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RAWLS'S 'JUSTICE AS FAIRNESS': A MORAL BASIS FOR CONTEMPORARY PLANNING THEORY

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Abstract John Rawls's 'political liberalism' provides a firm moral basis for contemporary planning theory, offering both a procedure for arriving at the ethical principles which should govern a society, and the substantive principles of justice which he argues best embody the moral ideals of liberty and equality for constitutional liberal democracies. It offers an objective justification for public planning which does not require foundationalism, and fits a liberal democratic context. In 2001, Rawls's *Justice as Fairness: A Restatement* summarized the revisions to (or clarifications of) his original theory over the previous 30 years. This article reviews aspects of his theory which are relevant to public planning, concluding that Rawls offers a normative rationale for planning, a basis for practical critique, a reason for hope, and a vision of reasonable, free and equal citizens cooperating to achieve justice as fairness.

Keywords justice as fairness, justification of planning, moral basis of planning theory, political liberalism

Introduction

As an inherently normative enterprise, planning requires a normative basis. In a postmodern (non-foundational) world, it must appeal to norms held within the culture (Walzer, 1987). Liberalism is a common core element of the public realm of 'western' liberal democratic societies.[1] We have argued (Harper and Stein, 1992) that contemporary planning theories in these societies rest on normative ethical theories. Most of these theories assume (explicitly or implicitly) the normative values of liberalism.

The 'political liberalism' of philosopher John Rawls best articulates the liberal values that are most relevant to the public realm, and works out many of their practical implications. Thus, it provides a firm moral basis for much of contemporary planning theory. His normative ethical theory includes a procedure for arriving at the ethical principles, which should govern a society, and the substantive principles of justice which (he argues) would be the outcome of this procedure. These principles incorporate the moral ideals of liberty and equality for constitutional liberal democracies, and set fair terms of social cooperation between *rational and reasonable, free and equal* persons. Rawls thus offers an objective justification for public planning which (1) avoids modernism's foundationalism, and (2) is based on the liberal values widely shared by western democracies (Harper and Stein, 1992, 1995b). An examination of these liberal values is central to understanding (1) the justification of the social institutions (political, legal, economic) which provide the framework for planning in liberal democratic societies, (2) the place of planning and of planners within these institutions, and (3) how to structure public debates about planning issues.

Since the publication of *A Theory of Justice* (Rawls, 1971), Rawls's work has elicited a wide variety of criticisms.[2] Over the years, he has responded to many of his critics in various papers revising or clarifying his ideas (Rawls, 1980, 1985, 1987); many of these responses were included in a re-articulation of his position in *Political Liberalism* (Rawls, 1993). The most significant evolution was the movement in the basis of justification from the metaphysical to the political, from the foundational to the non-foundational; and from the rational to the pragmatic (although Rawls does not use this term). Related to this move, his elaborations move from the abstract to the concrete, from the universal to the particular. Recently, all of these responses were brought together in a coherent framework, as his definitive 'last word' and final statement of his position in *Justice as Fairness: A Restatement* (Rawls, 2001).

In our view Rawls is probably the most significant political philosopher in the second half of the 20th century; he is undoubtedly the most relevant to public planning. We have earlier showed how our interpretation and elaboration of his position can inform planning theory and practice (Harper and Stein, 1992, 1993, 1995b; Stein and Harper, 2000). In this article, we will discuss some of the significant revisions to (or clarifications of) his original

theory, which he made in response to various criticisms, and how we apply Rawls's final version of his substantive and procedural theoretical structure to public planning.

A political liberal approach

Rawls's ethical theory

Rawls addresses the contemporary western liberal democratic society. He recognizes that we cannot have a modernistic foundational, hierarchical, deductive basis for our system of social institutions. We need an account which incorporates our moral intuitions (that not only consequences of actions, but also freedom, equality, justice are important), our existing institutions, our traditions of democracy and pluralism, our differing conceptions of the good life, and which can take into consideration our contemporary circumstances (wealth, energy, pollution, resource consumption and availability). Rather than develop a universal account, Rawls focuses on pluralistic western liberal democratic societies with late capitalist economies. He wants to develop the conditions for a decent, legitimate, moral, society that works in practice here and now.

Rawls recognizes that pluralistic liberal societies (e.g. Canada, USA or Britain) need to be able to accommodate very diverse viewpoints and values. He traces this ability historically to the western European experience with clashes between different incompatible (but equally reasonable) substantive conceptions of the 'good' (which have been called 'thick theories of the good'). A conception of society was developed which respected and allowed very different thick theories of good within a framework of basic democratic political values. This conception of society, which includes basic democratic political moral values, like fairness and tolerance, has been called a 'thin theory of the good'. In order to function, this thin conception requires support from an *overlapping consensus* of the society.

Private and public realms

In order to develop a consensus about basic social institutions, it is important to put aside or bracket certain controversial (though not unimportant) issues. Among these issues are differences between various philosophical and religious perspectives. For example, Deep Ecology (Naess, 1990) is a metaphysical philosophical position that differs profoundly from other philosophical and religious positions. The reason why some controversial issues must be put aside is that they are unresolvable – there is no universal forum (with objective criteria which all would accept) where these debates could be resolved. These controversial issues must be placed in the private realm, and excluded from the public realm.

Public and private realms can be distinguished pragmatically by their very different aims. In the *private* realm our aim is to develop a conception that guides our lives, giving us an account (in Rorty's terms) of how things 'hang together, in the widest sense', and a framework for structuring and guiding our lives, which gives meaning to them. Religious and philosophical perspectives provide such frameworks. These perspectives can play a valuable role in providing a life-guiding framework, giving meaning and coherence to the lives of those who accept them. In addition, shared private conceptions help members of a sub-culture make sense of their collective experience (Galloway-Cosijn, 1999). As Winch (1964/1970: 105) points out, culture-based beliefs and practices give participants a 'sense of the significance of human life'.

