

**Liberalism, Communitarianism and Neutrality:
A Hegelian Critique of Contemporary Political Philosophy**

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Introduction

The question of justice is an intriguing but difficult problem for contemporary societies. Establishing plausible principles of justice that can be shared is essential to maintaining social cohesion and stability in a free society. In the past, the question of justice could rely on a shared substantive theory of human nature and the good. However, the lack of a common moral or religious perspective in pluralist democracies forces us to consider fresh approaches to the justification of principles of justice. In seeking a theory of justice that can allow for and arbitrate between rival conceptions of the human good, contemporary theorists attempt to invoke arguments from universal necessity and agent neutrality that do not depend upon substantive moral philosophies. This supposedly metaphysically neutral approach to the problem of justice is pursued by liberals who recognise, along with John Rawls, that:

Given the profound differences in belief and conceptions of the good at least since the Reformation, we must recognise that, just as on questions of religious and moral doctrine, public agreement on the basic questions of philosophy cannot be obtained without the state's infringement of basic liberties. Philosophy as the search for the truth about an independent metaphysical and moral order cannot...provide a workable and shared basis for a political conception of justice in a democratic society.¹

The most significant recent attempt to secure the neutrality of principles of justice has been John Rawls' *A Theory of Justice*. In his influential book, Rawls searches for a description of rational agency that is neutral between members in a pluralist society, acceptable to all and a sufficient basis from which to begin a procedure of defining principles of justice. Following Kant's *Groundwork for the Metaphysics of Morals*, Rawls maintains that by imagining ourselves behind a *veil of ignorance* - where we have no knowledge of our particular beliefs or interests - we can arrive at a

¹ John Rawls, 'Justice as Fairness: Political not Metaphysical', in *Philosophy and Public Affairs*, vol.14 no.3 (Summer 1985, pp.223-251), p.230.

neutral description of political agency from which to begin a discussion regarding principles of justice. As such, adhering to a Kantian understanding of Rawls' theory, Rawls attempts to restore neutrality to justice by appealing to a universal ground of agency in abstraction from the contingency of our particular beliefs and interests.

Rawls' attempt to locate a universal starting point for a debate regarding justice has provoked much criticism. Many philosophers and political scientists see attempts to assert the universality and neutrality of liberal principles of justice as dangerous and philosophically naïve. Communitarians claim human beings are fundamentally embedded in history. No human being within history can achieve a timeless perspective on agency or justice. Our theories will always depend upon previous analysis and discovery and on the influence of our cultural peers. To suppose that we can negate the influence of history and our peers on our thought is to rely on an anthropology that is completely unrealistic, too abstract, and morally dangerous.

The notion of escaping into a realm of entirely universal maxims which belong to man as such, whether in its eighteenth-century Kantian form or in the presentation of some modern analytic moral philosophies, is an illusion and an illusion with painful consequences. When men and women identify what are in fact their partial and particular causes too easily and too completely with the cause of some universal principle, they usually behave worse than they would otherwise do.²

The debate between liberals and communitarians regarding the possibility of arriving at neutral and universal principles of justice is extremely important. Liberals reflect a transcendental approach to human reason and justice while communitarians embody an historical and hermeneutic approach to values and reason, arguing that reason unfolds in history rather than punctually in an a-temporal beyond. With our 21st century appeals to notions of universal human rights, international justice and the inviolable dignity of the human person, the approach we take to reason and universality will be

² Alasdair MacIntyre, *After Virtue* (London: Duckworth, 1985), p.221.

of major consequence. If we are to accept a model of reason that asserts historical dependence can we ever hope to be able to rise above our own particular circumstances to a position of inter-cultural reflection or autonomy? Must we resign ourselves to cultural and historical determinism? If, on the other hand, we are to claim a capacity for universal judgement and rationality how are we to explain the significant historical differences between the theories of justice, social values and ideas of freedom that have arisen in history? How are we to describe our ascertainment of the universal perspective from within history? Can our theories regarding justice ever really be *neutral* and universal, and if not, must we abandon all claims to universal rights and inviolable moral dignity?

Communitarianism and liberalism both highlight fundamental aspects of human understanding. It is a feature of our appeals to principles of justice and morality that such appeals are universal. It is the appeal to universality that gives theories of justice and morality their normative significance. However, it is also the case that our so-called 'universal appeals' are made from historical perspectives and that the content of these appeals has altered significantly over time. It is an unavoidable paradox of the human understanding that we demand a notion of a transcendental view from nowhere for our belief in normative values and yet, as finite and historical beings, such a demand appears beyond our capabilities. This is a difficulty that cannot be easily resolved. Human consciousness has universal and historical aspects. We cannot neglect either of these aspects completely. To side whole-heartedly with a Kantian form of liberalism is to elevate human understanding to a utopian position beyond history while to condemn understanding to historical determination, as some extreme forms of communitarianism suggest, is to sever from consciousness the normative features that lead us to pursue particular theories of morality, justice and the good.

It is the aim of this thesis to suggest that neither liberalism nor communitarianism alone can provide us with a sufficient theory of justice or adequate understanding of neutrality. What is required is a form of liberal communitarianism that can recognise both the normative significance of universal appeals and the contribution of history and tradition to moral and political thought. In making such a paradoxical assertion I appeal to Hegel's dialectical theory of human consciousness, using Hegel's theory as a critique of both liberalism and communitarianism. Hegel's dialectical theory highlights the role of history in understanding but also suggests that the idea of universality provides consciousness with a crucial intellectual carrot that enables us to develop our concepts and ideas through history. The human understanding requires both a historical setting and a universal point of direction. In response to Hegel's demand for a liberal communitarianism, I attempt a dialectical interpretation of Rawls' *A Theory of Justice* that recognises the historicity of our theories regarding justice - and so depends upon traditions of moral and political inquiry - but which nevertheless refuses to abandon the normative appeal to universality.

Chapter 1: Justice, Neutrality and the Contemporary Debate

Liberals maintain that principles of justice within free and pluralist societies must be metaphysically and religiously neutral. They must be ascertainable on the basis of rational judgement alone and cannot depend upon a particular theory of man or an idea of the common good. This approach to justice marks a radical break from the classic Aristotelian approach that dominated ethics for many centuries. Liberalism, it is claimed, reflects a Kantian approach to morality - one that seeks to avoid all manner of contingency in justifying its principles.³ In arriving at principles of justice, liberals, such as John Rawls, seek to abstract from the differences between people in a multicultural society and to encourage individuals to select principles of justice that can be universally adhered to. This method of arriving at principles of justice is frequently referred to as the method of 'rational construction'. It is hoped that in situations of rational construction people would ignore their individual preferences and rely instead on a common ground of reason to define principles to regulate society.

Being able to establish principles of justice from a neutral perspective is of fundamental importance for liberals. Neutrality gives principles of justice a universal necessity that overrides the contingent features of social change through history, providing heterogeneous societies with stability and constancy. By requiring people, despite their significant differences from each other, to conceive of justice in universal terms, we should arrive at a theory of justice that is suitable to all people.

³ 'Everyone must grant that a law, if it is to hold morally, that is, as a ground of an obligation, must carry with it absolute necessity;...therefore, the ground of obligation here must not be sought in the nature of the human being or in the circumstances of the world in which he is placed, but a priori simply in concepts of reason.' [Immanuel Kant, *Groundwork of the Metaphysics of Morals*. Translated by Mary Gregor (Cambridge: Cambridge University Press, 1997), 4:389.].

It is a feature of our appeals to justice that they have a morally binding weight upon us. So, it is argued, such principles should invoke universal necessity rather than contingent interest for their support. If it can be shown that we can arrive at principles of justice in a universal manner, then such principles should take precedence over any other contingent theories or interests that we might have. However, while the assumption of neutrality is indeed a normative feature of our thinking regarding justice, demonstrating the neutrality of our appeals is a very difficult and problematic task. Many philosophers deny the very possibility of such a demonstration and reject the project of rational construction altogether.

According to communitarians such as Michael Sandel and Alasdair MacIntyre, liberalism, in its Kantian appeal to rational construction, involves notions of human reason and subjectivity that are completely unrealisable and ignorant of the facts of history. Man is embedded in history and society and can never abstract from his contingent interests in the manner that rational construction entails. The liberal appeal to a-temporal neutrality is utopian. Our ideas of justice and the laws we choose to follow are influenced by our historical situation: by the society in which we live, by the role we see ourselves fulfilling and by the traditions of ethics and morality that have preceded our own inquiries. We can never suppose to have access to a position of rational construction in abstraction from these features of our historicity.

[T]he subject matters of moral philosophy at least – the evaluative and normative concepts, maxims, arguments and judgements about which the moral philosopher enquires – are nowhere to be found except as embodied in the historical lives of particular social groups and so possessing the distinctive characteristics of historical existence: both identity and change through time, expression in institutionalised practice as well as in discourse, interaction and interrelationship with a variety of forms of activity. Morality which is no particular society's morality is to be found nowhere.⁴

⁴ Alasdair MacIntyre, *After Virtue*, p.221.

Communitarians advocate an historical approach to questions of ethics. There is no a-temporal or apodictically universal approach to principles of justice. As with any tradition of enquiry, advances in moral theory are made over time, by those working within the tradition seeking refinement as new difficulties and moral dilemmas arise. The ethics of genetic cloning was of little relevance to Greek morality for the possibility of cloning had not yet arisen. Similarly, moral systems will always depend upon the situations and practices to which they are to apply. We have no access to a noumenal realm in which moral construction can take place. Instead, moral progress is made in terms of the ability of one theory to answer the difficulties of previous moral theories within particular practices. Reason and the moral principles that it generates are always historically situated within the context of a tradition of enquiry and the practices of particular societies.

Communitarians express a teleological approach to morality. Their approach is teleological in so far as it emphasises the limits of tradition and practice on morality. Moral theory is a tradition of enquiry - one that has yet to be completed and that is guided by the desire to find an ethical system that will bring about the good of man. Given the historical nature of our enquiry, the tradition must be left open towards the future: to be guided by new developments in practice and fresh ideas of the human good. The tradition of moral enquiry is a narrative quest to find the good of man that gives continuity and identity to a historically developing humanity.

[A]n adequate sense of tradition manifests itself in a grasp of those future possibilities which the past has made available to the present. Living traditions, just because they continue a not-yet completed narrative, confront a future whose determinate and determinable character, so far as it possesses any, derives from the past.⁵

Liberalism, by contrast, expresses a deontological approach to ethics – one that seeks to assert the universal and inviolable dignity of the human individual and to protect individuals from

⁵ *Ibid*, p.223.

authoritarian and intolerant majorities. A deontological theory must appeal to universal laws for justification. The question is whether such universal appeals can ever be made within history or must we grant the communitarian intuition that all moral systems are ultimately historically and socially contingent? Granting the communitarian claim about the historicity of our moral appeals may mean abandoning one of the fundamental normative features of our contemporary understanding of justice and morality; namely, that they must be applicable universally. As Jeremy Waldron notes:

Our communal mores are claims we make about what is really right and really wrong...and their nature is to leave no room for the thought that they are merely conventional, and that contrary claims may be also right for those who make them...It is simply not possible to understand (for example) Christian ethics, Kantian ethics, or the morality of human rights, unless one sees that they are presented as statements of what is good and right for people *everywhere*.⁶

Communitarians will accept that, at a normative level, we do indeed make appeals to universal principles. They will object, however, that this does not give us the right to suppose that the particular theories we adhere to can be universally enforced as the only reasonable theories of justice. They object to theories of rational construction because, in their view, such theories aim to establish the universality and necessity of their principles *ad infinitum* and hence, to end the tradition of moral enquiry. For theorists such as Michael Sandel, Charles Taylor and Alasdair MacIntyre - who take liberals such as Rawls to be invoking Kantian constructivism - contemporary liberalism is in danger of unjustifiably conferring universality upon its own particular ideas. Liberal theories are simply a product of their time and are not to be understood as universally binding.

