Chapter 3: The communitarian critique of Rawls

Learning outcomes

By the end of this chapter, and having completed the Essential readings and Activities, you should be able to:

- describe Sandel's and Walzer's criticisms of Rawls' theory of justice, as well as with Rawls' possible replies
- discuss the main issues in the debate opposing liberals and communitarians
- explain why you agree, or disagree, with either school of thought.

Essential reading

Buchanan, A. 'Assessing the Communitarian Critique of Liberalism' *Ethics* 99 (1989): 852–882.

Gutman, A. 'Communitarian Critics of Liberalism' *Philosophy and Public Affairs* 14 (1985): 308–322.

Sandel, M. *Liberalism and the Limits of Justice.* (Cambridge: Cambridge University Press, 1998, second edition), ch 1 and pp.147–173.

Walzer, M. *Spheres of Justice.* (New York: Basic Books, 1983), chapters 1 and 13. Page numbers in section 3.3 refer to this book, unless otherwise stated.

Recommended reading

Kymlicka, W. *Contemporary Political Philosophy.* (Oxford: Oxford University Press, second edition, 2000) chapter 6.

Mulhall, S. and A. Swift *Liberals and Communitarians.* (Oxford: Blackwell, 1996), chapters. 1 and 4.

Okin, S.M. *Justice, Gender and the Family.* (New York: Basic Books, 1989), chapters 3 and 6.

Introductory remarks

Content and aims

As we saw in Chapter 2, Rawls' theory of justice has three central features:

1. An account of how to think about justice: in the original position, behind the veil of ignorance.
2. An account of the relationship between the individual and the community: the individual is prior to the community.
3. An account of the principles of justice which individuals choose in the original position: the liberty principle, the equal opportunity principle, and the difference principle. The latter distributes resources for the benefit of the worst off.

Now, in the 1970s and 1980s, a number of philosophers criticised Rawls' theory. Communitarians, two of whom we shall look at in this chapter, took issue mainly with 1. and 2. Libertarians, whom we shall study in the next chapter, took issue with 3.

There are four important communitarian thinkers:

- Michael Sandel
- Michael Walzer
- Charles Taylor
- Alasdair McIntyre.

We shall focus on Sandel and Walzer because their arguments against Rawlsian liberalism are most relevant to the remainder of the course.

Sandel's criticism of Rawls

Sandel's important book *Liberalism and the Limits of Justice* was published in 1982 and revised in 1998, and launched the communitarian school. It is a reaction to Rawls' theory specifically. According to Sandel, Rawls' theory is flawed in its understanding of the individual self, of the relationship between individual and community, and thereby of the role and function of justice and rights in the community. We shall examine all three aspects of Sandel's critique in turn.

Sandel's critique of the contemporary liberal view of the self

Sandel's critique

Sandel makes two interrelated critical points on the Rawlsian liberal view of the self.

1. First, as Sandel sees it, Rawls' theory rests on an implausible understanding of the self, whereby the self is entirely prior to its ends, which suggests that when we analyse our ends, we must be able to see a self which is separate from them. According to Sandel, this is problematic for several reasons. For a start, that is not how we perceive ourselves. When I talk about me, I do not see myself as a disembodied self. I see myself as someone who is located in time and space, as well as in a network of deep relationships which are important to me. In addition, and contrary to what Rawls suggests, I **identify** with my ends: they are part of who I am (and they would not be part of who I am if I were entirely prior to them).
2. Second, Sandel argues that not only is the self is constituted by its ends; in fact, it does not **choose** its ends. In that respect, Rawls' voluntaristic conception of the self is flawed. Rather than asking, as Rawls and, indeed, liberals in general, do, the question 'Whom do I wish to be, or become?', we should be asking the question 'Who am I?'

In a nutshell, Sandel believes that Rawls' conception of the self cannot make sense of many familiar phenomena of moral life. For example, it cannot make sense of the fact that we can deeply identify with a political cause, for example, or a particular relationship, and that we can feel shaken **to the core** when that political cause or relationship fails. What we feel, in those cases, is not simply that our ends have not been achieved, that our goals have not been met. Rather, we feel that **we** have failed. Similarly, according to Sandel, the liberal conception of the self does not make sense of what happens when we feel torn apart by different commitments to our family, to our friends, and to our country. For if we could simply choose from among those commitments, we would be able to choose, relatively painlessly, which are the most important: we would not feel torn apart. And yet we do feel that way.

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Sandel's point is not merely that, as a matter of fact, Rawls' conception of the person is implausible; it is also that such conception is highly non-neutral, which in turns casts doubt on the plausibility of the claim that liberalism of the kind proposed by Rawls is neutral between conceptions of the good. This is because, if the self presupposed by Rawlsian liberalism is an autonomous and rational chooser of its ends, then it would seem that a liberal polity is one which will privilege conceptions of the good so chosen, rather than those which are adhered to unreflectively by individuals.

