

Nurturing the Sense of Justice

The Rawlsian Argument for Democratic Corporatism

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One of the most important and visible divisions in the world today is a division among market societies.¹ The United States, United Kingdom, Canada, and Australia favor a system that relies mainly on markets to coordinate the activities of individual workers and firms. European social democracies, on the other hand, favor a system that makes greater use of collective agreements between the organized representatives of labor and capital.

The tension between these different “varieties of capitalism” has come to occupy an important place in many social and political debates around the world. However, the literature on the implications of Rawls’s political philosophy for economic life has paid relatively little attention to the differences between these regimes. One reason may be that Rawls himself thought that the principles of justice were compatible with a wide range of social arrangements, including both private property and socialist regimes. On his view, the choice between “property-owning democracy” and “liberal socialism” is mainly a practical question that has to be settled by looking at what sort of arrangement would best realize the goals of justice as fairness, given the traditions, institutions, and mix of social forces in a particular society (Rawls, 1999, pp. 242, 247–248).² If Rawls’s theory is agnostic about the choice between a private property system and a socialist one, then it seems natural to think that it is also agnostic about the choice between different private property regimes.

My aim in this chapter is to show that Rawls’s theory is not agnostic about the choice between different private property systems. Taken as a whole, the theory provides a moral argument in favor of the more “organized” or “corporatist” model associated with many European countries. The key to the argument is the moral ideal of stability. Political morality requires that our basic institutions should be stable “for the right reasons,” that is, in virtue of a shared sense of justice. Liberal democratic institutions should be anchored in a liberal democratic spirit in the people. Rawls has a complex account of how just arrangements can achieve this kind of stability, and I argue that a democratic corporatist arrangement is more consistent with this account. So the

principles of justice may be compatible with many private property systems, but considerations of stability favor the corporatist arrangement.

Two Forms of Property-Owning Democracy

In order to bring certain questions about the structure of the economy more clearly into focus, my discussion will center on two forms of property-owning democracy (POD). Call these a *liberal market POD* and a *democratic corporatist POD* respectively.

Both models are ideal types in the sense that they are abstract models and actual institutional arrangements can embody them to a greater or lesser degree. Both models are also PODs. This means that they both incorporate the central features of a just POD, including private ownership in the means of production, protections for the basic liberties, an education system designed to minimize the effects of class origin and family background, and a system of taxation and inheritance designed to break up large concentrations of wealth that might emerge in any generation.

Where the models differ from each other is in the way that they approach the task of coordinating economic activity. The liberal market POD relies mainly on markets to coordinate economic activity. Under this arrangement, firms are involved in a multidimensional competition with other firms to make a profit. Any widespread practices in economic life, such as the use of certain technologies or the predominance of certain compensation structures, would be mainly the result of competition between firms. By contrast, a democratic corporatist POD relies on markets but also makes extensive use of corporatist deliberation and rule making. Widespread practices in economic life under this arrangement may be the product of competition between firms, but they may also be the product of explicit rule making by the representatives of different groups involved in production.

Stated more formally, the democratic corporatist POD differs from the liberal market POD in two respects:

- 1 It fosters the formation of a limited number of secondary associations to represent the perspective of major segments of the population in various rule-making forums.
- 2 It takes steps to ensure that changes to the rules of economic competition come about through a process of deliberation and reasoned agreement among the relevant associations.

Under democratic corporatism, there would be a limited number of encompassing associations in each industry or sector of the economy to officially represent the perspectives of various groups who participate in production (such as workers and owners). These associations would meet regularly to establish the parameters for competition between firms. The process of establishing these parameters would be one in which representatives deliberate rather than bargain: that is, instead of negotiating strategically to further the interests of their constituents, parties would cooperate with each other to find standards and polices that all could accept as a reasonable framework for competition.³

The German “codetermination” system provides an imperfect, but helpful real-world illustration (Wiedemann, 1980, Vitols, 2001; Charkham, 2005). Under the laws of codetermination, large corporations must reserve half of the seats on their supervisory boards for labor representatives. Along with shareholder representatives, these representatives vote on a range of corporate policy issues, including the hiring and firing of executive officers. At the same time, the codetermination system empowers industry-wide unions, such as IG Metall and IG Chemie, to bargain on behalf of all the workers in their respective industries and to appoint representatives to the supervisory boards of all of the large corporations in them. These powers enable unions to engage manufacturing associations in corporatist bargaining processes that establish the ground rules for economic competition between firms. These ground rules cover a range of issues, including compensation, pensions, work hours, job training, and worker retention. For the German system to fully embody the democratic corporatist model, representative associations on both sides would have to be transparent and responsive to their memberships, and the decision-making process would have to take the form of deliberation rather than mere bargaining.

What makes democratic corporatism a form of “corporatism” is that – following Philippe Schmitter’s famous definition – it relies on a limited number of corporate bodies, intermediate between the individual and the state, to officially represent the interests and concerns of different segments of society in social decision making (Schmitter, 1974, pp. 93–94). These corporate bodies may represent workers in general, owners in general, or particular segments of each group. For example, different segments of the workforce in an industry – for example, creative talent and support staff – may have separate associations, and different groups of owners – for example, small suppliers and large manufacturers – may have separate associations as well.⁴

What makes democratic corporatism “democratic” is that it articulates a strategy for deepening the democratic character of social decision making.⁵ The idea is to strengthen secondary associations in the economy so that these associations can take on various rule making, rule applying, and compliance monitoring functions. An economy reformed along these lines is more democratic in the sense that more important aspects of economic life are taken out of the sphere of market competition and brought under the control of processes in which the relevant parties deliberate with each other and agree on appropriate standards and policies.⁶

It is common to think of corporatism as a governance structure that is tied to the industrial mode of production, a paradigm that is part of a bygone era in advanced Western economies. But corporatism is by no means tied to mass production. Consider that today’s knowledge economies rest on a foundation of research that is carried out in universities. Higher education in countries such as the United States is governed by a structure with significant corporatist elements. In most American universities, students, faculty, and staff have their own associations, and representatives from each of these groups participate – along with administrators and trustees – in making decisions about policies that govern the institution. Beyond the boundaries of the university, there are encompassing national bodies that represent the perspective of students, faculty, and staff in decision-making processes that affect the higher education sector as a whole. For example, the American Association of University Professors (AAUP) represents the interests of faculty at the state and national level.