This communitarian criticism represents a major challenge to any liberal philosophy and must be taken seriously. If the criticism is correct than the appeal to neutrality must be abandoned or, at least, modified considerably. It is of fundamental importance to our present understanding of

⁶ Jeremy Waldron, 'Particular Values and Critical Morality', in *Liberal Rights: Collected Papers 1981-1991*, by Jeremy Waldron (Cambridge: Cambridge University Press, 1993), p.188.

justice, then, to consider the connection between liberalism and Kantian constructivism and to clarify what exactly is meant by an appeal to neutrality.

1.1 The Kantian Appeal to Universal Necessity

For a principle to be truly binding upon us, according to Kant, it must be absolute and universal, a good in itself and not dependent upon something else for its support. Moral principles are inherently inter-personal, frequently dealing with the relationships between individuals. When individuals no longer agree on an idea of the common good or no longer have similar religious and philosophical beliefs, Kant argues, we must look to reason as the only criterion for moral justification. The goods that men derive from human nature and the ends that men aim at are too heteronymous to provide a stable support for the moral good. The natural world can never provide us with a basis for the universal good because such a world is in perpetual motion. The natural world and human inclination are too contingent to provide us with a basis for moral evaluation. Instead we must look to reason. But what, or rather, where is reason and how do we make such an appeal?

The rational, according to Kant, stands in opposition to nature. It is the a-temporal beyond that enables human beings to possess a unity and freedom in an ever-changing world. Our capacity for reason is the hallmark of our autonomy and it is only by invoking reason in moral judgement that we assert our autonomy. Autonomy manifests itself as the ability to resist natural inclination and historical determinacy. Hence, autonomy must stand opposed to natural contingency. Thus, man belongs both to the world of nature and to the a-temporal, transcendental realm of reason, enabling him to possess autonomy.

[A]s regards mere perception and receptivity to sensations [man]...must count himself as belonging to the *world of sense*, but with regard to what there may be of pure activity in him (what reaches consciousness immediately and not through affection of the senses) he must

count himself as belonging to the *intellectual world*, of which however he has no further cognisance.⁷

Acting rationally means acting so that the principle of one's action does not depend upon the contingency of the natural world but can be justified rationally. One's action is rational only if it can be willed universally, i.e. if one can abstract from all cultural particularity and self-interest and still will such an action. If so, then the action is universally justifiable and moral. It is not motivated by individual self-interest or dependent upon a contingent theory of the human good arrived at in the natural world. It is this universal aspect of principles that characterises their moral worth. Hence, Kant formulates his famous Categorical Imperative: '*act as if the maxim of your action were to become by your will a **universal law of nature***'.⁸ The Categorical Imperative provides us with a method of checking the moral quality of our principles of action, for by acting in accordance with the Categorical Imperative we will be acting rationally, justifying our action on the basis of universal reason rather than on contingent self-interest. We will be acting on principles that can be acted upon universally.

Suppose, for example, that we are in dire straits financially and decide that we must steal from our neighbour in order to survive. If we followed through on such an action we would be using a principle such as 'it is legitimate to steal from others when in dire need'. Applying the Categorical Imperative to our act, we could not morally justify it. It is not possible to will 'stealing from others when in dire need' universally. Considered universally, the institution of property and the practice of theft cannot exist side by side for they are contradictory. Theft is the logical contradiction of property. It runs against the law of non-contradiction to assert the universal practice of theft and still hold to a notion of property.

⁷ Immanuel Kant, *Groundwork of the Metaphysics of Morals*, 4:451.

⁸ *Ibid*, 4:421.

By following the categorical imperative we act rationally and, therefore, morally. We preserve our autonomy through the universal formalisation of our principles of action. Kant calls the situation of such action – where principles are justified on the basis of the categorical imperative alone – the *Kingdom of Ends*.⁹ Here, principles will be inherently rational for they must be universal. No individual will be treated as a means to another's end because the criterion of universality prevents it. One must be able to will that the act could be applied to all human beings, including oneself. In this way, principles of justice formulated within the *Kingdom of Ends* reflect a view of human beings that considers all persons as autonomous and equal. Rational principles of justice are not infringements upon our liberty because, as rational beings, they are principles that we would have chose ourselves when acting autonomously.

A rational being belongs as a *member* to the kingdom of ends when he gives universal laws in it but is also himself subject to these laws. He belongs to it *as sovereign* when, as lawgiving, he is not subject to the will of any other.¹⁰

Kant tries to bring about the neutrality of our moral principles by invoking a conception of reason and autonomy in abstraction from the natural world. In so far as we like to consider ourselves as rational and autonomous beings we will be motivated to approach moral debates from such an abstract and neutral perspective as the *Kingdom of Ends*. In order to preserve our freedom we must conceive of ourselves independently from our own historical and social perspective and become members of an a-temporal domain of reason. However, as has already been noted, communitarians reject the possibility of ever achieving such a universal perspective. Furthermore, they object to the Kantian subject of transcendental autonomy. The moral person is so devoid of interest or

⁹ '[A]ll rational beings stand under the *law* that each of them is to treat himself and all others *never merely as means* but always *at the same time as ends in themselves*. But from this there arises a systematic union of rational beings through common objective laws, that is, a kingdom, which can be called a kingdom of ends (admittedly only an ideal) because what these laws have as their purpose is just the relation of these beings to one another as ends and means'. [*Ibid*, 4:433.].

¹⁰ *Ibid*.

personality, on Kant's account, that they could never be moved to act rationally. Morality demands that motivations be pure, that they be divorced from the contingencies of nature. But why then should we suppose that individuals within nature could be capable of moral action?

[I]f morality is to be a motive for the person, it must be related in some way to the person, to the desires and interests and beliefs which are unproblematic motives for action; but if it *requires* a link to the contingent contents of the self-interested standpoint to move the person to action, the principle is not categorical or unconditioned.¹¹

The idea of the transcendental subject fixes the moral identity of man in an a-temporal beyond that can never be realised. By isolating the moral identity of man from history, Kant dismisses the relevance that social attachments and particular circumstances have on our identity as persons. As Michael Sandel notes:

To be a deontological self, I must be a subject whose identity is given independently of the things I have, independently, that is, of my interests and ends and my relations with others.¹²

Where the self is regarded as given prior to its ends, its bounds fixed once and for all such that they are impermeable, invulnerable to transformation by experience, such continuity is perpetually and inherently problematic; the only way it can be affirmed is for the self to reach beyond itself, to grasp as an object of its will the ends it would possess, and hold them, as it always must, external to itself.¹³

If the morality of our principles is to be constructed in abstraction from the historical world and if our moral identity is to be described independently of our experiences, what possible content can principles of justice have that doesn't detract from their moral significance or what description of the person can be given that reflects the actual experiences of real and heterogeneous individuals? Such are the problems of seeking to affirm the neutrality of principles in a universal, a-temporal beyond. Communitarians accuse contemporary liberalism of making the same mistakes as Kant in appealing beyond history and particularity for the foundations of justice. Just as Kant sought an

¹¹ Margaret Moore, *Foundations of Liberalism*, (Oxford: Clarendon Press, 1993), p.13.

¹² Michael Sandel, *Liberalism and the Limits of Justice*, (Cambridge: Cambridge University Press, 1982), p.55.

¹³ *Ibid*, p.57.

Archimedean point of neutrality in a *Kingdom of Ends*, Rawls seeks a similarly neutral perspective on justice in, what he calls, the original position. Communitarians maintain that Rawls' original position suffers from the same utopian understanding of reason and autonomy as Kant's *Kingdom of Ends*.

1.2. A Theory of Justice

In *A Theory of Justice*, Rawls sets out the conditions of the original position and seeks to arrive at the principles of justice that would be generated from such a position. In describing the original position, Rawls hopes to formulate the minimally sufficient set of conditions in which all could imagine themselves as free and equal agents of rational construction. Having found a description of free and equal agents of rational construction acceptable to all, principles of justice could be arrived at that can be considered neutral. The original position seeks to limit inequality and contingency among the parties to the extent that the principles arrived at could be 'those a person would choose for the design of a society in which his enemy is to assign him his place'.¹⁴

Rawls believes that if the conditions of the original position could be set up in such a way as to reflect the equality and autonomy of individuals, two fundamental principles of justice would be chosen:

1. Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all.
2. Social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all.¹⁵

¹⁴ John Rawls, *A Theory of Justice (Revised Edition)*, pp.132-133.

¹⁵ *Ibid*, p.53.

These principles of justice form part of what he calls, *justice as fairness*. It is a procedural form of justice that regulates between competing individual goods and takes priority over them. All principles of social organisation and legislation must be compatible with the principles of justice. The principles of justice take precedence over all other principles because they reflect a neutral approach to justice. The principles of justice are not metaphysically dependent but express the minimally sufficient conditions of justice that can be agreed upon within a pluralist society. Thus, Rawls assumes, they can be considered neutral from all perspectives.

The neutrality of the principles depends upon their construction in the original position. It is the Archimedean point of reference in *A Theory of Justice*. As an Archimedean point it not only acts as a benchmark from which to assess the neutrality of principles of justice but is also the point of mediation between two contrasting elements in Rawls' argument - namely, the demands of justice and the conception of the individual in society. Rawls maintains that the purpose of his original position is to enable us to come to a clearer understanding of our intuitions regarding justice. It is a hypothetical thought experiment to be carried out in order to keep institutions and social practices in check. It is not an actual agreement.

Much debate surrounds the interpretation of Rawls' original position. It is not entirely clear whether Rawls thinks of his original position as a universal point of reference for mankind or whether he sees it simply as the procedural embodiment of our contemporary intuitions regarding justice and morality. Communitarians suggest that the devices Rawls employs in his description of the original position force him into adopting a Kantian and transcendental approach to justice. However, this interpretation, while representative of the description of Rawls' original position, is made difficult by Rawls' notion of *reflective equilibrium*.

Reflective equilibrium tries to balance the description of the original position and the principles of justice that arise out of such a description with our considered intuitions regarding the sort of principles that would be acceptable to society. If a certain description of the original position produces principles that grate with our intuitions about morality then, Rawls suggests, that description may need to be altered to produce more acceptable principles.