Individuals have different affections, devotions and loyalties, which are central to their self-conceptions and identities, which organize and shape their lives. Without these private conceptions, their lives would be disjointed, and they would be unable to carry on. Of course individuals' conception of good and their private identities may change over time, without any change in their public identities (as free and equal, reasonable and rational citizens of a liberal democratic society).

But in a pluralistic society, many of these private conceptions ('thick' theories of the good) are in fact reasonable and irreconcilable. Thus, for Rawls, a democratic society:

> is not and can not be a community, where by community I mean a body of persons united in affirming the same comprehensive . . . doctrine. The fact of reasonable pluralism makes this impossible. This is the fact of profound and irreconcilable differences in citizens' reasonable comprehensive religious and philosophical conceptions of the world. (Rawls, 2001: 3)

What a liberal democratic society requires is a public conception of the good that is as wide as possible,[3] one that accommodates as many different (conflicting) private views of the meaning of life as possible. Thus our aim in the *public* realm of pluralistic liberal democracies is to develop a moral basis of communal existence, a conception of society (a 'thin' theory of the good) that tolerates many different thick theories of good within a framework of basic democratic political values.

Another way of expressing the contrast: the *private* realm is defined as 'that which one does as an individual pursuing what one takes to be the truth, such as theology, moral theorizing, metaphysics' (Hampton, 1989: 806). In the *public* realm, we are concerned, not with whether an idea is true or false (arriving at the 'truth of the matter'), but with whether the idea can command consensual support as providing a reasonable basis for public policy in a democratic society. We will argue later that this distinction between public and private is important for planners dealing with cultural diversity in understanding the limits of accommodation.

In practice, the boundary between public and private realms will be complex, contested, and somewhat fluid. This fluidity allows for creativity and innovation in the public realm (Stein and Harper, 2005). Different thick theories may have very different views as to what is legitimately private (Mandelbaum, 2000). Advocates of thick theories will tend to urge that more of their private convictions be addressed in the public realm. For example, some will believe that matters like abortion are private; others will argue that it should be a public concern. The boundaries will be the subject of ongoing debate. The Rawlsian test for inclusion is that a view commands support by an overlapping consensus. But the degree of support that constitutes a 'consensus' may also be controversial.

The planner's moral responsibility

This public/private distinction is useful for resolving an apparent dilemma faced by planners. If planning is inherently a moral enterprise and public means and ends can not be separated, this raises the question: which of the professional public planner's own values are relevant to her *professional role* and which are not? Should she be advocating bicycle paths if she believes they are good? The answer lies in Rawls's public/private distinction. She should be neutral/impartial with regard to her *private* moral values, and *NOT* be neutral with regard to *public* moral values. Her professional responsibility as a public planner is to reflect her liberal democratic society's overlapping consensus (or the results of a process supported by this consensus), and to put aside her private moral values. Thus she could advocate for bike paths because they reduce air pollution (and thus lessen the violation of the right to clean air), but not because they promote healthy lifestyles (the choice of which is a private matter).

In fact, this very *neutrality* with regard to private moral values is a higher order *public moral* value. There is no inconsistency in taking a stance of (private) value-neutrality in a planning process and fulfilling an important public moral goal in the same process. It is because of the internal relationship between professional planning and its moral goals that professional public planners should have a value-neutral role. So the public planner's *professional* role embraces her public moral responsibility, rather than either one overriding the other (Stein and Harper, 2004).

The overlapping consensus

In order to be part of a pluralistic society, each of the constituent cultures/communities must accept the values of the political liberal 'thin theory of the good' – impartiality, equity, fairness, individual autonomy, democratic processes, and tolerance for multiple thick theories of the good. These values must be accepted in the public realm; planning cannot accommodate values which are in opposition to these core values. Cultures that

have particular values antithetical to these democratic values (e.g. not treating women as free and equal persons, or excluding white people from our neighborhoods), will have to give up these values in order to be part of a pluralistic society (Stein and Harper, 2000).

Rawls's conception of justice is *independent* of all the different comprehensive doctrines, but he wants it to be seen as *fair* by all of them. The fundamental question is:

> what is the most acceptable political conception of justice for specifying the fair terms of cooperation between citizens regarded as free and equal, and as both reasonable and rational, and . . . as normal and fully cooperating members of society over a complete life, from one generation to the next? (Rawls, 2001: 8)

Unless this basic overlapping consensus (re a thin theory of the good) is shared by (nearly) all individuals and groups in society, a pluralist Rawlsian approach will not work. We need a common moral ground from which to debate our differences. A good example of societies which lack this tradition of shared democratic values are the nations which were part of the USSR. The danger for a multicultural society is that this common ground could be lost (Stein and Harper, 2000).

The political liberal ideas that Rawls explicates so clearly underlie most planning theory (and much practice) in western democratic society, particularly in the post-positivistic, post-'Rational Planning' era. When Forester advocates 'genuinely democratic' planning, he is appealing to a Rawlsian overlapping consensus on democratic values. When Friedmann says his non-Euclidean planning should be normative, he means it should have some guiding values which we would describe as 'politically liberal': inclusive democracy, voice to the disempowered, integration of the disempowered while preserving cultural identity, sustainable growth, and gender equality (Friedmann, 1993).

Public justification

Rawls (2001: 8) defines a well-ordered society as one that is 'regulated by a *public* conception of justice'. This requires (1) that all citizens mutually accept the *same* public conception of justice (and thus the same principles of justice); (2) that the basic structure of social institutions (and the way they work as a system of cooperation) is *publicly* known to satisfy these principles; and, (3) that citizens understand and are able to apply these principles (Rawls, 2001: 8). Thus, 'In a well-ordered society . . . the public conception of justice provides a mutually recognized point of view from which citizens can adjudicate their claims of political right . . .' (Rawls, 2001: 9).