Corporatist structures can be found in other parts of advanced economies as well. Most major professional sports leagues in the United States – including professional basketball, professional football, and major league baseball – have players' associations that meet regularly with owners' associations to make rules and policies that structure competition between teams. Similar structures exist in the arts. In the movie industry, organizations such as the Screen Actors Guild (SAG) and the Motion Picture Editors Guild (MPEG) represent the interests of creative talent and shape the character of competition between studios. Even the codetermination system in Germany covers technologically advanced sectors of the economy, such as the production of designer chemicals that are quite far from the factory-based, mass production paradigm.

Another common view is that corporatism assumes or institutionalizes the social division between a capitalist class and a laboring class. This view stems, in part, from the fact that many corporatist structures in the world today evolved out of a conflict between owners and workers, where some accommodation of worker demands was necessary to maintain the social peace. Corporatist structures may have developed out of a conflict between these classes, but it would be a mistake to think that corporatism has no purpose or point apart from this conflict. Democratic corporatism in particular would have a point, even if society overcame this class division altogether. Consider the following hypothetical situation. Suppose that the medical field evolves to the point where most medical practices are owned not only by the doctors who work in them, but also by the nurses, assistants, technicians, and other people who work in them. If the entire medical field consisted of partnerships of this sort – worker-owned cooperatives – would there be any point to corporatist intermediation in this sector of the economy?

The answer is yes. Intermediation would involve explicit rule making to regulate competition between medical practices, but the representatives in these deliberations would not represent workers and owners; they would represent different segments of the overall class of worker-owners. For example, the process might incorporate representatives from a nurse's association, a doctor's association, an association of support staff, and so on. Without corporatist intermediation, widespread practices in the medical field would be the product of competition between medical practices. This would be true even if workers owned the practices. The point of intermediation in this sector would be to create an avenue for explicitly shaping the course of competition between these firms, and doing so in a way that reflects the values and interests of participants in production.

Democratic corporatism is a normative model of economic governance in that it does not simply describe the pattern of social coordination that we see in certain societies. Even European countries that have certain elements of democratic corporatism built into their institutional framework seem to lack an adequate degree of deliberation. Democratic corporatism is an ideal that we should strive for, an ideal that is partly realized in existing institutions, but is by no means identical with them.

There is much more that could be said to develop the idea of democratic corporatism, but the contrast between a liberal market POD and a democratic corporatist POD should be clear enough for my purposes at this point. The question is whether Rawls's theory offers us moral grounds for adopting one of these arrangements over the other.

What Is Stability? Why Does It Matter?

The central claim of this chapter is that Rawls's theory, as a whole, should be understood to support the pursuit of a democratic corporatist POD rather than a liberal market POD. My argument turns on the moral ideal of stability; so, starting in this section, I develop a more detailed account of this ideal. I focus on three questions: what kind of stability is relevant from the moral point of view? Why is this kind of stability morally relevant? And how does a social arrangement achieve this kind of stability?

According to Rawls, a just social arrangement is a configuration of society's basic institutions that conforms to the demands of his two principles of justice. Much like any other social arrangement, a just arrangement will have a complex relationship with the body politic. Social institutions will, on the one hand, shape the political movements that develop over time by shaping the fundamental motivations of citizens. For example, institutions will shape the motivations of citizens by shaping their education and early childhood experiences. On the other hand, social institutions will themselves be shaped by these political movements. For example, the laws will be shaped by the legislative changes enacted by successful electoral campaigns. This reciprocal relationship forms the background for stability.

A just social arrangement is stable in the morally relevant sense when it creates conditions such that any threat to the just character of society's basic institutions will engage the moral sensibilities of the people and lead them to take action and restore the just character of the institutional framework (Rawls, 1999, pp. 399–401). For example, suppose that changes in birth rates and internal migration patterns lead to a situation in which one region of the country has many times the population of the other regions. But suppose that this region still has the same level of resources devoted to the education of its people. Without any intervention, it is likely that the conditions of fair equality of opportunity would no longer hold: a talented and motivated child born into the overpopulated region would have worse life prospects than a similarly talented and motivated child born into some other region. If we are living in a just social arrangement that is stable in the morally relevant sense, the unfairness of the educational system would engage the moral concerns of the people, and political forces would emerge in society to change educational funding policy and restore the conditions of fair equality of opportunity.

Let us call the type of stability that is relevant from the moral point of view *stability for the right reasons*. A social arrangement is stable for the right reasons when it generates a shared sense of justice in citizens and this sense of justice is strong enough to move them to do what is necessary to maintain the just character of their basic institutions over time.

Stability in general is often seen as merely a practical consideration. The intuitive idea is that justice is the end and that we should take the best means to achieving this end. A stable arrangement is the best means to achieving the end because a stable arrangement would take fewer resources to maintain and would be more likely to persist over time. Any just arrangement that is unstable is objectionable because it involves a waste of social resources and presents a more serious risk of disintegrating over time.

Although this is a natural way to think about stability, it is misleading because stability is not just a practical consideration; it is a substantive requirement of morality. To see why, consider that morality often requires that we adopt certain forms of self-management. For example, people have an interest in bodily integrity, and this interest gives rise to a moral prohibition against certain forms of assault. But the interest in bodily integrity also gives rise to a moral requirement that we should take appropriate steps to ensure that we respect the prohibition. Among other things, morality requires that we avoid situations in which we might be tempted, against our better judgment, to assault others, and it requires that we cultivate in ourselves good habits of restraint and anger management. In this way, morality requires not only that we act in certain ways, but also that we take steps to make sure that we will act in these ways.

Much the same thing holds in the case of political morality. For example, individuals have an interest in free expression, and this interest gives rise to a moral requirement that citizens should provide each other with a legal right to express themselves. But there is a danger that we may not provide each other with these legal rights. When faced with social unrest and political disagreement, a democratic majority among us may be tempted to silence dissent by compromising the legal right of free expression. Here the interests that individuals have in free expression justify not only the moral requirement that we should recognize a legal right of free expression, but also a moral requirement that we should take appropriate measures to ensure that we will not unjustly limit these legal rights in difficult circumstances. There are many measures that we might take along these lines, and one of these is to cultivate an appropriate sense of justice in ourselves, a sense of justice that will move us to do the right thing when we are tempted improperly to constrain basic rights.