We can check an interpretation of the initial situation, then, by the capacity of its principles to accommodate our firmest convictions and to provide guidance where guidance is needed....By going back and forth, sometimes altering the conditions of the contractual circumstances, at others withdrawing our judgements and conforming them to principle, I assume that eventually we shall find a description of the initial situation that both expresses reasonable conditions and yields principles which match our considered judgements duly pruned and adjusted.¹⁶

The original position needs to be sufficiently abstract to be an Archimedean point of reference in a debate about justice and yet it needs to be substantive enough to reflect the intuitions of the members of such a society. It should provide citizens with a means for checking the rationality and justifiability of their own views, but it should not appear alien to their understanding.

The description of the original position that Rawls eventually settles on involves two aspects, each designed to fulfil a specific function:

1. *The Veil of Ignorance* – the conditions necessary to achieve equality and objectivity among parties to the original position
2. *The Circumstances of Justice* – the conditions necessary to ensure parties are suitably motivated to enter into an agreement about justice and to abide by the outcome of the original position.

¹⁶ *Ibid*, p.18.

Behind the veil of ignorance parties are deprived of the knowledge of their position in society, their familial relationships and their particular ideas regarding the good.¹⁷ Such people are mutually disinterested. Rawls presumes that without any knowledge of how they might benefit from a particular partisan society, parties will automatically choose the most egalitarian principles possible. Keeping in mind the possibility that they could be the worst off member of society, each party will select principles that are most beneficial to the least well off and that reduce inequalities of wealth and talent. In addition, as no party is aware of what their own interests might be, they will seek to arrive at principles that ensure the maximum amount of liberty available to all to pursue individual interests.

Individuals need a motivation for entering into an agreement regarding justice and so Rawls brings in the circumstances of justice. The circumstances of justice provide sufficient information about the condition of mankind in general as to motivate people into entering the original position and as to suggest areas of justice that need to be considered. Included under the circumstances of justice are such things as the scarcity of natural resources and the assumptions that human beings develop rational plans of life to follow particular interests, that co-operation is beneficial to the individuals involved, and that there is a sense of justice in man (i.e. that each is willing to abide by the principles agreed to).¹⁸ The circumstances of justice ensure that men must co-operate together to maximise the use of resources. Such circumstances also ensure that agreements reached in the original position will be honoured.

The circumstances of justice and the veil of ignorance combine in the original position to generate principles that are agreeable to all citizens in a free and equal democratic society. The principles of

¹⁷ *Ibid*, p.118.

¹⁸ *Ibid*, pp.109-112.

justice establish the limits of the divergent conceptions of the good. They are justified on the basis that they are formulated behind a veil of ignorance, in a non-partisan manner, and agreed upon by autonomous agents of rational construction. By imagining ourselves in such an original position, Rawls hopes, we can arrive at neutral principles that must be abided by. The veil of ignorance offers us a procedural interpretation of the universality of principles of justice. It abstracts from our particular interests and forces us to consider justice from a universal perspective. The question for Rawls, however, is whether his understanding of universality and neutrality behind a veil of ignorance involves him in transcendental metaphysics of universal reason and abstract subjectivity, and if not what sort of neutrality remains?

Rawls' notion of *reflective equilibrium* suggests that he wishes to avoid reliance on a transcendental notion of reason and subjectivity and to focus instead on the empirically verifiable assumptions about justice that people within democratic societies have. However, communitarians reject this line of argument, claiming instead that Rawls must rely on the Kantian understanding of reason and subjectivity. Furthermore, they argue that the opposition between reason and nature in this Kantian metaphysics is deeply problematic and that the neutrality of the principles is undermined by a particular understanding of human autonomy and reason.

[T]he weakness of procedural theories is not far to seek. It comes out when one asks: what is the basis of the hierarchy they recognise? What makes it mandatory to follow the privileged procedures? The answer has to lie in some understanding of human life and reason, in some positive doctrine of man, and hence the good.¹⁹

The assumptions inherent in liberalism suppose a view of human beings that is not shared by everyone. Hence, such a liberal view is, in itself, a particular conception of the good of the human being. Liberalism, according to communitarians, relies on a doctrine of the *unencumbered self*

¹⁹ Charles Taylor, 'Justice After Virtue', in *After MacIntyre: Critical Perspectives on the Work of Alasdair MacIntyre*. Edited by John Horton and Susan Mendus (Cambridge: Polity Press, 1994), p.28.

behind a veil of ignorance and on the supposed noumenal universality of reason. Both notions run against our historical experiences of individuality and reason. Human beings have never experienced themselves in isolation from history and social attachments.

[T]he story of my life is always embedded in the story of those communities from which I derive my identity. I am born with a past; and to try to cut myself off from the past, in the individualist mode, is to deform my present relationships. The possession of an historical identity and the possession of a social identity coincide.²⁰

Rawls reliance on the veil of ignorance and Kant's notion of autonomy in opposition to nature and history involve each thinker in a deformation of human relationships. The doctrine of the unencumbered self and its consequent privileging of the pure ego over the social self is an assumption that gives rise to an arbitrary attitude toward personal ties and individual qualities. All people are equal only because - as unencumbered selves - they are refused any particular identity. Such a view is purely hypothetical and provides little motivation for the ordinary constituted individual in society who wishes to favour family and friends over those whom he has never met before. For communitarians, the doctrine of the unencumbered self is a universalising of human identity at the expense of personal differentiation.

1.3 Liberalism and the Limits of Justice

In his book, *Liberalism and the Limits of Justice*, Michael Sandel argues that Rawls must either accept that his theory of justice involves a problematic transcendental metaphysic of universality or else accept that his theory of justice is simply one theory amongst others and is in no way neutral. For Sandel, Rawls' device of the circumstances of justice and his employment of reflective equilibrium threaten the deontologism and objectivity of his theory. Rawls wishes to establish principles of justice in a categorical manner, 'to provide a means of deriving principles of justice

²⁰ Alasdair MacIntyre, *After Virtue*, p.221.

that abstracts from the contingent and therefore morally irrelevant social and natural influences'.²¹

However, by relying on the circumstances of justice as a reason for rational construction and as a guarantee of agreement Rawls makes his principles socially contingent:

To establish the primacy of justice in the categorical sense Rawls' claim requires, he would have to show not only that the circumstances of justice prevail in all societies, but that they prevail to such an extent that the virtue of justice is always more fully or extensively engaged than any other virtue...On the empiricist interpretation of the original position, justice can be primary only for those societies beset by sufficient discord to make the accommodation of conflicting interests and aims the overriding moral and political consideration; justice is the first virtue of social institutions not absolutely, as truth is to theories, but only conditionally, as physical courage is to a war zone.²²

On the rational constructivist account of justice, principles of justice are justifiable because they are a) rational and b) freely chosen. Having defined the individual by his capacity to choose, the constructivist requires a voluntarist justification for his moral principles. In Kant's *Kingdom of Ends*, agents are both legislators and subjects, while it is the agreement of parties in the original position that generates Rawls' two principles of justice. However, Sandel argues, Rawls use of the veil of ignorance undermines the voluntarism of the agents.

Rawls calls his theory *justice as fairness*. But what does he mean by fairness? In establishing the validity of the principles of justice arising from the original position Rawls is taking a notion of fairness for granted and designing the original position in such a way as to reflect this specific notion. Rawls uses the veil of ignorance to fix the bounds of the parties. Such a fixing of identities tacitly determines the outcome of the original position. What really goes on behind the veil of ignorance is an uncovering of the features of justice inherent in our conceptions of ourselves rather than an open debate about which principles to adopt.

[W]hat it means to say that the principles chosen will be just 'whatever they turn out to be' is simply that, given their situation, the parties are guaranteed to choose the *right* principles.

²¹ Michael Sandel, *Liberalism and the Limits of Justice*, pp.38-39.

²² *Ibid*, pp.30-31.

While it may be true that, strictly speaking, they can choose any principles they wish, their situation is designed in such a way that they are guaranteed to 'wish' to choose only certain principles.²³

Given the way Rawls sets up his original position - using the devices of the veil of ignorance and the circumstances of justice - the outcome will necessarily be his two principles of justice. The principles of justice are not conceived of within the original position but are thought up independently by Rawls beforehand. The function of the original position is simply to confer universality upon the principles of justice and to supposedly justify them in a voluntarist manner. However, these claims turn out to be irrelevant as there is only one possible outcome of the original position, namely, *justice as fairness*. *Justice as fairness* is thus a particular conception of justice based upon what Rawls' considers to be the essential moral characteristics of human beings. In summary, Sandel argues, 'what begins as an ethic of choice and consent ends, however, unwittingly, as an ethic of insight and self-understanding'.²⁴

The conclusion of communitarians regarding the approach to justice taken by rational constructivists, such as Kant and Rawls, is that their theories of justice are in no way neutral or universal. Such theories simply reflect one idea about morality and justice amongst others. They are not independent from or prior to notions of the good or the human subject. Liberal justice is contingent upon the doctrine of the unencumbered self and a transcendental notion of reason. Such notions misrepresent our historical experiences. History has taught us of the influence of society and time on individuals.

The constituted individual of communitarianism contrasts significantly with the autonomous subject of liberalism. The communitarian individual is far more aware of social and historical determination

²³ *Ibid*, p.127.

²⁴ *Ibid*, p.132.

than the liberal agent, rejecting the possibility of pure neutrality. But, having considered the communitarian objections to the liberal self, should we now fully endorse communitarianism and accept the implications of this position for politics? Furthermore, should we wholeheartedly go along with the communitarian rejection of transcendentalism in Kant and Rawls? Will accepting such a rejection of transcendentalism not force us into adopting a passive attitude towards society, history and politics, acknowledging that there is little we can do to overcome historical determinism? Should we accept that our individual values are simply the products of our community? In the debate between communitarianism and liberalism it is important to consider the influence of the old man from Jena, G.W.F. Hegel.

Hegel was one of the first philosophers to offer a significant critique of transcendental metaphysics and Kantian morality. Many communitarians, such as Charles Taylor, have taken up Hegel's challenge to Kant in their own writings on liberalism. It is important to consider whether Hegel's critique of Kant, upon which much of the rejection of abstract subjectivity and transcendental reason is based, leads us to endorse the communitarian position and to accept the implications of this position for the neutrality of justice. There is evidence to suggest that Hegel's critique need not lead to such a conclusion.

Chapter 2: Hegel's Critique of Kantian Morality

The dispute between communitarians and rational constructivists revolves around notions of reason and neutrality. Rational constructivism, in the Kantian form, maintains that reason is transcendental, universal and punctual in an a-temporal beyond. Kant must rely on a transcendental notion of pure reason because his account of the natural and determined world leaves no place for universal necessity or autonomy. Communitarians, by contrast, maintain that man has no such a-temporal capacity for pure reason. The individual man, in isolation, cannot assume to be capable of universal reason. Everywhere man is fundamentally embedded in society and history. As individuals we are culturally and historically dependent. Such are the implications of MacIntyre's claim that 'morality which is no particular society's morality is to be found nowhere', and of his assertion that 'the notion of escaping into a realm of entirely universal maxims...is an illusion and an illusion with painful consequences'.²⁵

Communitarianism and Kantian liberalism represent two very different models of reason. The fundamental question of contemporary political philosophy is which understanding of reason and neutrality, if either, is correct? Is reason purely historical and contingent (with the consequence that the moral principles arrived at by reason must be particular to a given time) or is reason essentially universal and neutral between historical and social perspectives? In examining such questions one cannot neglect the contribution of Hegel to the debate.