Out of his political conception of justice, Rawls then develops principles, which in turn are used to devise the basic structure of social (political, legal, economic) institutions. These principles 'establish a shared basis for citizens

to justify to one another their political judgements' (Rawls, 2001: 27). Thus, political debates (including planning ones) are conducted within a shared set of premises. In the process of 'public justification' citizens attempt to justify their political judgements to other citizens by 'public reason', by 'appealing to beliefs, grounds and political values it is reasonable for other citizens to acknowledge' (Rawls, 2001: 27).

It is important for planners to know and articulate the shared liberal values in facilitating and participating in public planning debates. We should emphasize that debate is only possible within this larger framework of shared values and concepts.

Deriving principles of justice

Rawls uses a 'thought experiment' to derive principles of justice that reflect our overlapping liberal consensus. He imagines free and equal, reasonable and rational persons devising the principles of a social contract under a 'veil of ignorance'. The 'veil of ignorance' means that the hypothetical negotiators know nothing about themselves which would distort their judgements, or tempt them to be unfair.

In the 'original position', the parties are not allowed to know the social positions or the particular comprehensive doctrines of the persons they represent, nor their race and ethnic group, sex, or various native endowments such as strength and intelligence (Rawls, 2001: 15).

They should not know anything about their own attributes (race, gender, talents, and disabilities), capacities or assets, or about their own position in society; they should know only what is *relevant* to making *fair* judgements about the principles of justice.

Another way of putting this is that when we make normative judgements about the suitability of general social institutional arrangements, we should *put aside* what we know about our *own position.* Rawls's hypothetical social contract is intended to give us a perspicuous representation of our ordinary moral intuitions about society and governance, as explicated by Rawls and generated by him via a process of Wide Reflective Equilibrium.

Procedural aspects of Rawls

Reflective equilibrium

Rawls's procedural ethical theory develops the idea of Wide Reflective Equilibrium (WRE), which refers to a process of objectively devising the structure or rules for various types of situations, within a particular set of value commitments (Rawls, 1975). Reflective equilibrium is 'a coherentist method of explanation and justification used in ethical theory, social and political philosophy, philosophy of science, philosophy of mind and epistemology' (Nielsen, 1996: 13).[4] The idea is to get our knowledge, 'beliefs and

practices' into the 'most coherent pattern we can for the time manage' (Nielsen, 1996: 14). Thus, a WRE process is coherentist, contextual and dialogical. A crucial aspect of the WRE process is its fluidity, its ability to transform perspectives, to alter positions, to reframe problems, to widen the consensual equilibrium by incorporating new ideas, theories and information.

Internal and external perspectives

It is useful to distinguish between two kinds of reflective theoretical equilibria – wide and narrow. We have found that this distinction is better understood and applied when it is related to another useful contrast between two perspectives which a planner may adopt – external and internal. An *internal* perspective gives the planner an appreciation of the meaning of social actions from the standpoint of the *participants* in a culture, an activity, or language game. It relies on concepts internal to the activity: 'the use of the words in a language game can not be described without using concepts which are related to the concepts employed *in* the game' (Putnam, 1994: 269). To adopt an internal perspective, a planner must participate in the culture and relate to other participants as subjects rather than objects (Stein, 1973; Winch, 1958).

An *external* perspective views the culture, activity, or language game from the standpoint of an uninvolved external observer. External approaches generally involve the application of a general explanatory theory (and its concepts) of anthropological function or political or economic structure.[5] To adopt an external perspective, the planner becomes an observer, and relates to the participants as objects of her observation. Thus, an external perspective allows her to stand apart from society's institutions, in order to critically evaluate them.[6]

The planner usually comes from an external perspective. This is obvious when dealing with a different culture; it is subtler when dealing with a community within her own culture. We have argued that a crucial role for the planner is to bring an external perspective into the community, but that this perspective will be helpful *only* if she also understands the internal perspective of the participants in that community well enough to integrate and appropriately apply this external knowledge into the internal framework (Stein and Harper, 2000).

Narrow and wide reflective equilibria

If we seek a Reflective Equilibrium from an internal perspective, we arrive at a *Narrow* Reflective Equilibrium (NRE), which focuses on the coherence of (1) considered situational judgements, and (2) normative principles held within a particular community or culture. This perspective does not bring in (external) background theories and principles (normative or descriptive). It does not include descriptive theoretical accounts of the

structure and functioning of society. Neither does it bring in normative ethical theory.

In contrast, a WRE widens the NRE by invoking an external perspective, which includes (3) background *theories* and principles. The crucial difference is that a WRE appeals to abstract theoretical notions, where an NRE does not. Invoking theory brings in a non-local, objective, general, but still dynamic, view. It provides not only a tool for understanding, but also a critical capacity; a way to interpret existing values critically. For example, in morality, WRE can be used to identify ideological distortion. One of the crucial strengths of this approach is that progress and legitimation of judgements depend on fair procedures, which require no appeal to any absolute outside foundation independent of our social framework.

A WRE process involves seeking *coherence* among the above three elements. All of the interlocking elements should fit together as an organic whole. As Goodman eloquently argues when applying reflective equilibrium to the field of logic:

> . . . rules and particular inferences alike are justified by being brought into agreement with each other. A rule is amended if it yields an inference we are unwilling to accept; an inference is rejected if it violates a rule we are unwilling to amend. The process of justification is the delicate one of making mutual adjustments between rules and acceptance of inferences and in the agreement achieved lies the only justification needed for either. (Goodman, 1965: 64)

The goal is a reflective equilibrium where all of these factors are coherent and consistent, giving as much sense as possible to our shared moral life.

While its recent use has been for dealing with differences re substantive moral principles, Davidson (1985) applies a similar process in dealing with conceptual differences, and Putnam applies WRE to all forms of discourse (not just that of ethics). The pragmatic awareness of fallibility supports a procedural approach, which is both incremental and democratic:

> . . . we have no choice but to try to reform and improve the ways of life we already have, as well as to try new ones if we believe them to be better; but these trials must not be at the expense of the right of others to make their trials. (Putnam, 1994: 194)

This democratic ideal is linked to a general criterion for knowledge: 'a truth worthy of the name has to be world-guided and subject to public discussion' (Putnam, 1994: 194), i.e. publicly justified.