The liberal reply to Sandel

1. On Sandel's first point. Rawls does not deny that we are constituted by our ends, that we see ourselves as individuals with conceptions of the good which are an important part of our identity. His claim is that we have the capacity to revise our ends: for sure, it may be that we are not capable of thinking of ourselves without ends at all (and indeed, that is plausible), but we are certainly capable of thinking of ourselves as having different ends in five years, that is, of thinking of ourselves as evolving persons over time. Of course, some individuals do not think of themselves in such a way: they do not envisage having a different conception of the good from the one they have now. But it is nevertheless true that under appropriate circumstances, they should be able to do so. To give a concrete example: an ultra orthodox Jewish woman may not be able to imagine that her life could have taken, or could now take, a different path. But that is likely to be because of her social conditioning, the education, or lack thereof, she has received, etc. The gist of Rawls' view, in fact, is this: what matters about people is that they are able so to revise their ends. This need not presuppose a metaphysical conception of the person as detached from her ends at all times, and able to revise them at all times.
2. On Sandel's second point: Sandel claims that we do not **choose** our ends. Now, Rawls and his followers do not deny that when we choose a conception of the good, our choice is very much influenced by social and familial factors. It would be absurd to deny that. But all they say is that we can reflectively approach such decisions and stand back from the conditions under which we make them. For example, someone may be aware that she chose to be a medical doctor in part because she comes from a medical family; but she may also be aware that she could have gone down another route. She can have reasons for thinking that her choice to be a doctor is a good and worthy one, independently of the fact that she was born in a medical family.

To conclude, for liberals in general and Rawls in particular, human beings **are** capable of thinking of themselves as distinct from their current ends, **and** of revising their ends. In fact, that position makes more sense of the importance of being committed to certain ideals: for commitment is not the same thing as blind allegiance. So Sandel either has to revise his claim that human beings do not have that capacity, or to argue that even though they are capable of revising their ends, they should not be encouraged to do so. And sometimes, this is what he seems to say, that individuals should not be so encouraged.

Activities

1. Outline for yourself Sandel's account of the self.
2. Think about the way you lead your life, and ask yourself whether your goals and beliefs are constitutive of who you are, or whether you stand apart from them.
3. Do you think that the liberal reply to Sandel is satisfactory?

Sandel's claims about the relationship between the individual and the community

Sandel's position

According to Sandel, liberalism goes wrong in its understanding of the relationship between the individual and the community. On his view, liberals underplay, and undermine, the importance of the community. In fact, he makes several different claims along those lines.

1. First, according to Sandel, the liberal individual is self-interested and self-seeking, and regards communal attachment in a purely instrumental way, as what furthers his own interests. Sandel here invokes in support of his criticism Rawls' view that society is a scheme of social cooperation whose members produce benefits for, and impose burdens on, one another – the aim of justice being to decide how to allocate those burdens and benefits. As Sandel argues, society so understood is very different from many other, richer, fuller conceptions of the communal life.
2. Second, the liberal individual does not accept obligations which he has not voluntarily placed on himself. Such is the gist of the social contract tradition, in which we are bound to obey a rule to the extent that we consent to it. That view, according to Sandel, extends to the private sphere, particularly to the realm of familial relationships, and does not make sense in that context. For example, we do not choose whether or not we have obligations to our parents: we simply have them, period. Likewise, we cannot legitimately walk out of our relationship with, and commitment to, our children.
3. Third, the liberal individual retreats into the private sphere, and is not thought to attach importance to communal, and political, ways of life. Thus, the liberal individual is not in any way obliged to take interest in the political and social matters of the community. Again, according to Sandel, this is a very impoverished conception of the relationship that ties the individual to his or her community.

The liberal reply to Sandel

Before outlining the liberal reply to Sandel's criticisms, it is important to see that those criticisms tie in with his criticism of the Rawlsian self. According to Sandel, it is precisely because the Rawlsian self is detached from its ends, which it regards as something we choose, that it treats communal attachments in instrumental ways, that it regards its obligations to others as commitments which it can choose to walk away from, and that it need not pay interest to the communal life. Is Sandel right, though? The following three points are worth noting.

1. For a start, at first sight, the device of the social contract seems to support Sandel's first and second points. For in social contract theory, individuals come together and agree to subject themselves to a political authority; in so far as they contract with one another, they voluntarily undertake to comply with the laws. Moreover, in the social contract tradition, individuals form a community because it is in their interest to do so. In Hobbes' and Locke's theory of political authority: it is precisely because we cannot survive in the state of nature, where there is no state to rule over us, that we contract to obey a sovereign.