Hegel offers us an important critique of Kant's Enlightenment rationalism. While acknowledging the contribution of Kant to morality and epistemology, Hegel finds numerous difficulties with Kant's understanding of the relationship between reason and nature. He famously deconstructs Kant's Categorical Imperative, exposing the inability of pure, abstract reason to answer moral

²⁵ Alasdair MacIntyre, *After Virtue*, p.221.

questions. In contrast to Kant's abstract transcendentalism, Hegel develops an approach to reason that is fundamentally historical and social and yet conscious of universality. In answering the question whether reason is essentially universal or particular in function, Hegel responds that it is both, refusing to side whole-heartedly with Kantian liberalism or with communitarianism. Hegel seeks to overcome the paradox of the human understanding, an understanding that tries to reach out from its vantage point in historical experience and look upon the timeless laws of reason. We want a view from nowhere but we want to see it for ourselves, here and now, from a particular perspective. Hegel believes that the answer to this dilemma lies in the recognition of the dialectical nature of consciousness and in understanding the connection between reason and nature, realizing that both are necessary for each other. As he notes,

It is in self-consciousness, in the Notion of Spirit, that consciousness first finds its turning-point, where it leaves behind it the colourful show of the sensuous here-and-now and the nightlike void of the supersensible beyond, and steps out into the spiritual daylight of the present.²⁶

A detailed and comprehensive analysis of Hegel's thought is beyond the limits of such a short thesis. However, a brief examination into certain features of his thought may enlighten us regarding the contemporary dilemma for political philosophy. His critique of Kant's Categorical Imperative is of obvious significance for understanding the failures of rational constructivism. I will deal with this criticism in detail towards the end of this chapter. However, I believe that three further aspects of Hegel's philosophy are crucial to the debate and that is necessary to understand these features of Hegel's thought as a background to his criticisms of rational constructivism. These features are:

1. Hegel's Dialectical Approach to Reason and Experience
2. Hegel's understanding of the ethical significance of recognition and inter-subjectivity and

²⁶ G.W.F. Hegel, *Phenomenology of Spirit*, translated by A.V. Miller (Oxford: Oxford University Press, 1977), §177.

3. Hegel's assertion that '[w]hat is rational is actual and what is actual is rational'.²⁷

These aspects of Hegel's philosophy offer us an approach to reason and autonomy that recognises both the normative role of universal necessity and the significance of history and society for the development of moral theory. Throughout Hegel's thought we can detect an attempt to reconcile the competing moral outlooks of Enlightenment modernity and Greek ethical life with each other – to reconcile a morality that is universal but abstract with one that is concrete and particular.

Such bold statements of Hegel's as 'the truth about Right, Ethics, and the state is as old as its public recognition and formulation in the law of the land, in the morality of everyday life, and in religion'²⁸ and his claim about the rationality of the actual may seem to suggest that Hegel sides with the Greeks against the moderns. However, this is not necessarily the case. Such statements are made within the context of a criticism of Enlightenment rationalism. They point to a fundamental tenet of Hegel's philosophy - that moral objectivity and universal necessity are meaningless unless realised in concrete institutions within particular societies - but they do not entail that the instantiation of particular principles in laws and institutions alone is sufficient to generate moral objectivity. There is a dichotomy between the concrete ethical life of the Greek state, yet to be brought under the critical eye of thought, and the abstract morality of the enlightenment that relies on abstract thought alone for its justification. Universal abstract thought needs to be reconciled with particularity. The universal, devoid of particular content, is useless in achieving moral action.

[D]uty for duty's sake, this pure purpose, is an unreality; it becomes a reality in the deed of an individuality, and the action is thereby charged with the aspect of particularity... Thus, for the judging consciousness, there is no action in which it could not oppose to the universal

²⁷ G.W.F. Hegel, preface to the *Philosophy of Right*, translated by T.M. Knox (Oxford: Oxford University Press, 1975), p.10.

²⁸ *Ibid*, p.3.

aspect of the action, the personal aspect of the individuality, and play the part of the *moral valet* towards the agent.²⁹

Neither appeals to abstract universals nor adherence to particular laws are alone a sufficient basis for a modern understanding of morality. There must be a reason why laws are obeyed. The ethical life of a state must be subjected to critical reflection. But reason also demands existence and substantiality and so must enter into the laws of a polis. For Hegel, the task of the philosopher is to understand the rationality of what there is and to subject custom to rational examination. The philosopher must synthesize reason and nature, making each at home in the other.

[S]ince philosophy is the exploration of the rational, it is for that very reason the apprehension of the present and the actual, not the erection of a beyond, supposed to exist, God knows where, or rather which exists, and we can perfectly well say where, namely in the error of one-sided, empty, ratiocination.³⁰

In contrast to rational constructivism, Hegel seeks an understanding of reason that encapsulates the role of particularity and contingency in bringing about universality. History, for Hegel, is precisely this movement of particularity towards concrete universality.

2.1 The Dialectic of Reason and Experience

Thinking, for Hegel, has both a subjective and an objective aspect. In the thought of anything we simultaneously posit the thing-as-it-appears-to-us and the thing-as-it-is-in-itself. True knowledge is the synthesis of these two aspects of consciousness, the realisation that our subjective consciousness matches objective experience.³¹ This intuition of Hegel's is of major significance to the debate regarding reason. Hegel quite rightly points out that the knowledge of something is quite distinct

²⁹ G.W.F. Hegel, *Phenomenology of Spirit*, §665.

³⁰ G.W.F. Hegel, preface to the *Philosophy of Right*, p.10.

³¹ 'Consciousness simultaneously *distinguishes* itself from something, and at the same time *relates* itself to it, or as it is said, this something exists *for* consciousness; and the determinate aspect of this *relating*, or of the *being* of something for a consciousness, is *knowing*. But we distinguish this being-for-another from *being-in-itself*; whatever is related to knowledge or knowing is also distinguished from it, and posited as existing outside of this relationship; this *being-in-itself* is called *truth*'. [G.W.F. Hegel, *Phenomenology of Spirit*, §73].

from the thing itself. Knowing requires a separating out and a distinguishing between what is 'real' and what is 'thought' or 'perceived'. Forms of consciousness that do not grasp the importance of this distinction are inadequate forms of knowledge. Knowledge requires the certainty that what is known is true and this can only be achieved by appealing to a distinction between the concept of the object (being-for-another) and the object itself (being-in-itself). Thus, a passive form of consciousness, such as sense perception, which does not reflect on the certainty of its perceptions, is inadequate. Passive sense perception does not understand what it perceives.

The passive consciousness of sense perception resembles an extreme communitarian view of reason, one that acknowledges that individual notions of justice and morality are merely the product of communal determination. If communitarians do not leave room for the critical appraisal of values by the individual according to reason then they are failing to recognise the importance of the distinction between our subjective concepts and the objectification of these concepts. They are refusing to ask the question whether our subjective notions of morality and justice are equivalent to morality and justice themselves. Rational constructivism, in so far as it seeks to understand the rationality of justice and morality, goes beyond such passivity in consciousness, seeking after the certainty of things-in-themselves. Rational constructivism asks whether our particular perceptions of justice and morality are the same as justice and morality themselves, universally.

By making the distinction between the world of appearances (phenomena) and the world of things as they are in themselves (noumena), Kant brought out a fundamental feature of human consciousness – the difference between the subjectivity and objectivity in knowledge. However, Hegel's difficulty with Kant's treatment of consciousness is in his understanding of the noumena. Kant's problem is that he posits things-in-themselves beyond our experiences of them. His understanding of consciousness remains individualistic. In acknowledging, in the synthesis of

apperception, the role that consciousness plays in conceptualising and ordering the world into a unity, Kant over emphasises the subjective side of consciousness at the expense of the real. He supposes that there can be no going beyond the phenomena because we can never know anything independently of our concepts. All we can do is abstract the contribution of our individual minds from our knowledge of things in the attempt at approximating to the thing-as-it-is-itself. But, as Hegel notes, this is an intellectual cul-de-sac:

[I]f by testing cognition, which we conceive of as a *medium*, we get to know the law of its refraction, it is again useless to subtract this from the end result. For it is not the refraction of the ray, but the ray itself whereby truth reaches us, that is cognition; and if this were removed, all that would be indicated would be a pure direction or a blank space.³²

Grasping the noumena remains beyond the capabilities of human cognition and so we can never know if the thing-in-itself is equivalent with the thing-as-it-is-for-us. Abstracting from our particular understanding leaves us with an empty void. It is somewhat ironic then, that in the use of practical reason, Kant demands that we appeal precisely to the universal by abstracting from the phenomenal world of self-interest and particularity. If reason is incapable of reaching things-in-themselves within the domain of cognition and perception, why should we suppose that individual reason is in any way more suited to making such a transcendental leap in the domain of practical reason? Having erected a barrier between the noumena and the phenomena in his *Critique of Pure Reason*, Kant has created a dilemma regarding the demands of practical reason. For Hegel, this dilemma can only be overcome by recognising that the noumena and the phenomena are not really so isolated from each other as Kant imagines.

The inner world, or supersensible beyond...*comes from* the world of appearance which has mediated it; in other words, appearance is its essence and, in fact, its filling. The supersensible is the sensuous and the perceived posited as it is in *truth*; but the *truth* of the sensuous and the perceived is to be *appearance*. The supersensible is therefore *appearance qua appearance*...[T]he world of appearance is...*not* the world of sense-knowledge and

³² *Ibid*, §73.

perception as a world that positively *is*, but this world posited as superseded, or as in truth an *inner world*.³³

A noumenal understanding of the world need not seek beyond experience. The noumena is simply a way of understanding the phenomenal world that allows us to distinguish our concepts of things from things as they are in themselves. It is consciousness itself that posits the idea of being-for-others (the subjective experience of the thing) and being-in-itself in order to understand experience more completely. Experience is historical and ever changing. We posit things-in-themselves in order to give continuity to our particular and changing experiences. By allowing that things have an objective existence of their own, independently from our particular concepts, we are able to explain why are concepts of things alter and fluctuate through experience and yet still pertain to things in the world. As we are historical beings, our understanding is historical. We never reach a complete understanding of things-as-they-are-in-themselves spontaneously or immediately, when we first encounter them. Our experiences are limited and so it is only through a combination of limited experiences over time that we come to a fuller understanding of things.

We use the notion of the thing-in-itself to govern our experience and understanding of things so that we may arrive at an adequate account of experience that reflects the rational nature of things. In every confrontation with experience we constantly seek to overcome the deficiencies of our previous modes of thought and to give a more adequate account of things. True knowledge arises when we no longer need to go beyond our concepts of things, for we have recognised that they are equivalent with the things-as-they-are-in-themselves. '[T]he *goal* is as necessarily fixed for knowledge as the serial progression; it is the point where knowledge no longer needs to go beyond itself, where knowledge finds itself, where Notion corresponds to object and object to Notion'.³⁴

³³ *Ibid*, §147.