WRE in planning

Although Rawls is concerned with WRE as it relates to determining principles of justice and the structure of basic social institutions, we have argued that it

can be used in a broad range of circumstances, including very concrete local situations. We have advocated applying Rawlsian WRE process as a normative method for planning at all levels of planning debate, from a planner interacting with individual citizens on a site-specific building proposal to a provincial government devising a new planning act (Harper and Stein, 1995b).

It should be noted that we have altered the content of the 'overlapping consensus' in applying it as a practical tool to specific planning debates. The agreement of Rawls's overlapping societal consensus concerns moral principles. In contrast, our planner looks for agreement on *anything* as a productive starting point for debate:

> There is no fixed entry point or sequence. She may find an initial consensus on shared moral principles, general or specific liberal democratic values, empirical facts, specific judgements, or concrete actions . . . Even when others hold very different thick theories (comprehensive doctrines, normative principles or ethical theories), there will be *some* institutions, policies, proposals and principles which can be supported by arguments from more than one normative position (i.e. there may be an overlapping consensus supporting them) . . . (Harper and Stein, 1995b)

The aim is to reach a consensus on a desirable plan, policy or action that does not have specific moral content. But this adaptation is still very much related to the original moral conception in that each affected party is acknowledged and respected as an autonomous individual, who has a right to be heard, and whose agreement or consent is sought.

Notwithstanding our best efforts to dialogue and maximize the scope of our overlapping consensus, major substantive differences will remain in pluralistic societies. Thus political liberalism stresses *tolerance* regarding such differences. There should be no idea of *imposing* consensus, glossing over disagreements, or muffling bothersome voices. Mandelbaum's (1991: 212) strategy of agreeing to disagree comes in at this point. While tolerance is a moral *virtue* to philosophical liberalism (i.e. liberalism held as a private philosophy), it is a *necessity* to political liberalism.

When Innes (1996) and Healey (1997) articulate consensus-building planning processes, they are talking about a process very similar to Rawls's WRE. Healey's pluralistic process involves reflexive and critical mutual learning. Her ideal planner acts in a facilitative role, attempting to understand diverse viewpoints and mediate competing claims for action, to articulate the interests and values that underlie positions and to reconstruct them so that they are more convergent (i.e. to build and expand an overlapping consensus). Innes's (1995) account of communicative action planning also reflects a Rawlsian view in several ways. However, Rawls's richer account of WRE, detailing the elements and how they interact, makes clearer the potential for transformation, even when there are serious value conflicts.

Thinking about planning issues

A more general lesson for planners is that WRE provides a different way of thinking about social issues, an alternative to hierarchies and dichotomies. The modernist tradition begins with a hierarchy of abstract theoretical principles and deduces concrete particulars. It also views choices as dichotomies: theory vs practice, abstract vs concrete, principle vs example, utility vs rights, environmental vs economic, process vs outcomes. For example, Deep Ecology begins with a universal absolute principle – 'all organisms and entities in the ecosphere . . . are equal in intrinsic worth' (Devall and Sessions, 1985: 67) – and seeks to apply it, regardless of the consequences for people; the Rational Comprehensive model begins with the normative ideal of instrumental rationality; Foucauldians begin with the universal concept of power, and then seek to explain everything else using that concept.

In contrast, WRE generally starts 'in the middle', with more specific principles, then goes back and forth between these principles, and facts on the one hand, and theories on the other. As various principles are brought into coherence, no principle is absolute, and no one 'level' has priority over the others. As various contexts are considered, the subtle interplay between principles (e.g. between conflicting interests and rights) will be brought out in different ways. Precedent setting is always limited, as the local and contextual factors are never identical.

Rawls's ideas are also very relevant to the perennial worry about the relevance of planning theory to practice. Not only does he argue for the relevance of theory to practice, but his work expresses a continuum between theory and practice: it shows how theory can draw on practice (and be modified by it), and practice can express and implement theory.

Substantive aspects of Rawls

Substantively we recognize that both utilitarianism and negative rights positions articulate important moral intuitions.[7] However, while each is incomplete as a moral theory – neither encompasses all of our moral intuitions – liberal democratic societies need to incorporate both. Rawls's theory is the most promising attempt to do this. We see his two well-known principles of justice as offering an excellent initial starting point for substantive principles of any liberal democratic society.[8,9]

Rawls presents a number of arguments that these principles best satisfy the basic idea of *justice as fairness,* and that they would be adopted by his rational contractors under a veil of ignorance, seeking to specify the fair terms of cooperation between citizens regarded as free and equal, reasonable and rational.

In addition to our early application of Rawls (Harper and Stein, 1983), many other planning theorists have appealed to his second principle (re

maximizing well-being of the worst-off). Klosterman's (1978) appears to be the earliest explicit application. When Forester (1989) called on planners to avoid needless suffering, he implicitly drew on Rawlsian principles, and when Krumholz wrote his famous Cleveland report, he explicitly appealed to Rawls's second principle of equality (Krumholz and Forester, 1990: 51).

Basic social institutions

Rawls (2001: 138) argues that two social-economic systems include institutional arrangements which could satisfy his principles of justice, in that they provide (1) a constitutional framework for democratic politics; (2) a guarantee of the basic liberties; (3) fair value of political liberties; (4) fair equality of opportunity; (5) regulation of economic and social inequalities by principles of reciprocity (if not the difference principle). Both have some collective control over (but dispersed ownership of) the means of production, with market allocation of economic output. He calls these systems 'property-owning democracy' and 'liberal democratic socialism'. Which will work in practice may depend on historical and empirical factors. To varying degrees, western liberal democracies (and their political/economic institutions which provide the framework for planning) tend to reflect a mix of these two systems.[10] Both aim to ensure that citizens generally have 'sufficient productive means to be fully competing members of society on a footing of equality'. These productive means include not only tangible capital, but also *human and social* capital: 'knowledge, understanding of institutions, educated abilities, and trained skills' (Rawls, 2001: 148).