The idea of self-management offers a basic account of the moral significance of stability for the right reasons. Political morality requires not only that we frame our institutions in a certain way, but also that we take adequate measures to ensure that we will maintain this framework. When our institutions are stable for the right reasons, we meet this second demand by cultivating an appropriate sense of justice in ourselves. The problem, however, is that the explanation as it stands is lacking in one important respect. The idea of self-management can explain why measures to ensure stability are in general morally significant, but it does not explain what is distinctively important about a form of stability rooted in a shared sense of justice.

To sharpen the point, suppose that we could arrange our political system so that it worked more like a market. Under ideal conditions, a market will lead self-interested actors to a Pareto optimal outcome, even though none of them cares about generating such an outcome. Suppose that we could arrange our political system along similar lines. Whenever our basic institutions deviate from the principles of justice, the system would give individuals an incentive to enter the political forum to correct the injustice. No one would actually *care* about social justice; individuals would be led by their own self-interest to act in ways that maintain the just character of their basic institutions. What would be morally objectionable about an arrangement that is stable, but not stable in virtue of a shared sense of justice (Rawls, 1993, pp. 143–144; 2001, p. 185)?

In his later work, Rawls is explicit that, even if it were possible for an arrangement to be stable in virtue of a system of incentives, political morality requires that the

social order should be stable in virtue of a shared sense of justice (Rawls, 2001, pp. 185–186).⁷ We might put the argument in the following way. Political morality requires that, through our basic institutions, we should respect members of society – both ourselves and others – as “rational” and “reasonable.” On the one hand, we must respect members of society as having the capacity to formulate their own ideas about the good life. But on the other hand, we must also respect members of society as having the capacity to regulate their pursuit of their own good in light of a conception of fair cooperation. If we arrange our basic institutions so that they maintain their just character simply by giving people an incentive to act in the right ways, we would respect ourselves as rational persons, but we would not respect ourselves as reasonable persons. Through our basic institutions, we would express the judgment that we are not capable of regulating our pursuit of the good in light of a conception of cooperation on fair terms. Moreover, we would express the judgment that we are not capable of participating fully in the political relationship, a relationship in which each of us offers and accepts fair terms from the others. By establishing a system of institutions that operate as a kind of Platonic guardian of social justice, we treat ourselves as if we lacked the moral powers to take our place in society as full citizens.⁸

What makes stability for the right reasons distinctively important, then, is that political morality requires not only that we should ensure that our institutions will be just, but also that we should treat ourselves (and each other) as reasonable persons in the process. If we used a system of economic incentives to induce the right behavior in ourselves, we would express a judgment that we were not capable of being full participants in the political community. Respect for our own potential as moral agents requires that we cultivate an appropriate sense of justice in ourselves and then address social injustices by calling attention to these injustices and relying on each other (within reason) to do what is required to maintain a just social order.

Recall that I asked three questions about stability. The first two questions have been answered – that is, what kind of stability is morally significant, and why? The third question is: how does a social arrangement achieve stability for the right reasons? I take it that a social arrangement does so mainly by cultivating an appropriate sense of justice in citizens. If a just social arrangement tends to generate a strong sense of justice in citizens, and this sense of justice is widespread among the various groups in society, then (other things being equal) it is more likely that political forces will emerge in society to sustain the just character of its basic institutions whenever this is threatened. But if the sense of justice is weak and limited to only a few social groups, then it is less likely that the right kind of political forces will emerge in the face of a threat. Much will depend, then, on how just institutions cultivate a sense of justice in individuals, and I turn now to Rawls’s account of this process.

The Sense of Justice

Rawls conceives of the sense of justice as a particular kind of attachment to the principles of justice. People with a sense of justice want to comply with the rules of a social order that conforms to these principles. They also want “to work for . . . the setting up of just institutions,” and to work “for the reform of existing ones when justice requires it”

(Rawls, 1999, p. 415). But the sense of justice also involves a distinctive pattern of reactions to the failure to live up to the requirements of these principles. People with a sense of justice are not merely disappointed when their social order does not conform to the principles: they feel guilty when their institutions fail to conform; they feel indignant for the people who are unfairly treated; and, when the circumstances are appropriate, they will apologize and seek forgiveness from the victims of social injustice. The story of moral development in *A Theory of Justice* explains how people in a society that is publicly regulated by the two principles of justice will form this distinctive type of attachment to the principles.

Reciprocity is the central engine of normative attachment on Rawls's account. When others show that they care about us, we naturally come to care about them in return. In caring about others, we care not only about their welfare, but also about living up to their expectations. Moreover, we experience distinctively moral sentiments, such as guilt and remorse, when we fail to live up to these expectations (Rawls, 1999, pp. 425–429). For example, when our parents love us as children, we naturally come to care about them in return, and once we form this attachment it is also natural for us to feel guilt and remorse if we fall short of their expectations. In a just society, individuals experience evident care and concern from the other members of society, and this care and concern eventually leads them to form an attachment to the underlying principles that unify the association.

The attachment develops in three stages. The first stage is the morality of authority. When individuals are born into a just society, their parents love and care for them, and they come to love and care for their parents in return (Rawls, 1999, pp. 405–406). This attachment manifests itself (among other things) in a desire to follow the rules that their parents set out in the household. Many of these rules incorporate the requirements of social justice (e.g., no stealing) but children cannot appreciate the connection between the rules and the principles of justice themselves. At this stage, the outlook of individuals in a just society is a “morality of authority” in the sense that their feelings toward the rules of a just social order arise out of their attachment to certain authority figures, namely their parents.

The second stage in the process is the morality of association. Individuals in a just society eventually take part in a wide range of associations, including churches, clubs, orchestras, firms, political parties, unions, and so on. Individuals who join these associations form bonds with other members, and these bonds lead to an attachment to the ideals that define expectations in the group (Rawls, 1999, p. 412). For example, an individual in a just society may join a labor union. When other members stand with him on the picket line, he experiences this as a contribution to his good, and he comes to care about his fellow union members in return. This social bond will lead him to want to live up to the union's shared conception of what makes for a good union brother, and to feel guilt and remorse if he fails to do so.