³⁴ *Ibid*, §80.

We arrive at an understanding of things that is comparable with a universal or noumenal interpretation of them, not by abstracting from our particular, divergent and heterogeneous experiences, but precisely through a combination of such experiences over time.

The significance of Hegel's dialectical approach to knowledge and experience is that the rationality of things is made apparent over-time in our worldly experiences. Reason does not reside in a realm distinct from nature. The approach of Kantian morality that seeks to isolate reason from the natural world is mistaken. The universality of our concepts can only be arrived at historically, through the mediation and synthesis of being-in-itself with being-for-another. Equally, however, we cannot neglect the formative role of the universal in developing our concepts through history. Without a notion of the thing-in-itself - as it is universally - the attempt to achieve a greater understanding of particular experiences is meaningless. We become passive sponges of perception, absorbing experience unreflectively with little understanding of the structure of the world around us. It is only through distinguishing between being-in-itself and being-for-others and the resolution of the two into each other over time that we come to an adequate account of things and of the structures of experience.

Applying Hegel's dialectical interpretation of reason to moral philosophy we may say that universal principles of justice and morality are not arrived at apodictically or punctually in a *Kingdom of Ends* but are recognised gradually through the historical development of consciousness. The abstract universality of being-in-itself appears initially in distinction from the concrete particularity of being-for-others. So long as this distinction persists consciousness can neither determine the reality of the rational nor the rationality of what is real. Conscious experience must overcome this contradiction. While the ground of reality remains in a noumenal beyond we cannot hope to realise morality in nature, for it remains beyond the limits of the natural and contingent world. Similarly,

while the laws of our institutions remain unexamined or remain untested against the universal we cannot hope to assert the morality of our practices.

Hegel devotes much of the *Phenomenology of Spirit* to exploring the connection between his dialectical theory of knowledge and the realisation of human freedom. His account of how freedom-in-itself becomes reconciled with actual political freedom offers us some valuable insights into understanding universality and realising moral principles within historical existence.

2.2 Recognition and the Dialectic of Freedom

Hegel views the political history of mankind as the development of the idea of freedom in nature. Throughout history there has always been an opposition between people's understanding of the idea of freedom and freedom in practice in societies. New understandings of freedom have led from one model of polis to the next. Each stage in the political history of man represents a new approach to freedom. In his famous master-slave dialectic, Hegel considers how the concept of freedom affects the relationship between individuals coming into conflict with each other and how, through the development of this concept of freedom in accordance with experience, universal freedom comes to pass. The master-slave dialectic is reflective of how Hegel interprets the various stages of human history.

Consciousness wants to assert its freedom and to recognise itself as an essential being.³⁵ Consciousness has an idea of freedom as a universal, limitless capacity. However, in coming into contact with another, the conscious subject becomes aware that it is only a finite being, limited by the existence of others. Consciousness becomes aware that its objective existence in a world of

³⁵ Essentiality has two meanings in relation to the conscious subject. First, it means a sense of importance and intrinsic worth – the feeling that one's existence is *necessary* rather than contingent. Secondly, it denotes essence as freedom or negativity.

manifold beings contradicts its concept of freedom. Consciousness needs to be certain of its own freedom again. It needs to know that what it subjectively takes to be the case – its own freedom and essentiality – is also objectively the case. Consciousness needs to establish the objectivity of its own freedom but to do this it needs to make freedom concrete and this implies limiting it in a particular, which would seem to be opposed to the concept of freedom as it is-in-itself.

[T]he Unhappy Consciousness is the consciousness of self as dual-natured, merely contradictory being...The Unhappy Consciousness itself *is* the gazing of one self-consciousness into another, and itself *is* both, the unity of both is also its essential nature. But it is not as yet explicitly aware that this is its essential nature, or that it is the unity of both.³⁶

In the encounter with other selves the individual self needs to be recognised as free. Each will initially seek to dominate the others. Each will seek to become master over the others who become slaves. The master thinks that he is free because he remains undetermined by the slave. The master is able to impose his will on the slave. But the recognition afforded the master by the slave is inadequate. The slave only recognises the master as a source of oppression, not as a free being. Furthermore, the master is dependent upon the slave. The will of the master is only brought about meditatively by the work of the slave. The master depends upon the slave for recognition but the recognition of freedom granted by the slave is not an adequate form of recognition. Freedom is not being recognised by freedom. Gradually the master comes to realise the insufficiency of such recognition. Equally, the slave knows that his own predicament is contrary to his understanding of freedom. While the slave can see the effects of his work in the labour he produces, he is aware that the origin of this production is in the will of the master and not in his own will. The will of the master is free but he remains dependent upon the slave for its fulfilment, while the slave's will continues to be shackled by the master. Yet the slave can see the effects of his productivity on nature. The will of the master is only made objective by the work of the slave, while the subjective

³⁶ G.W.F. Hegel, *Phenomenology of Spirit*, §206-§207.

decision of the work of the slave lies in the will of the master. This form of recognition of the freedom of the will between master and slave is wholly inadequate.

Recognition of essential freedom or subjectivity requires that the master and the slave allow each other to go free. Only in each acknowledging the complete freedom of the other can freedom itself become recognised. The subjective freedom of one self becomes objectified in the observation and recognition of the freedom of another self in the world. Only in the mutual recognition of freedom between selves can each self achieve certainty of its own self. But the mutual recognition of freedom means that each can no longer treat the other as an object to be appropriated. Each must allow the other to go free, to remain in its difference. As Robert Williams notes:

The authentic “cancellation” of the other-being means that the other is not eliminated but allowed to go free and affirmed. But if the other is allowed to go free, this means that it is affirmed, not simply in its identity, but also in its difference. Without the release and allowing of the other to be as *other, in its difference*, the “We” would be merely an abstract parochial identity.³⁷

Recognition of freedom as the essence of the self requires that others remain different. If all selves were the same, i.e. if all were determined equally, then there could be no objective realisation of indeterminacy (i.e. freedom) in the world. It is only through manifold determinacy in different and heterogeneous selves that freedom and indeterminacy can become real and objective for the self without becoming contradictory. As essentially subjective and free beings, we must be indeterminate. If I am to determine you as I determine myself, then I am to limit freedom and subjectivity. Recognition of freedom depends upon a mutual reciprocity of essentiality and freedom mediated through each other. By allowing me to go free, others are objectifying my freedom for me. Similarly, by treating others as free, I am objectifying their freedom for them. We are mutually dependent upon each other.

³⁷ Robert R. Williams, *Hegel's Ethics of Recognition* (Berkeley: University of California Press, 1997), p.56.

Each is for the other the middle term, through which each mediates itself with itself and unites with itself; and each is for itself, and for the other, an immediate being on its own account, which at the same time is such only through this mediation. They *recognise* themselves as *mutually recognising* one another.³⁸

Recognition is inter-subjective. Freedom can only be truly rational and actual in the public recognition of individuals as free beings. The universal (the idea of freedom) is made manifest in the inter-subjectivity of a rational and free social union. Concrete freedom is made manifest in the recognition of the heteronomy of differences between individuals and in the inter-subjective respect for such differences. What the dialectic of freedom teaches us is that the universal is only made manifest inter-subjectively in recognition between individuals. The universal becomes reconciled with the particular through the letting go of its punctuality via heterogeneous recognition. Hegel places a great emphasis on language as the public medium by which universal reason reveals itself.

Language is self-consciousness existing *for others*, self-consciousness which *as such* is immediately *present*, and as *this* self-consciousness is universal. It is the self that separates itself from itself, which as pure 'I='I' becomes objective to itself, which in this objectivity equally preserves itself as *this* self, just as it coalesces directly with other selves and is *their* self-consciousness. It perceives itself just as it is perceived by others, and the perceiving is just *existence which has become a self*.³⁹

The dialectic of experience is governed by the desire to find the appropriate language of freedom such that freedom, as an idea, is manifest in public life, in the language of a community, namely, in public institutions that can accommodate the liberty of the individual. Political history is comprised of the attempts to embody ideas of freedom in public institutions thereby giving rise to the actualisation of freedom-itself. As a dialectical process, freedom and reason have an historical element and are not purely a priori, as with Kant. There is no point in history when the rational enters the world, when the phenomenal realm makes way for the noumenal. Knowledge is always

³⁸ G.W.F. Hegel, *Phenomenology of Spirit*, §184.

³⁹ *Ibid*, §652.

situated historically, at some point in the dialectic. In the master-slave dialectic historical experience plays a fundamental role in bringing about the realisation of freedom and the development of consciousness. The master and the slave must go through the various stages of consciousness first before achieving mutual recognition. It is only the experience of a sense of inadequate recognition that leads from one stage to another along the dialectic for universal freedom is not immediate or spontaneous. The dialectical process brings about a movement of universality and particularity. Freedom as it is in-itself is understood differently through the various stages of the dialectic until an understanding of freedom that is universal can be realised in nature and the dialectic can be brought to completion.

Having considered Hegel's dialectical approach to knowledge and the significance of this approach for Hegel's understanding of the development of human freedom and inter-subjective recognition, it is now appropriate to deal more closely with Hegel's specific criticisms of Kantian morality.

2.3 Hegel's Critique of Kantian Morality

As we saw in the first chapter, moral duty, for Kant, consisted in the identification of one's particular will with *pure* universal reason, in the abstraction of all particularity from the maxim of one's action. However, for Hegel, such a view of morality remains confined within the scheme-content dualism that isolates reason from the world. It sets reason in opposition to nature so that nothing natural can be considered rational or moral. Abstract reason, by itself, is an insufficient basis for the generation of moral principles. Our concepts of right and wrong are not formulated in a void of thought but are learned through experience.

Kant holds that a principle of action is in accordance with the Categorical Imperative and with duty if in the application of that principle no contradiction arises. So, for example, one could not assert that it is legitimate to steal property from others when in need because, if this principle were applied universally, we would be faced with a contradiction between theft (the denial of property) and the institution of property. We could not universally assert the existence of property and the practice of theft. However, Hegel points out that this test of contradiction is useful only if we know certain things about property and theft already, independently of our categorical test. While the universal practice of theft would go against the notion of property, why should we favour property over theft in the first place? We only favour property over the universal practice of theft because, from experience, we have learned that the institution of property provides greater stability in life than the practice of theft. While Kant's test can tell us that a contradiction would arise between the universal practice of theft and our notion of property, this test, by itself, does not tell us whether we should favour property over theft. Categorical Imperatives require certain assumptions about the institutions and practices of the natural world if they are to be useful. They are neither pure nor neutral in the way that Kant interprets them.