   However, Sandel's point is overstated. As we saw in the previous chapter, Rawls' social contract is very different from Hobbes' and Locke's. In the latter's theories, one's obligations to fellow 'contractors' derive from the contract. In Rawls' case we must comply with the principles of justice

because they are just. To reiterate, the point of the contract is to get at just principles. Generally, it is simply not true that Rawls and his followers rule out non-voluntary obligations such as those one has to one's elderly parents. Liberals accept that we may have such obligations, but they would deny that those obligations are such as to lead us to sacrifice even our most important ends. There is a limit, in short, to what we are under a duty to do for others. To be sure, Sandel might press his case and insist that we are under a duty to sacrifice ourselves for our children, or our country. But the question is how far he – and, indeed, other communitarians – would be willing to go. Would he be willing to say, for example, that a parent is under a moral obligation to risk certain death for the sake of rescuing his child? Perhaps he would. Be that as it may, the disagreement between Sandel and Rawls, then, pertains not to the existence of non-voluntary obligations but, rather, to their content.

2. Second, it is not true that communal attachments are only instrumentally important for liberals. In A Theory of Justice, Rawls explicitly says that individuals do form associations (religious, cultural, etc), as part of their conception of the good. Society, in that sense, is a 'union of social unions.' Regarding political and communal participation more specifically, liberals in general and Rawls in particular accept that these are crucial: hence the importance attached to the rights to vote and run for office.

   Still, Rawls' point is that although one must participate politically as a citizen, and although one can, in one's private life, pursue one's understanding of the good, that understanding should not be promoted by the state as the only one that is valuable. To reiterate, the state, for Rawls, should be neutral between conceptions of the good. As we shall see soon, Sandel does not think that the state should be neutral: instead, it should promote the community's way of life. And that is a major difference between those two thinkers.

3. Third, although the social contract figures prominently in Rawls' thinking, it would be a mistake to infer that this device is necessarily individualistic. Rawls assumes that the parties in the original position are individuals who represent families. But as Allen Buchanan argues in his 'Assessing the Communitarian Critique of Liberalism', there is nothing which precludes him from thinking that the parties can also represent **communities**. In fact, Rawls does take that view in his later works, particularly The Law of Peoples.

Activities

1. Outline for yourself Sandel's account of the relationship between the individual and the community.
2. Do you agree with the liberal reply that the social contract can make sense of the importance of communal attachments?

Sandel's criticism of liberalism's emphasis on rights and justice

As we have just seen, Sandel does not think that the state should be neutral between conceptions of the good: instead, it should promote the community's way of life. This point stems from Sandel's accounts of the self, and of the relationship between individuals and their communities. But it is also part of a larger claim about rights and justice. In a nutshell, according to Sandel, liberalism attaches far too much importance to individual rights.

Sandel's critique of rights discourse

Sandel's criticism at this point takes the following form:

1. First, rights fail to promote community values. Consider the right to freedom of speech. If it is given the kind of protection which it enjoys in, say, the United States, it violates important community values such as repugnance about pornography. For anyone involved in the pornography industry can then oppose any attempt to curb pornography, on the grounds that such attempts constitutes violations of the right to freedom of speech. But what if we, as a community, wish to protect our children from pornographic material? What if we, as a community, believe that pornography degrades women and should be censored? Why should we not do so? Why does the individual right to publish and express whatever one wants should be given such priority?
2. Second, rights promote an individualistic, in fact a selfish and egotistic ethos. This is because rights-discourse focuses on who has rights, individually, without considering individuals in a wider social context. In particular, rights discourse allows those who have rights to impose demands on others at the expense of richer, less confrontational relationships. If I see myself as a rights-bearer, I am more likely to want to assert my rights at the first opportunity, instead of adopting a more conciliatory approach. If I see that others primarily perceive themselves as rights-bearers, I am more likely to take a defensive stand, and to assert **my** rights, in response to the demands they might make on me.
3. Third, rights, and justice in general, can only be seen as a remedy to social conflicts. But if we were united as a community, and if we had a shared understanding of the values we want to pursue and the ways we want to treat each other, rights and justice would not be necessary. The core question, then, is how to develop those understandings, not how to deal with the fact that we do not have them. We should aim at bringing about a world in which we will not need to invoke our rights against others, rather than concentrate, as liberals do, on deploying rights whenever we are dissatisfied with the world.

The liberal reply to Sandel

Liberals, who are indeed committed to rights, have replied to Sandel as follows.