Private property

One of Rawls's basic rights is the right to hold, and exclusively use, *personal property* . . . The rationale is that personal property is required to allow a sufficient material basis for personal independence and a sense of self-respect (which are essential for development and exercise of the moral powers requisite to citizenship). Personal property includes one's dwelling, so a Rawlsian system would include private residential property (Rawls, 2001: 114).

However, Rawls avoids prejudging (at the level of basic rights or constitution) the question of private property in the means of production (including natural resources). The further specification of property rights is left to the legislative stage, subject to the maintenance of basic rights and liberties, where debates about property rights are within the overlapping consensus about the political conception of justice.

Externalities

A society structured by the principles of justice as fairness then will have private residential property, and some market allocation of this property. Residents will be protected against violations of their rights to quiet enjoyment of their homes. A case can then be made for regulating many of

the common urban externalities (air pollution, noise, etc.) via some form of government control over land use and development. Empirical research into the actual nature and extent of urban externalities is required. Subject to constraints protecting basic liberties, there will be political debates about the extent, priority, and allocation of real estate property rights in an urban context, the justification for limitations on land use and density, the adjudication of conflicting claims, the extent reciprocity of externalities, and expropriation (Harper and Stein, 1995c). Rawlsian WRE processes offer an effective way to conduct these debates.

Modifications: Rawls's responses to critiques

Rawls made numerous modifications to his theory, some major, some minor, in response to critiques. We have incorporated some of these modifications in presenting the above summary of his current ideas. For example, the ideas of the overlapping consensus and the *wide* reflective equilibrium, which were not part of his original *Theory of Justice* (Rawls, 1971). In this section we discuss other modifications that we view as most important and relevant to planning. We have grouped these modifications under two headings: clarifications (of ambiguities or misinterpretations), and concretizing the abstract (for implementation).

Clarifications

Rationality and universality

Our earlier work pointed out a common misunderstanding of the nature of Rawls's claims:

> In Rawls's early work, it sounds as if his argument for his two principles involves nothing more than a transcendent rationality, and that it thus could be argued that his principles can claim to be *universally* valid . . . his more recent work acknowledges that these normative assumptions have arisen out of a particular historical context (i.e. the enlightenment culture), in a society with a tolerance for a plurality of interests and goals, consensually holding liberal democratic values, seeking an overlapping consensus of their differing views. (Harper and Stein, 1992: 108)

He had clarified this in 1985: '[J]ustice as fairness is intended . . . to draw solely upon basic intuitive ideas that are embedded in the political institutions of a democratic society and the public traditions of their interpretation . . . [It] starts within a certain political tradition' (Rawls, 1985: 225). It draws upon 'the public political culture of a democratic society and . . . the

traditions of interpretation of its constitution and basic laws, for certain familiar ideas that can be worked up into a conception of political justice' (Rawls, 2001: 3).

This misunderstanding may have resulted from a confusion between two senses of universally validity. Rawls does not intend his principles to be universally valid in the sense that they are derived from a transcendent conception of rationality independent of any social or cultural perspective. He does intend his principles to be universally valid in that they apply to all people, i.e. everyone counts and counts equally. This simply reflects the political liberal view of justice as fairness. The important ideas here are that Rawls's claims are not independent of context, and they do not rest solely on rational self-interest.

Only in America?

Rawls's theory has been criticized by Habermas as being applicable only in the USA, because he assumes an American context:

> . . . as soon as he moves to his two principles, he is speaking as a citizen of the United States with a certain background, and it is easy to make – as has been done – an ideological critique of the concrete institutions and principles which he wants to defend. (Habermas, 1986: 205)

In a sense Rawls embraces this criticism. He is not aiming to develop a universal theory; his work is addressed to constitutional democracies with market economies. The US context fits these circumstances (although he does not intend to endorse its actual current institutions or their operation).

Political, not metaphysical

Rawls intends political liberalism to be 'free-standing', not in the sense of being universal, but in that it is independent of all of the metaphysical positions held as comprehensive doctrines within a pluralistic society. It is not deduced from any of the comprehensive doctrines, nor is it a compromise between their views, nor a compromise between the self-interests of individuals, groups or associations within the society. Rather, it appeals to all free and equal, reasonable and rational citizens, *whatever* their comprehensive doctrine. Thus the planner can appeal to political liberal values in dealing with any cultural community.

Here is another possible confusion that is cleared up by the distinction between private and public realms. While it is possible to adopt a liberal perspective (like Kant or Mills) as your (private) philosophical world-view, this is just one of many competing thick theories of the good in a pluralistic society. You do not have to hold 'metaphysical liberalism' as your own comprehensive doctrine in order (for pragmatic reasons) to accept 'political liberalism' as the basis of a (public) political consensus.

Rationality and reasonableness

Rawls distinguishes between rationality and reasonableness. He uses 'rational' in the way economists do: it refers to choosing the best means to maximize your own (long-run) self-interest ('instrumental rationality' in Habermas's terms). He uses 'reasonable' to mean an acceptance of fair terms of cooperation, and a commitment to abide by them, provided everyone else is also similarly committed. Thus 'reasonable' entails the notion of reciprocity. This conception of reasonable has a normative content. Rawls (1993: 50) characterizes reasonable as 'in-between the altruism of impartiality and the narrow self-interest of rationality' assumed by Mutual Advantage theory.[11] Thus, it would be unreasonable to accept fair terms of cooperation as a public pretense, if in fact you are ready to violate them whenever it would benefit you (and you could get away with it).

