional theory, addressing the questions raised by the choice between democratic socialism and property-owning democracy seems to require what Rawls often called “political sociology”: when can markets be tamed in the interests of justice and democracy, and when do they need to be displaced? What are the assets that we need to bring under collective, popular control to upend liberal democracy’s tendency toward class domination? And perhaps most importantly, what kinds of political strategies and collective action can bring about radical social

change?

Constitutional Roadblocks

Edmundson is right to focus on the Constitution as a site of political struggle, but he might not place contestation over the Constitution in the right strategic parameters.

Under the United States' Constitution, the protection of capitalists' rights constricts the democratic rights of workers and inhibits equal liberty. The means of production are (mostly) constitutionally protected as private assets, and any socialization is subject to the "takings clause," which would demand compensation for private owners, making them instantly powerful creditors. Finally, the Supreme Court's campaign finance jurisprudence makes it all but illegal to secure the fair value of democratic liberties in Rawls's sense, since limits to campaign spending are considered potential threats to free speech and subject to judicial review.

Even outside the Constitution, protecting the rights of capitalists over workers is the political default, unquestioned in both ordinary and extraordinary political moments. To take a prominent example, the financial crisis created an opportunity to bring major financial institutions into the public domain, ending "too-big to fail" by making finance an aspect of democratically accountable public power. Yet Barack Obama chose capitalism over democracy, saying, "We want to retain a strong sense of private capital fulfilling the core investment needs of this country." As Edmundson notes, "it is more than that: in a capitalist system, that "strong sense" is rooted not in mere expediency, but in a conception of the basic, off-the-table, individual rights of the private capitalist."

How should we struggle against an undemocratic constitution? Edmundson's call to "constitutionally entrench the means of production" could only come on the heels of transformative social

change. And while Edmundson is anything but blind to the problem of political will, he devotes little attention to how a program of dramatic constitutional reform might be enacted.

Again, we might say that collective action and political strategy are beyond the scope of Rawls's theory and Edmundson's re-articulation of it. Political philosophy resides in the higher law of constitutional argument, and others work out questions of means. But like the scope and meaning of the market as a form of commodity exchange, questions about empowering collective action should be at the heart of socialist philosophy. At worst, the constitutionalist focus that Rawls and Edmundson favor risks divorcing collective means from ends, subordinating political action to specific and limited kinds of agency: that of lawyers, intellectuals, and politicians.

These tools are not inherently objectionable, and they may be necessary for any real socialist advance. But the heart of socialist political philosophy must be empowering workers and the oppressed. For this, socialism needs its tribunes of the people more than its jurists.

Rawls's Reticence

If Rawls really was a socialist, why was he so reticent?

Edmundson's most compelling answer stems from Rawls's conception of pluralism. Rawls hoped that his theory of justice could help negotiate social pluralism, which he understood as the tendency of different people to have different moral worldviews, and which he considered a basic fact of diverse, modern societies. For many socialists, socialism has not just been a theory of a just constitutional regime, but what Rawls called a "comprehensive doctrine": a moral vision of social progress — humanity learning its upright walk.

Rawls was never comfortable with socialism of this type, since it risked uniting the power of the state with a civil religion that could only ever be

coercively imposed onto a pluralistic society. For Rawls, any plausible socialism would have to learn from how the liberal tradition negotiated religious pluralism, and would need to resolutely avoid this sort of connection between state and ideology.

Yet Rawls's reticence also probably derives from a different lesson he learned from Hegel. In the *Restatement*, Rawls claimed that one of philosophy's goals is to reconcile us with our world — in Hegel's phrase, "When we look at the world rationally, the world looks rationally back." For Rawls, this meant not only accepting how our institutions evolved rationally, but should encourage us "to accept and affirm our social world positively, not merely be resigned to it." The same phrase inspired Marx's critique of utopian socialism. To change the world, we can't just abstractly imagine a better future, but need to grasp how contradictions in our society create opportunities for emancipation.

Accepting the world as we find it is a precondition of action, but affirmation blunts the experiences of injustice created by a world where most of us don't share in the abundance we create. If Rawls's reticence prevents ideology in the form of an overweening "comprehensive doctrine," it preserves it in another form: the ideology of our own secular priests.

ABOUT THE AUTHOR

Ed Quish is a doctoral student in political theory at Cornell University.

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