Associational ideals will often incorporate the requirements of social justice (e.g., a good union brother is not a thief), but people at stage two do not typically see the connection between these requirements and the principles of justice themselves (Rawls, 1999, p. 409). Their outlook is a “morality of association” in the sense that their feelings toward the rules of a just social order arise out of their attachment to the members of certain associations and groups.

The morality of association is often assumed to be an early stage of development, but Rawls clearly does not think that it is confined to childhood or adolescence. As he says, “this type of moral view extends to the ideals adopted in later life, and so to one’s various adult statuses and occupations, one’s family position, and even to one’s place as a member of society” (Rawls, 1999, p. 409). What is distinctive about the morality of association, even in its most complex forms, is that our motivation to do what is right stems from an attachment to particular communities of individuals. For example, a politically active person who reaches this stage of development in a just society will treat the requirements of social justice as normative because other politically active people in his community care about these principles (Rawls, 1999, p. 414). His disposition to do what the principles of justice require, and his disposition to feel guilt and remorse when he fails to do so, are causally rooted in his attachment to friends, colleagues, and associates.⁹ The morality of association represents a kind of morality of social belonging, something that is common in the emotional life of adults as well as children.

The final stage in the process is the morality of principles. I will discuss this stage further in the next section, but the basic idea is the following. When individuals in a just society enter public life, they take up positions in which they have to balance the competing claims of different individuals and groups. This puts them in a position to see how the social order answers to the principles of justice and how it contributes to the good of everyone in society. When people see how the institutional order has contributed to their own well-being and the well-being of those that they care about, they come to form an attachment to the organizing principles of the institutional order. At previous stages, their desire to comply, and their corresponding feelings of guilt and remorse, stemmed from an attachment to their parents or to the individuals in particular social groups. But now these dispositions are independent of these attachments. Individuals at this stage want to comply with the principles of justice, and they feel guilt and remorse when they fail to do so, and they would have all of these dispositions even if other members of society were indifferent to the requirements of justice. Their outlook is a “morality of principles” in the sense that they have an unmediated attachment to the principles of justice themselves.

Participation in Public Life

A key feature of the process of moral development, for my purposes, is the transition between the early stages of the morality of association and the morality of principles.

People at the second stage of moral development have a moral sensibility that does not extend beyond their associational ties.¹⁰ They participate in a wide range of associations, care about the other people in these associations, and are normatively attached to the ideals connected with their roles in these associations. But their moral outlook does not extend beyond these horizons. People at stage two, particularly those who do not participate in public life, will not have a normative attachment to the principles of justice themselves (Rawls, 1999, p. 414). What they care about fundamentally at this stage is conforming to socially defined notions of being a good father or mother, a good neighbor, a good coworker, and so on. If requirements of social justice are incorporated into these ideals, then people at stage two will treat them as normative.

But if requirements of justice are not incorporated into these ideals, then they will not treat them as normative.

The fact that people have a moral sensibility that extends only as far as their associational ties matters from the standpoint of stability because it limits the social response to injustice. Imagine that a social injustice emerges in society and that citizens have only advanced to an early stage of the morality of association. Since their outlooks extend only as far as their associational affiliations, the only citizens who would be morally concerned about an emerging injustice would be those who have some sort of associational connection to it, namely (a) citizens who have a personal relationship with the victims or (b) citizens whose associational ideals require them to respond.

Imagine, for example, that changing migration patterns lead to overloaded school districts in one part of the country. Children in this region now have a less than equal opportunity to succeed. If everyone is at the second stage of moral development, the injustice would move the parents, teachers, and friends of the young people affected because they have a relationship with the victims. It would also move school administrators, political officials, and activists whose role ideals require them to respond to injustices of this kind. But insofar as the sense of justice in society is rooted in associational ties, the injustice would not necessarily move anyone else. After all, most people would not have a specific relationship with the young people affected and they would not belong to associations whose role ideals require a response. It follows that a political movement to rectify the injustice may be quite small and insufficient to generate the appropriate changes in society's basic institutions.

At the third stage of moral development, however, people's moral sensibilities are no longer rooted in their associational lives. They care about all aspects of social justice, not just those aspects that have a place in their associational ideals. They care about failures of social justice, even when they have no associational connection to the victims. And their concern is fully independent in the sense that they would continue to care about social justice, even if the people around them ceased to care. This development is important from the standpoint of stability because a just society is more stable when its members have this kind of attachment to the principles of justice.

Imagine that the same injustice that I described above emerges in society, but now citizens have all advanced to the morality of principles. Since everyone is attached to the principles of justice, they all care about the fact that society is falling short of the requirements of the two principles. Anyone who was confronted with the fact that certain people have less than equal opportunity in society would feel guilt and indignation, and they would want to do something to rectify the situation. Of course, those who have a personal connection with the victims – parents, teachers, and friends – would be moved more strongly to act, as would administrators, political officials, and activists, whose associational ideals require them to act (Rawls, 1999, p. 416). But the mere fact of social injustice would move everyone in society, even those without any associational connection to the injustice. It follows that a political movement to rectify the injustice will be stronger and more widespread because it will appeal to a moral sentiment that is shared by everyone.

What leads people to make the transition between the morality of association and the morality of principle? The factor that Rawls cites is participation in the political life of the community (Rawls, 1999, pp. 414–415). In a just society, some subset of the

population (perhaps quite small) will take part in public life by serving in a legislative capacity, serving as a judge or jury member, or simply by taking an active interest in public affairs. These individuals take part in the process of making and interpreting the laws in society, and this requires them to step back from the concerns that occupy them in their day-to-day activities to consider issues that affect many disparate individuals, associations and groups:

In a well-ordered society . . . citizens who take an interest in political affairs, and those holding legislative and judicial and similar offices, are constantly required to apply and interpret [the principles of justice]. They often have to take up the point of view of others, not simply with the aim of working out what they will want and probably do, but for the purposes of striking a reasonable balance between competing claims and for adjusting the various subordinate ideals of the morality of associations. (Rawls, 1999, p. 414)

As citizens adjust and extend the legal framework in society, they are forced to develop their understanding of the two principles of justice and to apply this understanding to various legislative and judicial problems. Over the course of time, these activities bring citizens to see (a) how the social order as a whole answers to the principles of justice and (b) how the social order affects everyone's interests.