For a good example of the value of reasonableness, we need look no further than Flyvbjerg's well-known Aalborg case, which he claims demonstrates that planning can (and should) be understood in terms of power. He discovers that a plan to reduce automobile traffic in the urban core has been subverted by the Chamber of Industry and Commerce's special access to decision makers. In his view, the clash between the planners and the Chamber would be resolved by 'who could place the most power behind their interpretation of what was rational' (Flyvbjerg, 2002: 357). However, he was able to turn around the situation – not by wielding more power, but by persuading the public that the arguments by those with power were not reasonable (as Rawls uses the term). What won the day was Flyvbjerg's convincing portrayal of the arguments and interpretations of the council committee, the chamber of commerce and the police as *unreasonable* (in Rawls's sense). Contrary to his view that political and economic power dominates public decision-making, he prevailed by the power of *reasonable argument* in a dialogue set within a framework of liberal democratic values (Stein and Harper, 2003).

This aspect of Rawls has extremely important implications for planning. The appeal to reasonableness creates the potential for resolving disputes in ways going beyond a mere modus vivendi or compromise of interests, because 'reasonable persons are ready to propose certain principles . . . as well as to comply with these principles even at the expense of their own interests as circumstances require when others are moved to do likewise' (Rawls, 2001: 191). Being able to appeal to ideals of fairness rather than just narrow self-interest enormously widens the scope, and changes the nature, of possible solutions in many planning situations.

Circular arguments?

Rawls's arguments are unabashedly circular. The WRE process *is* circular in the sense that it goes back and forth amongst considered judgements, principles, and theories or facts, searching for coherence. The key question

about such coherence-seeking processes is not 'are they circular?', but 'is the circle wide enough?', and 'how well does it accomplish its purpose?'. What we should avoid is not circularity, but the 'vicious circularity' that leads to infinite regress. The WRE process is not viciously circular.

As noted in the section 'Rationality and universality' above, Rawls is not trying to argue that all rational persons should endorse his position; and he is not making a deductive argument based on foundational principles. Rather, he is trying to tease out what's inherent in his original idea of justice as fairness. He assumes that we share his ideal of society as a fair system of cooperation amongst free and equal citizens with the requisite moral powers, etc. His 'original position' is a conspicuous representation of our own intuitions as citizens of pluralistic Western liberal democratic societies. Many of his arguments consist largely of reminding us of the original normative and empirical assumptions underlying our institutions, and what flows fairly obviously from them. This repetition drives home the basic simple points of his position. Planners can and should remind clients of these shared idea and values, e.g. respect for others' rights, equal treatment, impartiality, minimization of harm, etc.

Gender discrimination

Feminists have complained that the principles of justice do not apply to the family, and thus, cannot secure equal justice for women and children (Okin, 1989). Rawls notes that the principles of justice apply *directly* only to structuring the basic social institutions; they do not apply to structuring voluntary associations, including the family. Voluntary associations are structured according to differing comprehensive moral, religious and philosophical doctrines. However, these comprehensive accounts are *constrained* by the overlapping moral consensus that supports the basic institutions. So voluntary associations like the family are *not* free to treat their members in ways that violate the principles of justice.

Okin (1989) also suggests that the gender neutrality of the original position (the rational contractors do not know the sex of those they represent) will guard against gender discrimination. In addition, the family is part of the basic structure, and thus should promote full equality for women, including compensation for any disadvantages stemming from an unequal role in child bearing and nurturing (Okin, 1989: 167). This seems (to us) to give planners ample scope for addressing gender equities whenever they arise in planning contexts.

Concretizing the abstract

One of the key factors that moved Rawls from the abstract and theoretical towards the concrete and practical was Hart's (1973) criticism of Rawls's principles as indeterminate when applied. There were no practical

procedures to get from principles to institutions to structures to laws, etc. It was unclear what liberties would be considered *basic* (those essential liberties given priority in the first principle, which should have constitutional protection), and what goods considered *primary* goods (those to which all citizens are equally entitled).

Basic liberties

In response to Hart's criticism, Rawls spells out the list of liberties which are basic, and the way in which they should be determined. The criterion is that basic liberties are those that are necessary to guarantee equal protection of the full and informed exercise of the two moral powers requisite to citizens regarded as free and equal, reasonable and rational.

Political liberties and liberty of thought are necessary to the capacity for a *sense of justice*; liberty of conscience and freedom of association ensure the opportunity to exercise the capacity for a *conception of the good*; liberty of the person (physical and psychological) and the rights and liberties covered by the rule of law are necessary to guarantee the other basic liberties just enumerated (Rawls, 2001: 112–13). All *other liberties* are non-basic and should be defined by *legislation* within the institutional structure. Their exercise may be limited by the basic liberties. For example, freedom of speech does not extend to advocating violence against other persons.

Planners often need to explain that property rights in real estate are not absolute – they cannot justify violating personal liberty – and that adjudicating clashing property rights is a political matter.

Primary goods

Rawls also specifies the nature of 'primary goods', which are necessary in order for each person to be able to revise the ideas of the good life which they inherit from their culture, and to consider alternative ideas in formulating their own conception. Again, these are developed in a way that is 'free-standing'; they are not determined from any of the comprehensive doctrines. They are derived from the requirements of the normative political conception of persons as free and equal citizens (with the requisite moral powers, fully cooperating members of society), as well as the general facts and requirements of social life (Rawls, 2001: 57). He identifies five categories:

1. the basic rights and liberties just discussed in the section 'Basic liberties' above;
2. freedom of movement and free choice of occupation;
3. powers of offices and positions of authority and responsibility;
4. income and wealth necessary for personal autonomy;
5. social bases of self-respect.

The two principles of justice are then used to assess various possible basic structures according to how they regulate citizens' shares of these primary goods.