1. For a start, it is not true that rights fail to promote community values. In fact, political rights enable individuals to set up communities, and to work out community values. After all, it is through the affirmation of the right to political participation that national communities have been able to claim statehood, and that citizens, once constituted in a state, can shape the affairs of their political communities.
2. Second, to be committed to rights discourse is compatible with acknowledging the importance of having caring relationships with other people. In fact, it is entirely compatible with the claim that people are cared for and receive help within these relationships, of which familial relationships are a paradigmatic example, without rights even being invoked. Being committed to rights means being committed to the claim that in cases where these relationships do not obtain in the first instance, or break down, people are treated in decent ways, and can demand to be so treated. Take the case of children's rights. To say that children have rights to be fed, clothed, and well cared for, as well as rights not to be abused and exploited, does **not** mean that the main model of relationships between parents and children is conflictual.

What it means is that, in cases where parents fail their children, as they sometimes do, the latter should be able to get redress. Similarly, to say that husbands and wives have rights against one another is not to deny that marriage should be characterised by love, affection, and mutual support. Rather, it is to say that **when** the marriage breaks down, spouses have means of redress. According to the liberal reply, the communitarian critique loses its bite once it is recognised that it has very little to say on these cases where relationships do break down.

3. Third, to complain that justice and rights are only remedial implies that a community where people disagree with one another is defective. But why should that be the case? The claim makes sense only if one has in mind an idealised community where conflicts simply would not arise. Here it pays to note that even in a community marked by friendship-type, fraternal relationships between individuals, disagreements will arise, and principles for the resolution of those disagreements will be needed. Citizens will still disagree about, for example, the best way to allocate resources amongst themselves. They will also disagree on very complex issues such as cloning, abortion, immigration, and so on. That there are such disagreements need not suggest that the community in question is flawed. Unless one thinks that diversity no matter how minimal is always bad and to be regretted, it is hard to see why the fact that justice is remedial is problematic.

Activities

1. Outline for yourself Sandel's criticisms of liberal rights discourse.
2. Assess the liberal reply.
3. Think about the following question. Sandel supposes that a Rawlsian liberal could not advocate restrictions on individual rights such as, for example, the censorship of pornographic material. Is that right? What would an individual say on this issue in the original position?

Walzer's critique of Rawlsian liberalism

Michael Walzer's *Spheres of Justice* (published in 1983) is another important communitarian text. Whereas Sandel focuses on the individualistic strand in contemporary liberalism, Walzer is more interested in;

a. how to think about justice and

b. how to distribute goods.

In *A Theory of Justice*, Rawls claims that the principles of justice apply universally, to all individuals irrespective of their culture. For in so far as the parties in the original position do not know important facts about themselves, they do not know which culture them come from. As a result, the principles they choose are not influenced by this particular fact.

Rawls is not alone, among liberals, in thinking that principles of justice – principles which allocate freedoms, rights and resources amongst individuals – apply to all individuals and all states, no matter their specific culture. (At least this is what he thinks in *A Theory of Justice*; as we shall see in section 3.4, in his later work, he seems to move closer to Walzer's position.) Walzer denies that this is the case. Moreover, Rawls and contemporary liberals assume that resources, or primary goods, should be distributed according to one principle, irrespective of the kind of goods they are. Again, Walzer disagrees: according to him, we should distribute goods according to their social meaning. This leads to what he calls a theory of complex, as opposed to simple, equality. Let us examine each claim in turn.

Walzer's particularistic conception of justice

Walzer's view

According to Walzer, a just society is not one which treats its members according to some universal principles: 'a given society is just if its substantive life is lived in a certain way – that is, in a way faithful to the shared understanding of its members'. (p.313). As he also puts it, 'justice is rooted in the distinct understandings of places, honors, jobs, things of all sorts, that constitute a shared way of life. To override those understandings is (always) to act unjustly.' (p.314).

This conception of justice is particularistic because it is tied to the particular understandings of jobs, goods, etc. of the individual members of a given society. And the reason, in turn, why Walzer thinks that justice is particularistic is this: we are one another's equal, and in particular are producers of social meanings. To respect one another as equal producers of such meanings is to show respect for other people's opinions, and not to impose on them a conception of how they should live with which they do not identify. For example, Walzer notes that Athenians in the fifth and fourth centuries BC used public funds to subsidise gymnasiums and public baths, not to help the very needy (p.67). Likewise, a caste-society, with an extremely inegalitarian distribution of resources, power, etc., is just, according to that society's own conception, if members of that society subscribe to it. Who are **we** to say that the Athenians were wrong, that the members of the caste-society are misguided? On what grounds do we deem ourselves justified in imposing on them values which they reject? After all, we ourselves, as members of liberal societies (which Walzer targets) believe that all human beings are worthy of equal respect. Should we not, therefore, live by that principle when approaching different cultures? Incidentally, and importantly for arguments about global distributive justice which we shall examine later on, if Walzer is right, then it is hard to see how one can conceive of justice as applying across borders, since different national communities have different conceptions of how they want to allocate their resources.