Rawls believes that we have a natural disposition to become attached to the organizing principles of a social arrangement when we see how this arrangement has contributed to our good and the good of the people that we care about. He describes this institutional form of reciprocity in his third psychological law of moral development:

This law states that once the attitudes of love and trust, and of friendly feelings and mutual confidence, have been generated in accordance with the two preceding psychological laws, then the recognition that we and those for whom we care are the beneficiaries of an established and enduring just institution tends to engender in us the corresponding sense of justice. We develop a desire to apply and to act upon the principles of justice once we realize how social arrangements answering to them have promoted our good and that of those with whom we are affiliated. (Rawls, 1999, p. 415)

The central idea is that when we feel how the social order has cared for us and the people that we care about, we respond instinctively by internalizing its organizing ideals. Over the course of the first two stages of development, we come to care about family, friends, neighbors, and coworkers. When we take part in public life, we see how the social order answers to the principles of justice, and how the order has affected our interests. For example, we see how protections for the rule of law have protected our families, friends, and associates from violence and arbitrary persecution. Similarly, we see how protections for the liberty of conscience have protected the various religious, cultural, and scientific associations that we care about. Seeing how the social order has cared for us, and the people that we care about, we form an attachment to the ideals of the social order. We want to maintain institutions that live up to these ideals, and to further the degree to which our institutions live up to them. We also feel guilt and remorse when we and our fellow citizens fail to live up to these requirements. Moreover, these dispositions are no longer sensitive to the opinions, motivations, and expectations of those around us.

Three Distinctive Features of Rawls's View

At this point, I want to step back and put Rawls's account of moral development into some historical context. Let's say that a member of society becomes a "citizen" when he develops a sense of justice that regulates his pursuit of his own private self-interest. Rawls belongs to a long line of political thinkers concerned with how members of society become citizens. Like Rousseau, he thinks of citizenship as something that begins in childhood and evolves to higher stages. Insofar as he gives participation an important role to play in the process, he belongs to a more specific tradition that emphasizes participation, a tradition that includes Rousseau, Hegel, Tocqueville, and Mill.

One distinctive feature of Rawls's view is that he does not take thought and reflection to be the primary mechanism that brings individuals to become fully formed citizens. Although he formulates a complex philosophical argument in favor of the two principles of justice, he does not believe that the members of a just society internalize these principles simply because they come to appreciate the philosophical justification for them. What makes individuals into citizens is rather a nondiscursive feature of human nature, namely reciprocity – our natural tendency to care about those who manifestly care about us. In essence, Rawls believes that we can become attached to moral ideas, not only because we think that they express moral truths, but also because we have a particular historical connection to them. His third psychological law implies that people who grow up under utilitarian institutions will form an allegiance to utilitarian principles (as long as they have benefited in the right ways from these institutions); people who grow up under religious institutions will form an allegiance to the corresponding religious principles (as long as they have benefited in the right ways); and so on.¹¹ What drives the process is not thought and reflection, but our natural response to caring concern.

Another distinctive feature of Rawls's view is that citizenship is not rooted in a sympathetic identification with other members of society. It is common to think of citizenship in terms of broadening the perspective of individuals so that they care not only about their own good, but also about the common good of the community. In one sense, Rawls rejects this idea because he does not think of citizens as being moved by a sympathetic identification with the good of all members of society, or even with the good of the least advantaged group. Sympathy of this kind is a relatively weak form of motivation and it is difficult to imagine how citizens in general could sympathize with more than a tiny circle of associates (Rawls, 1999, pp. 155, 437–438). What motivates citizens, on Rawls's view, is not sympathy, but a commitment to liberal democratic ideals such as equal liberty and fair equality of opportunity. People internalize the ideals of their political culture, and it is a normative attachment to these ideals, rather than some identification with the common good, that leads them to maintain just institutions.

Finally – and most importantly for my purposes – Rawls's view is distinctive because of the way that it conceives of the function of participation. We might describe this function as *transparency*. The social order is, by assumption, actually regulated by the two principles of justice, and in virtue of this fact, it actually contributes to the good of each member. But the mere fact that the social order contributes to everyone's good does not mean that individuals will be able to see and appreciate this. When most

people spend most of their waking hours at work or raising a family, there is no guarantee that anyone will be able to see and appreciate how they benefit from the social order. Participation in public life raises citizens up out of their daily lives so that they can see how the social order contributes to their good. Participation contributes to the development of a freestanding attachment to the principles of justice because it puts people in a position to see, feel, and appreciate the caring concern that is embodied in the social order. And the natural response to this experience is for people to reciprocate by forming an attachment to the organizing principles of the arrangement.

Democratic Corporatism and Participation

We now have an account of the moral ideal of stability. Political morality requires that our basic institutions should be both just and stable for the right reasons. To be stable for the right reasons, our institutions must generate a sense of justice that moves us to do what is necessary to maintain the just character of the social order. And participation is key because participation puts us in a position to appreciate what the social order has done for us, which in turn will lead us to form a free-standing normative attachment to its organizing ideals.

Let us return now to the comparison between the liberal market POD and the democratic corporatist POD. Recall that these two arrangements share the basic features of a just POD, but differ in the way that they coordinate the economy. The liberal market POD relies mainly on markets to coordinate the economy, while the democratic corporatist POD also makes significant use of corporatist deliberation and rule making. Once we understand the nature of stability, and in particular the transition from the morality of association to the morality of principles, we can see that the liberal market POD suffers from an important weakness. The problem is that participation is limited under this arrangement, perhaps quite limited, so it is not clear that the movement from the early stages of the morality of association to the morality of principle will be widespread.¹²

We can distinguish two more specific problems. One problem is that only a small fraction of society is likely to spend any significant amount of time taking part in the political life of the community. The number of legislators and judges in a modern society is relatively small, and even if we include other significant positions in the government bureaucracy (e.g., leading officials in agencies, such as the Department of Justice and the Federal Trade Commission), the total number of dedicated political offices is still quite small. Perhaps the most important political office in society is the office of citizen, which all competent adults occupy. Rawls's account of moral development seems to rely on participation in electoral politics to draw the largest number of people into the morality of principles. But he himself recognizes that "in a well-governed state only a small fraction of persons may devote much of their time to politics" (Rawls, 1999, p. 200). A large body of evidence about political participation in the United States, both in electoral politics and in other forms of political activity, seems to support this view (Wolfinger and Rosenstone, 1980; Verba and Nie, 1987; Rosenstone and Hansen, 2003).