With regard to property...the law of my action is this: Property ought to be respected, for the opposite of this cannot be a universal law. This is correct, but it is quite a formal determination: If property is, then it is. Property is here presupposed, but this determination may also in the same way be omitted, and then there is no contradiction involved in theft: If there is no such thing as property, then it is not respected.⁴⁰

Robert Stern suggests Kantians face a dilemma when they whole-heartedly endorse the Categorical test as the sole criterion of moral justification:

[E]ither the Kantian treats the universalizability test as purely formal (but then why should passing this test matter from a moral perspective?), or he accepts that the test has some

⁴⁰ G.W.F. Hegel, *Lectures on the History of Philosophy Vol. III*, translated by E.S. Haldane and Frances H. Simson (London: Routledge and Keagan Paul, 1968), pp.460-461.

moral content (in which case he has not shown that reason can distinguish between right and wrong actions on a purely formal basis).⁴¹

Kant urges us to make our actions moral by conceiving our principles within a *Kingdom of Ends*. But, in this way, Hegel argues, we are only achieving the synthesis of reason and action in a formal manner, in a beyond. We never achieve the identification of reason and action in the natural world because nature remains opposed to reason. Kant only grasps the formal aspect of freedom as indeterminacy. He does not yet come to an awareness of how indeterminacy can be made manifest, for this appears as a contradiction - the limiting of the limitless. Hence, in moral action, freedom is still only a negative moment of abstracting from determinacy. But, if this is the case, moral freedom can never be fully realised. Consciousness requires freedom to be both subjective and objective.

[M]orality is only moral *consciousness* as negative essence, for whose pure duty sensuousness has only a *negative* significance, is only *not* in conformity with duty. But, in that harmony, *morality qua* consciousness, i.e. its *actuality*, vanishes, just as in the moral consciousness, or in the *actuality* of morality, the *harmony* vanishes. The consummation, therefore, cannot be attained, but is to be thought of merely as an *absolute* task, i.e. one which simply remains a task. Yet at the same time its content has to be thought of as something which simply must *be*, and must not remain a task.⁴²

In Hegel's dialectical approach to knowledge, truth consisted in the coming together of being-in-itself and being-for-another, in the objectification of the concept in existence and the subjective awareness of this objectification. Neither the recognition of the concept alone nor the passive immediacy of its existence in the world was sufficient for the self-reflected certainty of knowledge. In the case of freedom, then, it is not enough for people to be free without knowing that they are so, nor to understand what freedom consists in without being able to acknowledge its existence. The truth of Kantian morality is the grasping of the concept of freedom (as self-determination). But Kant

⁴¹ Robert Stern, *Routledge Guidebook to Hegel and the Phenomenology of Spirit* (London: Routledge, 2002), p.132.

⁴² G.W.F. Hegel, *Phenomenology of Spirit*, §603.

has been unable to show this principle in operation because the content given to the arbitrary will – *Willkür* - is furnished by a nature that remains external to it. Just as Hegel’s project in his dialectical approach to knowledge was to show how the noumenal and the phenomenal realm were necessarily distinct modes of talking about the same world, similarly, in relation to justice and morality, his project is to show that reason and autonomy are simply the formal aspects of our subjective freedom which is made objective for us in the world. As Paul Franco notes:

Hegel’s idea of freedom as “being with oneself in another” encapsulates his revision of the Kantian and (again) especially Fichtean idea of freedom as rational autonomy. While this latter notion expresses an essential aspect of freedom, the aspect of self-dependence or being with oneself which Hegel treats under the rubric of negative freedom, it never successfully incorporates otherness or particularity. Hegel’s concept of freedom aims to redress this defect of the Kantian-Fichtean outlook, breaking down the opposition between self-dependence and otherness or determinacy.⁴³

In the *Philosophy of Right*, Hegel describes the will as having two distinct aspects. On the one hand, the will knows that it is a particular will, carrying out particular actions in the world. This is the *being-for-other* of the will - the making over of the will into actions that can be observed and recognised by others. On the other hand, the will considers itself to be *pure indeterminacy*. This is the universal but abstract concept of the will that Kant grasps.⁴⁴ Freedom that is both actual and rational will consist in the identification of these two aspects of the will with each other.

The will’s activity consists in annulling the contradiction between subjectivity and objectivity and giving its aims an objective instead of subjective character, while at the same time remaining by itself even in objectivity.⁴⁵

Even as an active will in the world consciousness is able to uncover the formal side of the will. When consciousness is faced with competing sets of desires the will must choose which inclinations to follow. Natural inclinations and desires do not arrange themselves into a hierarchical order. This

⁴³ Paul Franco, *Hegel’s Philosophy of Freedom* (New Haven: Yale University Press, 1999), p.162.

⁴⁴ Dudley Knowles, *Routledge Philosophy Guidebook to Hegel and the Philosophy of Right* (London: Routledge, 2002), pp.30-32.

⁴⁵ G.W.F. Hegel, *Philosophy of Right*, §21.

is the contribution of the will that must choose which inclinations to follow. Even where the will considers its content (desires, inclinations etc.) to have originated externally, it is still able to uncover a formal aspect in itself. What is required by freedom, then, is to uncover the formal element at work in the material world, to discover the universal choosing in operation in the particular deeds of individuals.

We saw in our analysis of the recognition of subjectivity in the *Phenomenology of Spirit* (sec. 2.2) that such recognition was only achieved in an inter-subjective manner and by the letting go of the punctuality of the universal.⁴⁶ Similarly, the freedom of the will can only be realised if it is allowed manifest itself heterogeneously in action and if individuals are recognised as having the right and the duty to act freely. In order for somebody to be able to claim that they are acting freely and autonomously they must be acting in such a way that others can recognise reason at work in their actions. Others must be able to say, ‘the reason by which you acted is a rational principle for acting, given your circumstances’. In this inter-subjective acknowledgement of the rationality of one’s actions objectivity is conferred upon the subjective principle of the individual’s action and freedom is made manifest. As Robert Williams notes:

Right is properly appreciated only when its rational-universal grounding in intersubjective recognition is understood. If there were no recognition, there would be no right, but only the subjective certainty of freedom. In such a circumstance, right would not be actual but merely a claim or an idea.⁴⁷

Hegel dethrones rational autonomy from the noumenal *kingdom of ends* and erects it in the inter-subjective recognition of one’s actions. The subject is no longer required to consider himself in opposition to nature. Instead, he can consider his actions as the uncovering of the rational in the natural. The opposition between reason and nature is collapsed because it is recognised that if

⁴⁶ By the ‘letting go of the punctuality of the universal’ I mean the entry of difference into the universal, such that the universal becomes mediated through heterogeneous particularities.

⁴⁷ Robert R. Williams, *Hegel’s Ethics of Recognition* (Berkeley: University of California Press, 1997), p.111.

freedom is to be actual then it necessarily must be made manifest in the world, in the actions of individuals. The circumstances of one's actions are no longer viewed as contingent factors upon one's autonomy but become the conditions of the possibility of rational action. Where previously, for example, one may have considered familial relationships to be arbitrary from a moral point of view - a mere contingency of birth - and where the burden of supporting one's elderly parents may have been viewed as a constraint upon one's freedom, on Hegel's revised account of autonomy, we can view familial relationships as rational.

The family provides the support and educational infrastructure necessary for individual growth and development. Special allegiances to one's family members over others and the burden of assisting one's elderly relatives are not arbitrary or contingent conditions of nature but the rational and ethical relationships that preserve the institution of the family and foster individual development. Rational action within the domain of familial relationships is made manifest by the inter-subjective recognition that the action of an individual is justified. If other people confer acceptability upon our actions within our familial relationships and the principles of our actions can be expressed in the language of the community then our actions are indeed rational. This is just one example of how Hegel encourages us to uncover rational necessity at work in nature and to transform natural relationships into ethical relationships.

The seeds of Hegel's revision of Kantian morality are already apparent in his dialectical approach to knowledge and subjectivity in the *Phenomenology of Spirit* and in his assertion, in the preface to the *Philosophy of Right*, that '*what is rational is actual and what is actual is rational*'.⁴⁸ It is important to understand these moves of Hegel's, not as a reversion back to a passive acceptance of custom and tradition but as a claim against rational constructivism that reason can never be divorced from

⁴⁸ G.W.F. Hegel, preface to the *Philosophy of Right*, p.10.

reality. Freedom remains abstract and formal when it is not conferred reciprocally by society upon its members. What is required of consciousness is critical reflection upon reality, bringing it under the light of reason and coming to an awareness of reason in nature, raising the natural to the rational and recognising the rational as natural. Thus, Paul Franco observes:

On the one hand, Hegel holds that philosophy must take its start from the actual world. Philosophy consists in the “thinking-over” and “comprehension” of the rationality that is implicit in the actual world. To sever this link between philosophy and actuality, to see philosophy as independent of or, worse, in opposition to historical-political actuality, is to condemn it to a subjectivism in which, as we have seen Hegel say, “the imagination can construct anything it pleases” (*PR*, 22/26). On the other hand, philosophy does not simply acquiesce to the actual world or uncritically attribute rationality to whatever exists. The actual is rational, but a good deal of what exists is contingent, arbitrary, and neither rational nor actual in Hegel’s sense of the term. The rationality of the actual can only, finally, be determined through philosophical or conceptual analysis.⁴⁹

Hegel doesn’t reject Kant’s intuitions regarding reason and morality completely but claims instead that they are just one aspect of what it means to be free and autonomous. The elevation of the will into the *Kingdom of Ends* is only the punctual, unmediated universal aspect of freedom that has yet to achieve inter-subjective recognition. As a universal concept of freedom - as freedom-in-itself without yet being freedom-for-an-other - it is an important aspect of consciousness that drives the dialectic.

Freedom in the full ethical sense, as being-in-itself and being-for-an-other, will be the mediation of the formal universal aspect of consciousness and the particular aspect of the actuality of freedom in the world. This universal aspect of freedom becomes objective when others recognise the actions of an individual as rational actions. The ethical state exists when the individual’s concept of freedom accords with the customs and laws of his society and when the rationality of public action is reciprocally recognised by all members of society. The struggle for freedom in history is simply this

⁴⁹ Paul Franco, *Hegel’s Philosophy of Freedom*, p.139.

drive of consciousness to reflect its concept of freedom into the laws and institutions of society. As this dialectic unfolds a change will occur both in the concept of freedom and in the structure of public institutions until the two become identical and inter-subjectively recognised. The constructivist approach to freedom within a purely formal sphere is simply one side of reason at work in consciousness - the conceptualisation of the universal form of reason and freedom.

2.4. Conclusions from the Hegelian Critique of Kant

Hegel's critique of Kantian morality and his dialectical solution are highly significant for the contemporary debate between liberals and communitarians. In his dialectical approach Hegel considers both the abstract universal sphere of reason and the contingent realm of natural particularity. Both these aspects of the dialectic correspond to the opposing emphases placed on human reason by liberals and communitarians. Liberals tend to stand on the side of universal reason while communitarians tend to align themselves with the particularity and the embeddedness of human nature. We saw in our brief analysis of the moral and political philosophy of Kant and Rawls (chapter one) that rational construction attempts to justify principles of justice from an *a priori* position. Communitarians, as we have seen, flatly deny such claims, maintaining that the definition of the moral agent given by Kant and Rawls' is incoherent and unrealistic. Instead, communitarians emphasise the socio-historic nature of the individual. Sandel points to the fundamental interpersonal relationships that make up the identity of an individual, while MacIntyre dismisses any noumenal approach to reason, claiming that rational investigation is always bound by the traditions and practices in which one finds oneself.