Walzer, in effect, is making both a conceptual and a moral point against the kind of universalism displayed by Rawls and other egalitarian liberals. Conceptually, the goods which are distributed have a meaning which is not universal, but which is shaped by the social and cultural milieu within which they are distributed. Morally, those meanings are produced by persons, who are deserving of respect. These two points support the view that goods should be distributed on the basis of such meanings.

The universalistic liberal response to Walzer's view

According to universalistic liberals, there are a number of problems with Walzer's account of justice.

1. First, the claim that we ought to show respect for other people's opinions does not entail that their opinions shape principles of justice; or to put it the other way, that a society where those opinions prevail is a **just** society. One may think, on the one hand, that justice dictates certain social, economic and political arrangements, and, on the other hand, that if there is a conflict between justice and individuals' opinions, the latter should prevail. That is to say, in case of a conflict between justice and societal values, one may think that the latter should prevail. Take the example of capital punishment. Many universalistic liberals argue that it is deeply wrong to put

criminals (even the worst of them) to death – that a society which condones capital punishment is guilty of an injustice. However, some of them would argue that if a particular society decides to have capital punishment, then we should respect its decision, even if we think that it is an unjust one.

2. The claim that we are one another's equals is much more controversial than Walzer acknowledges. Many cultures would disagree that all human beings have equal moral status. There are countless examples, throughout history, of societies which believe that blacks, Jews, Arabs, women, gays, are inferior beings. But if the claim that they are not inferior beings is true, as Walzer believes that it is, even though it is not universally held, why rule out the possibility that other principles can be deemed normatively correct, even though they are not universally held? Why deny the possibility that **all** human beings ought to have their basic needs met, as a matter of justice (and thus why not say that Athenians were acting unjustly when refusing to alleviate severe poverty)? Why not say that the caste system is unjust?

3. Third, and relatedly, the claim that we cannot deem a practice unjust if it is true to a given society's social meanings is controversial: how far would Walzer push it? That is not made clear in Spheres of Justice. For example, in Chapter 3, he asks whether it is permissible for a government to let people starve, and argues that it is not, on the grounds that a community by definition does not let its people starve. The British let the Irish starve in the 19th century, during the infamous potato famine, and that was a clear sign that the British did not consider the Irish to be part of their community: if they had, Walzer claims, they would not have let the Irish starve. Now, Walzer may be right about that particular example. However, there are many counter-examples of communities which have let their people starve, or suffer terribly. Walzer would claim that they are not proper communities. But what if they say that they are? On what grounds can he take issue with their understanding of themselves as a community? After all, he himself insists that we should treat individuals' values, and the societal values which they underpin, with respect.

   Moreover, it is not entirely clear whether Walzer really believes that policies of that kind, where a community inflicts suffering, or lets die, some of its members, are actually permissible. In Spheres, Walzer invokes universal principles when discussing some state practices. For example, he claims that guest workers who have stayed in a foreign country for a while should be granted citizenship rights (pp. 59–60). Yet, he does not refer to those countries' cultural practices and shared understandings to support his argument. That does not seem consistent with his overall theory.

4. Walzer's understanding of how we must think about justice is relativistic. Like all relativistic theories, it is vulnerable to the objection that unless it is completely relativistic, it must be able to explain why some practices are acceptable whilst others are not. To go back to a point made earlier, Walzer needs to explain why the principle that we should treat one another as equal has universal value, whereas other principles which seem to derive from it lack universal values.

   Moreover, there are two further problems with relativism. For a start, relativistic meta-theories of justice violate many of our deeply shared understandings. Thus, universalistic liberals – in their societies think that slavery is egregiously wrong. Why should they accept as just societies which deem it acceptable? Moreover, how are shared understandings of justice to be identified? Communities are not

homogeneous, and their members will disagree amongst themselves. In some communities, some people believe that women are second-class citizens, whereas other people believe that women should have the same rights and freedoms as men. How are we to deal with those cases? Walzer faces the following dilemma. Either conceptions of justice are so particularistic (so tied to the particular social milieu in which they are developed) that it is impossible to adjudicate between them, in which case it is hard to see how those disagreements can be resolved, and what role there is for the critic and political theorist. Or it is possible to adjudicate between conflicting theories, in which case we have to broaden the horizon of justice, so to speak, and refer to less particularistic understandings of justice. In the latter case, the political theorist can criticise, and try and persuade some of the members of that society that their interpretation of justice is wrong.