A second problem is that participation is episodic. Even among the politically active segment of the population, the fraction that participates in the political process may be

made up of different people in each election cycle. So if 60% of the population participated in each of the last three presidential elections, the percentage of people that participated in all three may only be 30% (Rosenstone and Hansen, 2003, pp. 53–56). Taking the argument one step further, even among those who participate consistently, election after election, there is reason to doubt that this form of participation could fundamentally alter their motivations. If people step out of their daily concerns just long enough to follow an election every four years, it is hard to see how this episodic involvement in public affairs could generate a fundamental change in their character.

A democratic corporatist POD addresses the participation problem by greatly expanding the sphere of political activity. In a democratic corporatist regime, workers, managers, and owners in an industry would participate in rule-making activities that structure economic competition between firms. In developing these rules, participants would have to formulate a conception of their *legitimate interests*, that is, interests that they could legitimately ask others to recognize within a social order regulated by the two principles of justice. This would require them to develop an understanding of these principles and to use this understanding in shaping their positions. Higher-level officials in representative associations would obviously have to engage in this kind of reasoning, but rank-and-file members would have to do so as well when they elect these officials. In deliberating with each other about the merits of different ways of structuring the rules of competition, people in an industry come to see how various aspects of the social order answer to the principles of justice and how they and their associates benefit from these arrangements.

An example will help to illustrate. The National Basketball Association (NBA) is the premier professional basketball league in the United States. It is governed by a corporatist structure in which franchise owners and players each have organizations that represent their interests and participate in making decisions about rules that structure the competition between teams. Interactions between the National Basketball Players Association (NBPA) and the owners (represented by the league itself) generally take the form of bargaining, where each side aims to advance its own interests. But there are many instances in which the two sides must deliberate about rule changes, where these deliberations involve wider social and political ideals.

A case in point is the eligibility of high school players for the NBA draft (Rosner, 1998).¹³ This has been a long-standing issue for the league. The 2005 collective bargaining agreement (CBA) restricted eligibility to players who are at least 19 years old and one year removed from high school. The league argued, in part, that the new, tighter restrictions were necessary to keep scouts and agents out of high school gyms. This would prevent young people from being seduced by promises of fame and fortune in basketball, reinforcing the mission of high school education and protecting the long-term interests of young people. Many players, however, argued that the rule was unfair. In effect, an 18-year-old citizen (most often black) could be drafted into the army to die for his country, but he could not be drafted by a professional basketball team. In the past, players have also argued (and the league agreed) that young players who are often in economically depressed circumstances should be able to enter the draft when they face extreme financial pressures.

The debate surrounding high school eligibility illustrates how corporatist rule making can bring players and owners to formulate some of the central ideals of the social order, such as fairness, equality of opportunity, and racial neutrality, and to formulate some view

about how institutions such as high schools, colleges, and the NBA fit into a scheme that aims to realize these ideals. It is not hard to see how these deliberations could also bring players and owners to understand how their well-being and the well-being of the league is connected with broader features of the social order, such as a public education system that teaches kids about the game from a young age and redistributive mechanisms that ensure that there is an audience that can afford to pay for tickets.

The expansion in the sphere of political activity under democratic corporatism addresses both elements of the participatory deficit in a liberal market POD. First, it addresses the small fraction problem. Only a small fraction of people in a mass democracy is likely to devote much of their time to electoral politics, but most adults in a modern society are involved in the moneyed economy. Democratic corporatism incorporates a form of political decision making into the structure of work life, and in doing so, it weaves an engagement with public affairs into a large sphere of social life that would otherwise be devoid of this kind of engagement. Second, it addresses the episodic participation problem. Even those who participate in electoral politics in a liberal market POD are likely to participate only from time to time. Work, on the other hand, occupies most people for most of their waking hours. By incorporating a form of political decision making into the structure of work, the democratic corporatist POD would foster a steadier engagement with the public life of the community.

Besides expanding the scope of political activity in society, a democratic corporatist POD also achieves a certain degree of clarity. Rawls argues that a social order will give rise to a stronger sense of justice when individuals can see clearly how it expresses a concern for their good (Rawls, 1999, pp. 438–439). For example, in a social order regulated by the principle of utility, it may require a certain mastery of economics and statistics for individuals to see how they gain from various laws and policies. But anyone living under a social order regulated by the two principles can see clearly that the arrangement will not sacrifice his fundamental freedoms for the sake of minor economic gains. Democratic corporatism achieves further clarity by creating a forum in which citizens can see how the social order contributes to their good. As part of their work lives, citizens will formulate a conception of the principles of justice, and they will come to see how specific individuals and specific firms benefit from a social order built on these principles. This brings them to see in an especially clear and concrete way how they benefit from the order.

Another significant feature of democratic corporatism is that it highlights the way that a just social order contributes to the good of individuals in their work lives. Other things being equal, a social order will generate a stronger response in us when it contributes to an aspect of our lives that is more important to us. Given the prominent place that work occupies in the concerns of people in the modern world, the fact that democratic corporatism clarifies the impact of just institutions in this sphere of life is important: the recognition of a contribution in this sphere is likely to have a more powerful effect on our commitment to the organizing principles of society.