A nurturing urban environment

We believe that Rawls's fifth primary good, the social basis for self-respect (for self identity for that matter) requires a connection to community. This connection provides a context rooted in tradition, but allowing for individual growth that enables each of us to mature into persons with meaningful lives. This community context has its physical expression in the world we inhabit, particularly our cities – the center of life for most of humanity. Thus we would specify a sixth primary good for an urbanized, technological industrial (or post-industrial) liberal democratic society: '(6) an *urban environment* which nurtures (provides the necessary conditions for) the development of free and equal, rational and reasonable citizens'. The planner has an important role to play in creating processes and environments which provide all these primary goods, and which express shared public values, but particularly this last one.

For the process of self-determination to be successful, we need a meaningful relationship with our urban environment. The urban environment is not merely a tool for satisfying our basic needs, as some urban designers and functionalist planners seem to assume. Rather, our urban environment is an extremely rich receptacle of meaning, value and tradition, which forms part of the framework for autonomous self-determination. Contemporary designers and planners often tend to view buildings and urban environments in terms of efficiency, as means to predetermined ends. They think of buildings in terms of heating and ventilation; of cities in terms of infrastructure, circulation, and land use. This is a significant cause of the desolate and alienating urban and suburban wastelands that characterize many of our contemporary cities. Those who grew up in New York in the 1950s (as did Stein) may recall Robert Moses (and other urban renewers of the 1950s and 1960s), punching freeways through neighborhoods, cutting their mainstreets in half, to get the efficiency of the shortest distance between two points. As well as destroying communities, these freeways expressed no ideals of how life should be lived, no aesthetic of movement. To reduce the goal to simply 'moving between points A and B as quickly as possible' commits one not only to a particular account of the goal, but also to the kinds of means that will satisfy it.

We should not underestimate the significant role cities play in determining and maintaining a meaningful and authentic life, one where we feel in control. The lack of a rich and meaningful urban environment can be severely destructive to our well-being. When a reductionistic approach is taken to the planning of our cities, the likely outcome is an environment that is alienating for its residents. They are in danger of becoming alienated persons whose

> activity is that of a body in the grip of a machine, not of a rational agent acting out of a sense of value. In his own eyes he is what he conceives himself to be in the eyes of the world – a means, not an end, an organism, not a man. (Scruton, 1979: 245)

Rather than thinking of themselves as being in control of the physical world, and of buildings and cities expressing their values, the residents are in danger of becoming objects expressing the mechanistic world-view of scientism.

Such is the importance of *place* as a primary good. We believe that an urban environment which nurtures human development should include (1) a sense of community, (2) access to a range of opportunities for work, education, and recreation, (3) personal safety, (4) freedom from alienation, and (5) expressions of identity. An urban environment that expresses who we are will have more substance in a uni-cultural society, less so in a multi-cultural society. However, we do still have a shared history and heritage, stemming from our liberal democratic tradition.

None of this justifies a bias towards one particular sub-culture, or the implementation of megalomaniacal grand visions like those of Haussmann and Moses, the boosterism of Burnham or the over-planned cityscape of Brasilia. There are real problems with the 'grand image' in pluralistic multi-cultural societies. Vision does not have to come from an authoritarian super-planner. A collective vision can, and should, be derived via collective democratic processes.

Wealth and power

Many critics argue that the unequal distribution of wealth that arises in a capitalist economy (even one with a high level of guaranteed minimum income) inevitably leads to domination. Those with wealth also gain unequal political power. This concentration of wealth and power tends to lead the fortunate few and the rest of us to view the wealthy and powerful as 'better than' everyone else. This is partly an empirical question. Rawls agrees that this could happen, and that it would violate his conception of society composed of free and equal citizens If it did happen, he would support further redistribution of income and wealth (by taxation of income and bequests) than would arise from the difference principle (which is not held to be absolute). The aim is 'to keep property and wealth evenly enough shared over time to preserve the fair value of the political liberties and fair equality of opportunity over generations' (Rawls, 2001: 51). This reinforces Forester's (1989) message that planners need to be alert to the dominance of planning processes by wealthy and powerful elites to their own advantage.

The difference principle

Rawls has also been criticized as assuming a particular risk preference, i.e. it is argued that rational social contractors would agree to the difference

principle only if they were risk averse.[12] Critics point out that some individuals are risk-preferers: they would opt for a 'winner-take-all' set of rules. They would rather 'win big' than 'lose small'.

Rawls makes clear that the difference principle is chosen because it best fulfills the mandate of his 'rational contractors under a veil of ignorance' to ensure that their democratic goals are achieved for those whom they represent as trustees. The priority of the basic liberties (first principle) means that there is *no* potential gain that could justify risking the loss of these liberties. The difference principle does arise from a maxi-min decision rule, but the reason for the rule is that the rational contractors have a responsibility to ensure outcomes consistent with society being a *fair* system of cooperation between free and equal persons. It has nothing to do with preferences regarding risk or uncertainty.

Conclusion: a basis for hope

In presenting the basic ideas of Rawls's political liberalism (and some of his modifications to it), we have discussed some particular aspects of planning where we have found these ideas useful: e.g. (1) the limits of cultural accommodation, (2) the use of shared liberal values as the basis of public debates, (3) the importance of inside (local) understanding in applying outside (theoretical) knowledge, (4) a rationale for providing nurturing urban environments, (5) various limitations on real property rights.

More generally, Rawls offers four important contributions to planning. His political liberalism provides a pragmatic *normative rationale* for the sort of public planning which even planners who sound rather postmodernist (e.g. Beauregard, 1991) often end up advocating, an approach to planning which is neither modernist nor postmodernist. It responds to the postmodernist critique of planning by eliminating the scientistic features of modernism, but retaining its positive liberal (humanistic) aspects. This approach provides a rationale for Friedmann's non-Euclidean planning, for Forester's progressive planning, for Krumholz's equity planning, for Healey's collaborative planning, for Innes's consensus-building – providing a firm moral basis for such approaches without appealing to any metaphysical foundations. Our dialogical approach to planning (Harper and Stein, in press), which integrates many aspects of the approaches just enumerated, finds its basis in (and draws inspiration from) Rawls's political liberalism and his conception of justice as fairness.