5. In order to say that a given society has a given set of shared understandings, we must be able to identify whose understandings those are, and, in turn, to identify the processes by which they are articulated. As Okin argues in her book Justice, Gender and the Family, once we do that, however, we come to realise that, in most societies, those supposedly shared understandings are, in fact, those of the powerful classes. Far from being shared, those understandings are shaped and articulated by privileged groups – the dominant race or ethnic group in societies organised along racial lines, the dominant gender in most societies.
6. This leads us to a final, sixth, point. Walzer assumes that the site of justice, where justice takes place, is a political community in which individuals can be producers of social meanings. He thus rules out local communities, as well as supra-national, and trans-national, communities. But he does not really explain why. That is a weakness which we will encounter again when looking at global principles of justice and multiculturalism.

Activities

1. Outline for yourself Walzer's particularistic theory of justice
2. Assess the universalistic reply. Do so by focusing on concrete examples: do you think, for example, that it was wrong of Athenians not to relieve poverty so as to fund public gymnasiums? Do you think that a community which lets its people starve really is a community? Do you think that a society which condones capital punishment is an unjust society?

Complex versus simple equality

Walzer's theory of complex equality

As we have just seen, Walzer believes that justice is culture-specific. He also argues – and this is his theory of complex equality – that a just society is one where different goods are distributed according to different procedures (p.6). Note that those two claims are different: you can agree with complex equality (we should use a different metric for different goods) and disagree that the distributive principles are culture-relative. Or you can agree that justice is culture-relative, and deny that goods should be distributed according to different principles (the caste society example shows that, for in such a society, goods are distributed according to one principle, i.e. caste membership.) It is the combination of those two claims which gives Walzer's theory of justice its specificity.

What is complex equality, exactly? According to Walzer, different goods (membership, money, jobs, prizes, etc), operate in different spheres of distribution. According to complex equality, the fact that I am poor, that is, worse off than someone else in the sphere of money, should not make me worse off than they are in the sphere of power, or, say, of medical care. To put the point differently, access to medical care should not be dependent on one's income. Under complex equality, no good is dominant, that is, no good can be used in ways which violate its social meaning and which give access to other goods in other spheres. In other words, exchanges between spheres must be blocked. To give a simple example, if, in our society, we believe that health care should be distributed on the basis of need, then we are justified in not allowing people to buy and sell organs. Likewise, if we believe that political power should be distributed on the basis of birth, we are justified in not allowing people to buy their way into public office.

Walzer contrasts complex equality with simple equality. According to him, contemporary liberals in general, and Rawls in particular, endorse simple equality, whereby one good – typically money – is dominant. The question, then, is whether Walzer succeeds at defending complex equality as a genuinely egalitarian theory of justice – one which makes sense of, does justice to, the claim that we are one another's **equals** as producers of social meanings.

To reiterate Walzer's point: no good can be used in ways which violate its social meaning and which give access to other goods in other spheres. Under complex equality, some people will outrank others in some spheres, but others will do better in other spheres; we will have, roughly, equality of social status.

Assessing complex equality

The ideal of complex equality appeals to an intuition which many would share, namely that possession of one characteristic, or one attribute, should not affect all dimensions of our lives. It pays to note that, from a feminist point of view, this ideal calls for a radical reshaping of nearly all existing societies and cultures, since gender, in those societies and cultures, is precisely an attribute of individuals which does determine how they will fare in the spheres of money, political power, access to jobs, and so on. As Okin notes in her *Justice, Gender and the Family*, however, it also pays to note that the ideal of complex equality is in tension, in that regard, with Walzer's insistence that we respect the shared understandings of communities of people, since, more often than not, those shared understandings are, in fact, those articulated by the largely male dominant classes, and work to the detriment of women. Setting that issue aside, however, the ideal of complex equality calls for the following, critical remarks.

1. It is true that the idea that different goods ought to be distributed differently has some appeal: we **do** tend to think that political offices are not for sale, although we may disagree as to whether they should be distributed on the basis of birth or elections. Likewise, many people find it plausible that access to health care should not depend on one's purchasing power.

   But that does not necessarily point towards an alternative to simple equality. Walzer's theory of complex equality works as an alternative to simple equality only if it says not merely that different goods should be distributed differently, but also that they should be distributed according to their different **social** meanings (that is, as we saw in section 3.3.1, according to the meaning conferred on them by members of society). But if everybody had equal amounts of money, we would

not worry so much about, say, money-based inequalities of access to health care: for such inequalities would be more likely to result from people's choice as to whether to purchase health care or not. To put the point differently: it is not that we think that there is something inherent about health care that precludes its distribution on the basis of money; rather, we think that individuals should have **equal** access to health care, whether or not they choose to avail themselves of it.