I want to add one final consideration in support of the democratic corporatist POD. The argument in this section has certain affinities with the well-known arguments of John Stuart Mill (1994, book IV) and Carole Pateman (1970). Mill and Pateman argue that participation in collective decision making at work can help to educate citizens, transform their motivations, and lead them to take a more active role in politics. Self-confidence figures prominently in this line of reasoning. Pateman, for example, argues

that participating in collective decision making at work encourages people to think that they can make a difference in the world and this in turn leads them to take a more active role in politics at all levels (Pateman, 1970, pp. 45–53). The emphasis on self-confidence distinguishes the Mill–Pateman argument from the Rawlsian argument, which focuses not on citizens’ self-confidence, but on their concern for social justice. Nonetheless the Mill–Pateman argument lends further support to the case for a democratic corporatist POD. If increased participation in collective decision making at work improves a person’s overall sense of efficacy, then we have a further reason to think that a democratic corporatist POD will be more stable for the right reasons: citizens under this arrangement will believe more strongly that they can make a difference and therefore they will be more likely to act on their sense of justice when they see some fundamental unfairness in their basic institutions.

Objections

Rawls’s theory as a whole should be understood as providing a moral argument in favor of a democratic corporatist POD over a liberal market POD. Although both arrangements could meet the demands of the two principles of justice, the democratic corporatist arrangement answers better to the moral ideal of stability. The democratic corporatist POD greatly expands the sphere of engagement with public affairs by weaving a form of engagement into the work world. According to Rawls’s own account of moral development, this wider sphere of engagement will lead to a more principled and widespread commitment to social justice, a commitment that will move more people to respond more forcefully as social injustices arise over time.

I want to address three objections to my argument. One objection says that we could address the participatory deficits of the liberal market POD in other ways besides altering our economic institutions. For example, instead of expanding the scope of political activity through corporatist deliberation in the economy, we could do so by encouraging civic engagement in town hall meetings, local school councils, community-based policing efforts, and so on.¹⁴ With adequate measures outside of the economic sphere, a liberal market POD could be just as attractive from the standpoint of stability as a democratic corporatist POD.

The problem with this objection is that it does not come to terms with the unique position that the economic sphere occupies in modern social life. Most people spend most of their waking hours at work. They organize much of their lives around their professional aspirations, and they form many of their most important relationships in and through the workplace. Given the degree to which people are invested in their work, it is hard to see how society could address the participatory deficits in the liberal market POD without making substantial changes in the economic sphere. People simply do not spend enough time and energy in town hall meetings and school councils for participation in these arenas to substantially reshape their motivations.

A second objection says that we could achieve most of what the democratic corporatist POD achieves under a “mixed” POD that does not constrain our economic liberty. In a well-known article, Richard Krouse and Michael McPherson (1986) argue

for a POD that allows individuals to form economic associations that are either worker controlled or privately owned. If there are positive externalities to worker-controlled cooperatives, Krouse and McPherson argue that society could use subsidies, tax breaks, and other measures to increase the size of the worker-controlled sector until it would produce the relevant benefits at the right levels. For example, if worker-controlled cooperatives encourage the formation of an appropriate sense of justice, society could subsidize the worker-controlled sector of the economy until it was large enough to generate a widespread and principled commitment to social justice. The attraction of the mixed POD is that it would not prohibit the formation of privately owned businesses and therefore would not constrain the liberty of individuals to form economic associations according to their preferences.

Many have argued that worker-controlled enterprises are important from the standpoint of stability, but the Rawlsian argument that I have formulated in this paper does not focus on worker control.¹⁵ The focus of the argument has been on expanding the public sphere. To foster a stronger and more widespread commitment to social justice, people must engage in public life, see how their activities fit into a social order regulated by the principles of justice, and see how they benefit from these institutions. The democratic corporatist POD expands the public sphere by creating rule-making forums in which workers and owners deliberate with each other about how to regulate their industries. But it is not clear that the mixed POD does anything comparable. Even if almost all production in society took place in worker-controlled cooperatives, these cooperatives would presumably operate as private competitors in the marketplace. Those involved in cooperatives would think strategically with each other about how to beat the competition, but there is no reason to think that they would engage in deliberations that would bring them to conceive of their social order and the ways in which they benefit from it. So there is no reason to think that the mixed POD would generate the same benefits as a democratic corporatist POD.

It is also worth noting that a democratic corporatist POD has no obvious disadvantages when it comes to “economic liberty” in Krouse and McPherson sense. Most corporatist arrangements in the world legally prohibit the formation of large enterprises that do not take part in corporatist decision-making processes, but we could certainly imagine a different kind of arrangement. Society could allow people to form enterprises that take part in corporatist self-regulation or do not take part, and it could use subsidies, tax breaks, and so forth to expand the sphere of corporatist deliberation. It may turn out, of course, that this is very expensive, in which case it may be easier to simply require businesses of a certain size to participate in corporatist self-regulation. But the important point is that a democratic corporatist POD is in exactly the same position with respect to “economic liberty” as a mixed POD.

Finally, some may wonder whether we have an empirical basis for thinking that citizens will have a stronger sense of justice under a democratic corporatist POD. Any discussion of possible institutional arrangements always involves controversial claims about how human beings will develop and act under different circumstances. But there are two sources of empirical support for the stability argument. First, there is a large body of evidence that shows that reciprocity is a fundamental aspect of human nature, one that has played an important role in the evolution of the species, and one that continues to play a role in shaping society, even in the economic sphere (Gintis, Bowles,

Boyd and Fehr, 2005). This lends support to Rawls's general views about how human beings form attachments.

Second, we have a significant body of empirical evidence regarding existing arrangements that are similar to the democratic corporatist POD in important respects. The literature on corporatism has tended to focus on the economic performance of corporatist arrangements (Hall and Soskice, 2001),¹⁶ their historical origins (Katzenstein, 1985; Streeck and Yamamura, 2001), and their prospects for survival in an age of globalization (Kitschelt, Lange, Marks, and Stephens, 1999; Streeck and Thelen, 2005; Gourevitch and Shinn, 2005). But perhaps the best study of the social consequences of corporatism is Arend Lijphart's *Patterns of Democracy* (1999), which takes corporatism as one element of a broader pattern of governance that we see in European social democracies – what he calls “consensus democracy.” Controlling for various factors, consensus democracy is correlated with greater economic equality, higher voter turnout, more spending on social welfare (as a percentage of GDP), lower rates of incarceration, and greater spending on foreign aid (as a percentage of GNP) (Lijphart, 1999, chapter 16; Wilensky, 2002). One reasonable explanation for these correlations is that people who grow up in these societies develop a stronger and more widespread commitment to principles of social fairness and mutual support that are implicit in the political culture.