From examination of Hegel's critique of Kant it would appear that Hegel would agree with much of what the communitarians have to say about a Kantian form of liberalism. Like MacIntyre, Hegel's

approach to reason is historical and like Sandel, Hegel recognises the importance of inter-personal relationships for the identity of the individual. He rejects an approach to ethics that relies solely upon an a priori sphere of reason and he goes out of his way to overturn the opposition between reason and nature inherent in Kant's thought. However, Hegel also recognises the role that the universal plays in the dialectic and he views the distinction between the noumenal and phenomenal realms as necessary - one that must eventually be overcome but which serves a purpose in allowing consciousness to reflectively identify the universal with the particular.

In his criticisms of Kant, Hegel does not dismiss the abstract universal (being-in-itself) entirely but asserts that it is only one moment of the dialectic and not the essential aspect of morality. He condemns Kant for being one-sided. Arguably, Hegel could just as easily condemn communitarians for being one-sided on the part of the particular. There is a danger that communitarianism, by placing too great an emphasis on the actual and on the community, neglects the role of reflective thinking and individual autonomy and leads to a passive acceptance of tradition. Hegel does not advocate acquiescing with custom. He urges us to bring out the rational in the real by subjecting it to critical reflection. The problem with communitarianism and liberalism alike is that they remain rooted to opposing sides of consciousness without recognising that genuine freedom requires a synthesis of the two sides. Hegel calls for a negotiation between liberalism and communitarianism. Liberals should acknowledge the socio-historic nature of mankind and communitarians should recognise the importance of bringing the universal to bear on reality. What is needed is a form of liberal-communitarianism that can satisfy the dialectical demands of Hegel, recognising freedom both in-itself and for-others. Indeed, Michael Walzer makes a similar demand when he somewhat paradoxically observes that:

American communitarians have to recognize that there is no one out there but separated, rights-bearing, voluntarily associating, freely speaking, liberal selves. It would be a good

thing, though, if we could teach those selves to know themselves as social beings, the historical products of, and in part the embodiments of, liberal values.⁵⁰

In light of Hegel's demand for a liberal-communitarian philosophy I propose, in the next chapter, to offer a dialectical interpretation of liberal theory that may accommodate particularity and circumstance within principles of justice. I will consider whether it is possible to offer a Hegelian interpretation of Rawls' *A Theory of Justice* that responds to the communitarian criticisms and overcomes the Kantian dilemma of the opposition between reason and nature. In doing so I will undoubtedly do an injustice to Rawls' own claims to Kantianism regarding *justice as fairness*. However, in light of the criticisms made against constructivism by Hegel and the communitarians, it may not be such a bad thing if Rawls turns out to be less of a Kantian than he purports to be.

⁵⁰ Michael Walzer, 'The Communitarian Critique of Liberalism', in Amitai Etzioni (ed.), *New Communitarian Thinking: Persons, Virtues, Institutions, and Communities* (Charlottesville: University Press of Virginia, 1995), p.62.

Chapter 3: Reconsidering *A Theory of Justice*

The criticisms presented thus far against Rawls' *A Theory of Justice* focus on a Kantian interpretation of *justice as fairness* involving Rawls in an appeal to universal transcendentalism. Communitarians rail against the 'unencumbered' interpretation of the self and they firmly reject any appeal to a universal reason beyond our socio-historical embeddedness. By endorsing Kantian constructivism,⁵¹ Rawls has done little to assuage the fears of communitarians. Rawlsian liberalism and communitarianism are understood as competing political narratives, with liberals on the side of transcendental autonomy and communitarians on the side of social dependency and tradition. The questions for students of the liberalism/communitarianism debate have been 'which model of autonomy, reason and society most appropriately reflects contemporary society' and 'which model of politics is most beneficial to human flourishing'?

The criticisms made against a Kantian interpretation of reason and autonomy by Hegel and the communitarians suggest that a formal, constructivist approach to political philosophy is unrealistic, too abstract and over-ambitious. It is not immediately evident that political agents possess the ability to make appeals to a universal form of reason. Experience and historical analysis tell us that the human exercise of reason has always been conducted within an historical framework, working from within traditions of inquiry and seeking to expand upon them. Furthermore, individuals are not isolated units of rational construction but are partly constituted by the social relationships they find themselves in. Should such criticisms, however, force us to abandon liberalism altogether and embrace the communitarian model?

⁵¹ For an example of Rawls' endorsement of Kantian Constructivism see John Rawls, 'Kantian Construction in Moral Theory', in *The Journal of Philosophy*, vol.77 no.9, Sep. 1980, pp.512-572.

Hegel was equally condemnatory of the one-sidedness of particularity that presented morality as a passive acceptance of custom and tradition as he was of Kantian formalism. If communitarianism fails to acknowledge the role of reflective, critical thought in questions of justice and morality then it remains on the one-sidedness of particularity and must similarly be condemned by Hegel as an inappropriate form of human consciousness. In appealing to the philosophy of Hegel in defence of their own criticisms of liberalism communitarians risk undermining their own position.⁵²

The position of the communitarian who holds fast to a tradition and culture bound notion of the self is deeply solipsistic. He leaves himself no middle ground in which to engage opponents of his own position. As Hillary Putnam so acutely points out, 'at bottom, there is a deep irrationalism to cultural relativism, a denial of the possibility of *thinking*'.⁵³ In acknowledging that his own thought and morals are completely culturally dependent, the communitarian is leaving little room for himself to argue in defence of his position against those who would object to it. Jeremy Waldron argues quite convincingly that such a communitarian position is self-defeating. It is precisely the liberal approach to morality that is prevalent within the societies of communitarians. On their own account communitarians would have to defend liberalism because it most adequately reflects the mores of their society.

Our communal mores are claims we make about what is really right and wrong on sex, justice, equality, and so forth, and their nature is to leave no room for the thought that they are merely conventional, and that contrary claims may be also right for those who make them.... It is simply not possible to understand (for example) Christian ethics, Kantian ethics, or the morality of human rights, unless one sees that they are represented as statements of what is good and right for people *everywhere*. Moreover, the communitarian is not in a position to criticize these ethics for their universalism or imperialism. If these ethics

⁵² Charles Taylor's influential book *Hegel* (Cambridge: Cambridge University Press, 1975) is an example of how the German idealist has been appropriated by communitarians. The chapter on 'Ethical Substance' deals specifically with the relevance of Hegel's critique of Kant for a communitarian critique of liberalism.

⁵³ Hillary Putnam, 'Why reason can't be naturalized?' in *Realism and Reason: Philosophical Papers Vol.3* by Hillary Putnam (London: Cambridge University Press, 1983), p.235.

characterize our community then, according to the communitarian, there is no point of view from which we can criticize either their content or their pretensions.⁵⁴

Communitarians are correct in identifying the historical aspect of human knowledge and moral systems. Theories depend upon the theories that went before and no system of thought from within a particular culture or tradition can claim to fully represent universal reason, for this would be to subject the universal to immanent closure within the particular. There is always a certain extent of historical determination about human thought. Yet it is part of our historically constituted notions of justice and morality that they appeal beyond the traditions in which we find ourselves. While our notions of justice and morality may be particular and dependent upon a certain tradition of moral enquiry and liberal education, they still involve an appeal to the reflective capacity of universal reason. As Waldron notes, ‘although in condemning racism or exploitation we are expressing and participating in the shared culture of our community, we are not taking the existence of that culture as our reason or as a basis for our condemnation’.⁵⁵

We can never neglect the role of reflective thinking in our understanding. As Hegel points out in his dialectical theory of knowledge, it is the opposition between the idea of the thing-in-itself and the thing-as-it-is-for-us that initially begins the dialectical process. The tension between our concepts and our objective experiences forces us to reflect on our experiences and to seek to understand them more clearly. Our universal concepts are intellectual carrots that lead us to pursue traditions of enquiry. We cannot hope to come to a passive awareness of reason at work in history. We must undertake the initiative of reflecting on experience ourselves.

⁵⁴ Jeremy Waldron, ‘Particular Values and Critical Morality’, p.188.

⁵⁵ *Ibid*, p.192.

The communitarian may be correct in identifying the particularity of moral appeals throughout history. He may also be correct in claiming that liberalism is similarly one particular moral theory amongst others, denying liberal neutrality and universality. However, we should not then conclude that it is acceptable to abandon universal appeals. It is our appeal to universality that leads us to compare rival moral theories and to seek to assert the merit of one theory over another. MacIntyre has argued that the superiority of one theory over another is established in terms of the ability of that theory to overcome the difficulties of another. Similarly, communitarians have emphasised the role of practice and tradition for moral enquiry. However, what is it that provides a tradition of enquiry or a practice with its aim if not some notion of approximation to universal truth? What is it that explains advancements in moral theory if not some universal benchmark of coherence with experience? Why should one community adhere to the moral system that it does if not for the belief that their moral system is universally superior to the moral theories of their rival communities? It is this notion of approximation to universal truth that gives a narrative structure to traditions of moral enquiry and ethical practice. Without such a notion of approximation to universality there would be no reason for us to question the ethical systems in which we find ourselves or to seek or even measure intellectual and moral advancement. As Robert Stern observes:

[H]ow can we explain a change in one ethical or scientific conception to the next as *progressive* if we abandon the notion that there is any ultimate goal towards which such change ought to aim; and how can we understand such a goal if we do not allow talk of absolute validity or transcendental truth, either in ethics or in science?...And if we abandon in turn the notion of progress towards an absolutely valid conception, how can the historical changes in outlook, either in ethics or in science, be deemed *rational* if these changes are no longer said to represent a progressive convergence on some absolutely valid truth?⁵⁶

Similarly Gordon Graham notes about the normative structures of traditions:

⁵⁶ Robert Stern, 'MacIntyre and Historicism', in *After MacIntyre: Critical Perspectives on the Work of Alasdair MacIntyre*. Edited by John Horton and Susan Mendus (Cambridge: Polity Press, 1994), p.151.

In order to tell the story of a tradition and understand one's place in it, we must have conditions of identity for the continuation of that tradition, both in the past and for the future. But these conditions of identity, though they will be informed by historical knowledge, cannot be determined by them. For precisely how we tell the normative story – as one of progress, decline, purification or deviation – will depend on what we identify as the tradition's normatively necessary elements.⁵⁷

While different epochs may have radically different systems of justice and morality, what is it that unifies these divergent systems, causing us to label them as moral or ethical systems, if not some notion of appeal to universality from within history? We may say that the moral systems of particular societies are contingent upon their particular histories but we cannot deny that, within each of these moral systems, the universal has had a normative role to play.

There is an obvious tension between our appeal to universal principles of justice and the acknowledgement that the content of these appeals is socially and historically conditioned. Within the framework of a particular moral outlook or system of justice we happily think of ourselves as appealing to universal principles while in comparing rival theories and moral outlooks we can see each as a product of its own culture. Liberalism is a product of its own time and the content of the universal principles it acknowledges can be interpreted dialectically as the outcome of a historical process of moral and political inquiry. Nevertheless, to deny all appeals to the universal nature of reason is to deny something fundamental about the notions of morality and justice that have arisen in history – namely, that they must be neutral between individuals and societies. So while communitarians can argue that Rawls' *A Theory of Justice* is simply one particular moral theory amongst others they must recognise that the idea of the original position is an attempt to capture something fundamental about the way in which we approach issues of justice from within a society.