2. Walzer assumes that a good has one social meaning in a given society. But in fact, it may have several, not in the sense that different people attach a different meaning to it, but in the sense that everybody, or most people, attach different meanings to it. For example, in capitalist-liberal democracies, jobs have different meanings. One of their meanings is that they are positions which should go to the most qualified individuals. Their other meaning is as a good which confers status on those who have it, in so far as we need to have a job in order to be fully respected. So we could potentially have two, and conflicting, distributive principles at play for jobs, namely merit and need. The theory of complex equality does not tell us which one we are to choose; nor does the view that we should respect people's social meanings, since for the meaning of that particular good, jobs, is in fact dual.
3. There are moral considerations which cut across spheres, and which are important in our moral thinking. Take the notion of individual responsibility. For many, it applies to goods which we need, such as health care. On that view, the fact that I need health care may not be enough for me to get it: it has to be the case that I am not responsible for getting ill in the first instance. But responsibility is also thought to apply to goods which we deserve, such as punishment, so that I will be punished only if I am morally responsible for my actions. But the idea that spheres should remain independent of each other does not account for that phenomenon.
4. When do we know when equality obtains? Suppose that some people outrank others in all, or most spheres. To what extent do we really have a ~~society where complex~~ **equality** is achieved? ~~Suppose~~ further that one's high ranking in one sphere can be converted in high ranking in other spheres. Then we will not have equality of social status. Walzer would reply that this is the very reason why exchanges between spheres must be blocked. But it is unclear that blocking exchanges is feasible: in fact, there is evidence to suggest that people want to see some correlation between, say, high academic achievement and earning power. More fundamentally, to return to the point made earlier, such blocks contravene individual freedom.

Activities

1. Outline for yourself Walzer's theory of complex equality.
2. Assess it by reflecting on the following: can you think of examples of goods which, in your society or culture, have several meanings? Do you agree that some exchanges between spheres should be blocked? That blocking them is possible?

Rawls' response: political liberalism

In 1993, Rawls published his second major book, *Political Liberalism*, in which he clarifies a number of the claims he made in *A Theory of Justice*, partly in response to the communitarian critique. In this section, we shall focus on some strands of the communitarian critique, and on Rawls' response in *Political Liberalism*.

The communitarian critique which we examined in this chapter makes – amongst others – the following two claims:

1. Rawls' metaphysical conception of the person – of what the person is, as detached from her ends – is implausible, and very controversial. Unsurprisingly, Rawls' claim that his conception of justice is universal in scope – applies regardless of time and space – is implausible. In fact, his conception of justice is value-laden.
2. Rawls' theory of justice neglects the importance of communal goods and attachments in individuals' lives.

In *Political Liberalism*, Rawls makes the following points in response to those claims:

1. His conception of justice is **political**, and not comprehensive. That is, it rests on a political conception of the person; it applies to the basic political and social institutions of society, and not to all its institutions.

   In saying that his conception of the person is political, Rawls is affirming, explicitly, that persons, on his view, are capable, and ought to, detach themselves from their ends and attachments when thinking about principles of justice. He is not supposing that they are capable, and ought to, detach themselves from their ends, in their everyday lives, as parents, churchgoers, workers, members of associations, etc. Which is why he also believes that his conception of the person, political as it is, is compatible with a variety of comprehensive, metaphysical doctrines about what persons actually are.

   Relatedly, in saying that his principles of justice apply to the basic structure, that is, to society's major political and social institutions, Rawls is quite clear that the scope of justice is limited, and thus that individuals, in their private lives, again, as parents, church-goers, association members, etc., can deploy, and pursue, a variety of comprehensive, moral conceptions of what the good life is.
2. Far from being actually universal, his theory, Rawls claims, makes sense of the fundamental and shared ideals constitutive of a democratic society. In here, then, he echoes Walzer's claim that a theory justice should be sensitive to the social and shared understandings of a given community at a given time. Whether, on Rawls' view, it is desirable that all societies should become democratic is another question.
3. Far from being insensitive to the importance of communal goods, his theory of justice, he claims, is clearly one in which citizens attach importance to the value of political participation, and unite, as citizens, around the shared communal goals of realising justice.