In addition, Rawls gives us a *basis for practical critique* – some grounds for judging when particular processes have gone wrong, when corrective action is needed. The idea of 'going wrong' only makes sense if we can say that what happened is not what *should* have happened, that the process was somehow distorted. This requires that we be able to conceive of a *legitimate* process as a norm for evaluating actual processes. But if we were to accept

that an external theory explains everything as a consequence of e.g. power relations, then 'going wrong' would make no sense. In Healey's (1997) use of Giddens's (1984) terms, structure would be completely dominant, and there would be no room for any agency.

Even more important, Rawls offers contemporary planning, here and now, a *reason for hope*. This is in marked contrast to the ideas of post-modernists in general and Foucauldians in particular; we have argued (Harper and Stein, 1995a; Stein and Harper, 2003) that, taken seriously, these ideas lead to nihilism and despair. We quote Jameson in this regard:

> the more powerful the vision of some increasingly total system or logic . . . the more powerless the reader comes to feel. Insofar as the theorist wins, therefore by constructing an increasingly closed and terrifying machine, to that very degree he loses, since the critical capacity of his work is thereby paralyzed, and the impulses of negation and revolt, not to speak of those of social transformation, are increasingly perceived as vain and trivial in the face of the model itself. (Jameson, 1984: 57)

In other words, acceptance of the claim that power determines everything is likely to make it a self-fulfilling prophecy. If citizens and professional planners were to believe that power is ubiquitous and inescapable, there would seem to be no basis for hope that things could be better. In contrast, we have seen that Rawls appeals to a conception of *reasonableness,* which embodies rationality and morality. This gives hope and purpose to the public planning enterprise.

Thus Rawls gives us a *vision* of free and equal, rational and reasonable citizens of a democratic society based on principles of justice as fairness. Public planning can enhance this vision by following fair and reasonable processes of democratic dialogue. This kind of vision does not arise from narrow rationalism, nor from the confused normative moral relativism of some liberals (Stein and Harper, 2000), nor from a Foucauldian perspective. To put democratic dialogue at the center, planning needs Rawlsian political liberalism.

Notes

1. Liberalism's core belief is that the autonomous individual is the appropriate object of moral and political concern. The fundamental common value shared by liberal positions is their focus on the *free, equal, and autonomous individual person* as the basic unit of society, the ultimate object of moral concern, and the ultimate source of value (Harper and Stein, 1995c).
2. For example: it is universalistic and foundational; it is rationalistic; it presupposes American values, or metaphsyical liberalism, or the Kantian person; its arguments are circular; it allows injustices within families; its principle are too abstract to be applied; it allows the wealthy to gain unequal

power; it assume risk-aversion, its 'thin theory of the good' is too thin to hold a society together, etc.

3. The conflicting private views can continue their debates, so long as they do not interfere with political life.
4. The term 'reflective equilibrium' seems to have originated with Goodman (1965). Rawls brought it into ethical discourse (Rawls, 1971) and first distinguished between 'wide' and 'narrow' equilibria (Rawls, 1975); Daniels (1985) popularized the term 'wide reflective equilibrium' to distinguish it from the narrow reflective equilibrium of ethical intuitionists (Nielsen, 1991). All of these writers have attempted to describe how we might objectively devise the structure or rules for particular types of situations, independent of our own interests or position in society, within a particular set of value commitments (Stein and Harper, 2000).
5. Post-modernists see such theories as 'meta-narratives'.
6. Western societies, which came out of the Enlightenment, place a high value on the critical and analytic, and have incorporated them into the culture. For these societies, the internal/external distinction becomes blurred (Stein and Harper, 2000).
7. Substantive ethical theory advocates actual normative ethical principles and judgements, to be applied to judge the rightness or wrongness of specific social institutions, actions, plans, policies, etc. Procedural ethical theory makes recommendations about the *process*, which should be followed in deriving and justifying substantive ethical principles, and arriving at ethical conclusions (Harper and Stein, 1992).
8. Rawls's (2001: 42) two principles are: (1) *Liberty:* 'Each person has the same indefeasible claim to a fully adequate scheme of equal basic rights and liberties, which scheme is compatible with the same scheme of liberties for all'; (2) *Equality*: 'Social and economic inequalities are to satisfy two conditions: first, they are to be attached to offices and positions open to all under conditions of fair equality of opportunity, and second, they must be to the greatest benefit of the least-advantaged members of society (the difference principle)'. In addition, he specifies their *Priority*: 'the first principle is prior to the second; also, in the second principle, fair equality of opportunity is prior to the difference principle' (Rawls, 2001: 43). The priority given to the first principle means that the basic rights and liberties are constitutionally fixed, off the agenda for political debate, beyond any utilitarian or consequentialist calculus. It ensures mutual recognition of perpetual equality for all, regardless of their comprehensive doctrine. In contrast, implementation of the second principle rests partly on empirical judgements, and will be the subject of political debate.
9. While our Pragmatic Dialogical Planning would advocate these two principles as a reasonable starting point, substantive principles should emerge and evolve from a WRE process.
10. This is not to claim that they meet the criteria of Rawls's two principles.
11. Mutual Advantage theories hold that social institutions can be justified only if they would be supported by any rational person (with full knowledge of their own circumstances) making a *self-interested* choice (Buchanan and Tullock,

1962; Gauthier, 1978). These persons would accept restrictions on their behavior only if their own self-interest is served (Harper and Stein, 1995b). This approach is reductionistic: it assumes that morality could not be the ultimate basis of social institutions – some other (more 'scientific') explanation is required. In fact, to evaluate whether Mutual Advantage 'works' we consider whether it fits our conception of morality. Thus, at best the Mutual Advantage account would be explanatory; it would be coextensive with morality, not a replacement for it.

12. Technically, they would be 'uncertainty-averse', since risk requires known probabilities, and the probabilities of different social outcomes are unknown.

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