Conclusion

Rawls envisions a just society as one in which citizens are moved by a liberal democratic spirit, a spirit defined by a commitment to the two principles of justice. Social institutions in a just society are themselves a product of this sensibility, as it moves citizens and legislators to remake their social order in the face of changing circumstances. But the liberal democratic spirit does not come out of nowhere – it must be cultivated and encouraged. On Rawls's view, society nurtures the sense of justice by putting people in a position where they can appreciate how the social order embodies a caring concern for their interests and the interests of the people that they care about.

The problem with a liberal market POD is that it submerges people in economic competition for most of their lives. Instead of putting people in a position to appreciate the caring concern embodied in the social order, it puts people in circumstances where they experience the social order mainly as a frustrating constraint on the pursuit of their own private ends. A democratic corporatist POD, by contrast, lifts people up to give them a different perspective. By participating with others in regulating the parts of the economy in which they are most involved, citizens come to appreciate how the social order contributes to their good and the good of those that they care about. This fosters a more powerful and widespread attachment to the principles of justice, and, in this way, democratic corporatism answers better to the moral ideal of stability.

Notes

1. For helpful comments on previous drafts of this paper and for many discussions about its main themes, I would like to thank Samuel Freeman, Thad Williamson, Martin O'Neill,

- Nien-hê Hsieh, Tim Scanlon, Joshua Cohen, and Carol Gould. I read Stuart White's illuminating contribution to this volume too late to incorporate it into my discussion, but I share his concerns and agree with many features of his argument.
2. Rawls also sometimes says that more substantive considerations may figure into the choice between these arrangements. See Rawls (2001, pp. 178 – 179).
 3. I take it that the process that leads to an agreement is a “deliberation” when: (a) each party wants to adopt an arrangement that promotes his own interests but also gives fair consideration to the interests of others, and (b) each party attempts to convince the others to adopt a certain arrangement by presenting arguments that show that the arrangement advances everyone's interests in a fair way. For the distinction between deliberation and bargaining, see Cohen (1997), Habermas (1996), and Gutmann and Thompson (1996).
 4. Democratic corporatism departs from many mainstream models in that it is not exclusively state-centered. Schmitter (1982), for example, thinks of corporatism as consisting primarily in a form of interest representation at the level of state legislatures and state agencies. Union representation on corporate boards would not obviously count as a form of corporatism on his view. Many modern theorists do not share the state-centered view of corporatism. See, for instance, Cawson (1986), Pekkarinen, Pohjola, and Rowthorn (1992), and Wilensky (2002).
 5. The idea that we can deepen the democratic character of society by strengthening and empowering secondary associations is one that democratic corporatism shares with associationalist theories, such as those developed by Joshua Cohen and Joel Rogers (1993, 1995) and Paul Hirst (1994) (among others). I elaborate on the democratic character of democratic corporatism in Hussain (2009).
 6. Democratic corporatism also departs from many mainstream models of corporatism in that it says that representative bodies must deliberate with each other to reach agreements. Many classical accounts of corporatism share this deliberative perspective. Hegel, for example, thinks of the legislative process as one in which representatives from the various corporations in society (in the lower house) represent each corporation's distinctive perspective on the common good in legislative deliberations. Agreements emerge not through a process of bargaining, but a reasoned discussion about the common good. See Hegel (1991, sections 309–315); see also G.D.H. Cole (1920).
 7. By contrast, in *A Theory of Justice* (1999), Rawls seems to hold the view that it is simply not possible, as a practical matter, for a social arrangement to be stable unless people are moved by a corresponding sense of justice. See Rawls (1999, pp. 401, 431–432).
 8. This raises a question about Rawls's attitude toward the market. The ideal of respecting citizens as reasonable individuals rules out the possibility of arranging society so that people are led to maintain just institutions through a system of incentives alone. But a just POD would rely on markets to provide individuals with incentives to act in ways that improve everyone's life prospects (especially those of the least advantaged). Why is relying on incentives to encourage citizens to engage in the right forms of economic activity not disrespectful to them, when relying on incentives to encourage them to engage in the right forms of political activity is? In either case, it seems that we bypass their moral sensibilities and merely address their rational self-interest. The worry that I raise here parallels the well-known critique of Rawls developed by G.A. Cohen (2008). See Rawls (1999, p. 415).
 9. A person at stage two does not comply with the principles of justice merely strategically, as a means to securing social approval. A person at stage two has a genuine disposition to treat the principles as intrinsically reason giving, but this disposition is causally dependent on the attitudes and expectations of others. So if the people around him stopped expecting others to conform to the requirements of the principles of justice, he would no longer be disposed to treat them as intrinsically reason giving.

10. A moral sensibility that is circumscribed by associational ties has important features in common with the condition that Alexis de Tocqueville (1969) calls “individualism.” See also Stuart White’s contribution to this volume (Chapter 6).
11. Here I follow Edward McClennen’s interpretation of the third principle of moral development (McClennen, 1989).
12. I take it that Rawls himself would not think this is a problem. Rawls’s implicit view seems to be that most people in a just society will not reach the morality of principle. Only the political class – legislators, judges, engaged citizens – will reach this stage, and this is enough to maintain the stability of a just regime. I disagree with Rawls on this point. My argument in the section above on participation in public life suggests why a widespread morality of principle would be better from the standpoint of stability. See also Stuart White’s contribution to this volume.
13. See Rosner (1998). Thanks to Scott Rosner for a helpful discussion about this case.
14. The classic study of democracy in town councils is Mansbridge (1983). For a discussion of local school councils and community-based policing, see Fung (2004).
15. For stability-based arguments for worker control, see Clark and Gintis (1978) and Wolff (1977).
16. Some of the claims made in the enormous literature on the economic performance of corporatist, neocorporatist, and coordinated economic regimes are broadly relevant to social justice, insofar as corporatist arrangements tend toward greater equality in the distribution of income and do a better job of developing skills.

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Property-Owning Democracy

Rawls and Beyond

Edited by
Martin O'Neill and Thad Williamson

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