   Thus, Rawls, in Political Liberalism, seems to qualify A Theory of Justice in some important ways. And the reason, in turn, why that is so, is what he calls the fact of reasonable pluralism. In democratic and diverse societies, he notes, individuals will hold different comprehensive moral and metaphysical doctrines. Respect for individuals requires, therefore, that we come up with a theory of justice which does not presuppose the truth of any such doctrine – which is **political** in that individuals, as rational and moral **citizens**, can all endorse it, regardless of their own comprehensive moral doctrines. This, in turn, requires that, when we try to justify to one another why we should adopt a given principle of justice rather than another, we must deploy in support of our conclusion reasons which all can endorse. Those reasons, which Rawls calls **public** reasons, must thus be unhinged from comprehensive moral, metaphysical and religious doctrines.

What can Sandel and Walzer make of this response? They will find Rawls's departure from his initial universalistic aspirations congenial to their own theories. However, they are likely to remain unconvinced by Rawls' insistence that his theory of justice is truly political, rather than comprehensive. For a start, they (and some other liberals) might want to say that, in fields such as abortion and bioethics in general, we must know what a person is before we can decide, for example, whether the foetus qualifies as a person, and thus whether abortion is morally permissible and should remain legal. In so far as such decisions pertain to what the law should say, they apply to the basic structure, and are within the scope of a theory of justice. Theories of justice, thus, cannot hope to avoid making metaphysical assumptions about what persons are.

Relatedly, Rawls' account of justice as deployed in Political Liberalism draws a sharp distinction between the personal and the political domains. In the political domain, he argues, we ought to detach ourselves from our ends; but we need not do so in the personal domain. Is it likely, communitarians might want to ask, that we can behave so differently depending on which domain we operate in?

Finally, although Rawls does acknowledge that communal goods, most notably political goods, are important to individuals, he is clear that the good life ought not to be defined as the political life. He is, in short, opposed to the ideals articulated by so called civic humanism. Those communitarians who endorse civic humanism will not be satisfied by Rawls' Political Liberalism.

Conclusion

To recapitulate, according to liberals, Sandel charges liberals with advocating a unencumbered self; he also criticises their understanding of the relationship between individual and their communities, as well as the overriding importance they attach to rights. According to liberals sympathetic to Rawls, Sandel is wrong on all counts. Having said that, liberals have been led by his criticisms to be much clearer about the role of communities in their thought. In particular, they have been led to develop understandings of rights which make sense of the importance of political participation.

Walzer, on the other hand, pays particular attention to the universalistic tendencies of Rawls' theory, and of the liberalism which it underpins. On his view, principles of justice are not universal in scope: rather, they are dependent on the social milieu within which they are articulated. More specifically, they distribute goods and burdens on the basis of the social meanings which individuals, socially situated as they are, attach to them. In so far as we must respect individuals as equal producers of social meanings, we must respect the principles of justice which they choose, even if we think that they are wrong. In fact, at times he goes as far as to say that we cannot even say that they are wrong. Moreover, we must distribute goods on the basis of their social meanings, and not according to one single principle. As we saw, however, universalistic liberals will remain unconvinced. In particular, given his overall theory, it is unclear whether he can invoke some universal principles to condemn, for example, a decision by a community to let some of its people starve. To put the point differently, a particularistic theory of justice such as his must account for cases where particularism is not acceptable. Note,

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though, that liberals such as Rawls in his later works, who concede that some of the disagreements that arise between individuals are **reasonable** face a similar problem: they too must be able to account for cases where disagreements are not reasonable. And so it seems, then, that the difference between communitarians and non-absolutist liberals such as Rawls pertains, not so much as to whether there **are** universal principles of justice, but, rather, as to which such principles are universal, and which are not.

One final point. Not all liberals sympathetic with Rawls' *A Theory of Justice* have accepted his qualifications as made in *Political Liberalism*. Quite a few of them would insist that principles of justice must be conceived of as universally valid, that they cannot but rest on a comprehensive moral and metaphysical doctrine, and that liberals ought to be quite clear that this is the case. Rawls, they would argue, has in fact become, and regrettably so, a communitarian. Far from being a convincing re-interpretation of, and elaboration upon, *A Theory of Justice* (as Rawls claims it is), *Political Liberalism* is a betrayal of its true spirit. Assessing this particular criticism of Rawls is beyond the scope of this guide. Suffice it to say that, from now onwards, when we talk of Rawlsian justice, we shall mean the theory of justice to be found in *A Theory of Justice*.

A reminder of your learning outcomes

Having completed this chapter, and the Essential readings and Activities, you should be able to:

- describe Sandel's and Walzer's criticisms of Rawls' theory of justice, as well as with Rawls' possible replies
- discuss the main issues in the debate opposing liberals and communitarians
- explain why you agree, or disagree, with either school of thought.

Sample examination questions

1. 'There are far fewer differences than similarities between liberals and communitarians.' Discuss.
2. 'Rawls fails to pay proper attention to the importance of community attachments.' Discuss.