⁵⁷ Gordon Graham, 'MacIntyre's fusion of History and Philosophy', in *After MacIntyre: Critical Perspectives on the Work of Alasdair MacIntyre*, p.173.

From an external point of view, the priority of liberty and the rejection of utilitarian sacrifices can be seen as nothing but a part of our particular history and traditions. But from the internal point of view of those of us who have this history and share these traditions, the categorical tone of *A Theory of Justice* is entirely appropriate.⁵⁸

The dilemma of formulating universal claims from within a particular perspective is reminiscent of Hegel's dialectical approach to reason and autonomy. Hegel would accept the liberal argument that principles of justice and morality should be in the form of universal appeals. However, he would also accept the communitarian claim that the content of such appeals unfolds historically. As we saw in the last chapter, the universal, for Hegel, unfolds dialectically through the resolving of the contradictions involved in the sciences throughout history. Reason manifests itself via intersubjective recognition. A dialectical approach to justice and morality would seek to embrace the insights of both communitarians and liberals alike, seeking to minimise the differences between the two competing traditions. If liberalism can be given a dialectical twist perhaps it can overcome some of the criticisms made against it by communitarians. What is required is an attempt to formulate and preserve the liberal appeal to universal rational principles of justice within a theory that acknowledges historical particularity and social embeddedness. It is with this aim in mind that I will now attempt to offer a dialectical interpretation of Rawls' *A Theory of Justice*.

3.1 A Dialectical *Theory of Justice*

Up until now I have presented Rawls' approach to political philosophy as a form of Kantian liberalism, with emphases on the original position as a constructivist, ahistorical approach to justice and on the transcendental nature of Rawls' agent of construction. However, there is evidence to suggest that Rawls need not be interpreted from such a Kantian perspective. I have presented Rawls as a Kantian Constructivist to reflect the communitarian interpretation of his work. I have only briefly mentioned the role that *reflective equilibrium* and the *circumstances of justice* have to

⁵⁸ Jeremy Waldron, 'Particular Values and Critical Morality', p.191.

play in Rawls' theory. Yet it is these aspects of Rawls' position that lend weight to a dialectical interpretation of *A Theory of Justice*.

Reflective equilibrium proposes that any approach to principles of justice must endeavour to reconcile a process of rational construction with the considered judgements regarding justice already held in society,⁵⁹ while the *circumstances of justice* bring elements of particularity into the original position regarding the scarcity of resources and the capacities of individuals. The circumstances of justice provide the parties to the original position with sufficient information about themselves and the world to see the need for principles of justice. If the circumstances of justice did not pertain then there would be no need for a debate regarding principles of justice. The *circumstances of justice* are particular circumstances within history - the existence of a scarcity of resources and a plurality of interests within society. In recognising the role that the *circumstance of justice* play in determining the principles of justice, Rawls is acknowledging that principles need not be devoid from particularity in the strongly Kantian sense.

Instead of understanding the original position to be the situation in which all debate regarding justice must take place eternally we can interpret it as a reflection of what are considered the legitimate limitations on a debate about justice by all in contemporary pluralistic societies. On this view the original position ceases to be a punctual location of universality in the beyond and becomes a method for understanding the criteria of inter-subjective agreement in a contemporary western polis. Rawls claims that *justice as fairness* is not a metaphysical approach to justice. It is simply what all would agree upon in a pluralistic world. He seeks to justify his theory empirically

⁵⁹ 'We can either modify the account of the initial situation or we can revise our existing judgements, for even the judgements we take provisionally as fixed points are liable to revision. By going back and forth, sometimes altering the conditions of the contractual circumstances, at others withdrawing our judgements and conforming them to principle, I assume that eventually we shall find a description of the initial situation that both expresses reasonable conditions and yields principles which match our considered judgements duly pruned and adjusted. This state of affairs I refer to as reflective equilibrium'. [John Rawls, *A Theory of Justice*, p.18.].

rather than metaphysically, relying on the prevailing assumptions about autonomy, equality and justice rather than on any metaphysical doctrine about the nature of morality. This is the function of *reflective equilibrium* in designing the initial situation of rational construction. The situation of rational construction is designed to produce principles that accord with the underlying moral assumptions in society. If assumptions about morality are to change then the design of the original position will similarly need to alter in order to produce results that are compatible.

What justifies a conception of justice is not its being true to an order antecedent and given to us, but its congruence with our deeper understanding of ourselves and our aspirations, and our realization that, given our history and the traditions embedded in our public life, it is the most reasonable doctrine for us.⁶⁰

This notion of *reflective equilibrium* is crucial to a Hegelian interpretation of Rawls. It suggests parallels between Hegel's project of uncovering the rational in the actual and the liberal project of uncovering considered principles of justice within a pluralist polis.

According to both thinkers [Hegel and Rawls], what is needed is not some radical new beginning for ethics but rather that the moral principles and values latent in our everyday practices be "grasped in thought" as well – be made conscious and explicit, rendered consistent with each other, and their implicit rationality (or irrationality) grasped.⁶¹

To see if this interpretation of Rawls' position is tenable we must investigate his notion of *reflective equilibrium* further.

3.1a Reflective Equilibrium and the Rationality of the Actual

The starting point for Rawls' theory of *justice as fairness* (which in his later writings becomes known as *political liberalism*) is the assumption that all members of a pluralist society, upon reflection, would agree to certain notions of what it means to be autonomous, equal and rational. The design of

⁶⁰ John Rawls, 'Kantian Constructivism in Moral Theory', p.519.

⁶¹ Sibyl A. Schwarzenbach, 'Rawls, Hegel and Communitarianism', in *Political Theory*, vol.19 no.4 (November 1991, pp.539-571), p.544.

his original position uses devices such as the *veil of ignorance* to reflect these notions and to produce principles of justice that are in accordance with what Rawls takes to be the underlying considered moral assumptions in democratic societies. Thus, there is a reciprocal relationship between the original position of rational construction and the considered conceptions of autonomy and equality held within society. Interpreted in this way, then, the original position is not an absolute point from which to construct a theory of justice but a device for clarifying the rationality of the principles already held by society.

The philosopher arrives at the basic concept of the moral person and the adjunct concepts of the politically autonomous citizen, of fair cooperation, of the well-ordered society, and so forth, via a rational reconstruction of proven intuitions, that is, intuitions actually *found* in the practices and traditions of a democratic society. Reflective equilibrium is achieved at the moment when the philosopher has attained the assurance that those involved can no longer reject with good reasons intuitions reconstructed and clarified in this manner.⁶²

Interpreted via *reflective equilibrium* the original position is Rawls' attempt to bring the light of reason to bear upon the particular conceptions of equality and autonomy within society. The original position proposes that if we are to be consistent in the employment of our particular conceptions of autonomy and equality then certain principles of justice will logically follow and we must be prepared to accept them. Rawls is simply taking the notions of autonomy and equality that already exist in society and clarifying them in a procedural manner.

[T]he conditions embodied in the description of the original position are ones that we do in fact accept. Or if we do not, then perhaps we can be persuaded to do so by philosophical reflection. Each aspect of the contractual situation can be given supporting grounds. Thus what we shall do is to collect together into one conception a number of conditions on principles that we are ready upon due consideration to recognise as reasonable.⁶³

⁶² Jurgen Habermas, 'Reconciliation through the Public use of Reason: Remarks on John Rawls's Political Liberalism', in *The Journal of Philosophy*, Vol. 92 no. 3 (March, 1995), pp.119/120.

⁶³ John Rawls, *A Theory of Justice*, p.19.

People constantly refer to the concepts of autonomy and equality and accept them as values to be held within a democratic society. However, they do not generally reflect fully upon the meaning of these concepts and the implications for justice that a clearer understanding of these concepts would have. Rawls hopes that his *veil of ignorance* will help us to better understand what it means to be an equal, rational and autonomous agent, acknowledging that we all have diverging views about life and the good. Thus, the original position is not a sufficient situation of rational construction for principles of justice *ad infinitum* but a hypothetical device for clarifying the positions we already unwittingly hold within democratic society.⁶⁴ As such, *reflective equilibrium* recognises the influence that the tradition of democratic theory has had on society, on justice and on the notion of the individual, acknowledging that without such a history of democracy and pluralism, the original position – as Rawls formulates it – could never even have got going in the first place. As Roberto Alejandro observes:

In developing his political liberalism, Rawls engages in what might be termed a hermeneutic and archaeological enterprise. He does not claim to “discover” principles from nowhere; rather, his project is to bring to the surface a set of ideas that are already there in political culture, namely, in the fund of shared beliefs that sustain a common life in a democratic society.⁶⁵

It would appear that the original position is dialectical. It can be interpreted as an exposition and critical appraisal of ideas about autonomy and equality that have been developed historically by traditions of philosophical enquiry and democratic practice. In Hegel’s dialectic the universal is always trying to gain entry into the particular via the use of reason and the overcoming of contradictions in experience. Rawls’ original position fulfils this role in his theory of justice.

⁶⁴ ‘[W]hile the conception of the original position is part of the theory of conduct, it does not follow at all that there are actual situations that resemble it. What is necessary is that the principles that would be accepted play the requisite part in our moral reasoning and conduct’. [John Rawls, *A Theory of Justice*, p.104.].

⁶⁵ Roberto Alejandro, ‘What is Political About Rawls’ Political Liberalism?’, in *The Journal of Politics*, vol.58 no.1 (February 1996, pp.1-24), p.7.

Through *reflective equilibrium* and the original position actual ideas in society are scrutinized by thought and made fit with each other and with the notion of reasonableness.

One possible obstacle to a dialectical interpretation of Rawls, however, is his idea of universal reason. While it may be shown that Rawls' theory of justice depends upon considered notions of autonomy and equality and that it is possible to allow that these notions have arisen dialectically in history, it remains to be seen if Rawls' appeal to universal reason fits with such a dialectical approach to *A Theory of Justice*. Communitarians maintain that a constructivist approach to justice involving an unencumbered self commits one to a form of transcendentalism that must appeal to noumenal reason. This is problematic for a dialectical account of Rawls because Hegel rejects any form of noumenalism. The question then, for Rawls, is whether his understanding of universal reason must commit him to such a Kantian position, or whether he can avoid some of Kant's metaphysical baggage.

3.1b Reconsidering Rational Justification in Rawls

Rawls warns readers not to take the apriorism of his original position out of context by considering it to be a position in which justice can be fixed for eternity. On Kant's understanding of rational construction an original position would indeed be such a place. However, Rawls only wishes for his original position to be understood as the condition of mutual agreement upon justice in a democratic and pluralistic polis. If there is a certain amount of a priori universalism in Rawls' original position it is only because, given the differences between members of a pluralist polis, this is the only understanding of rational agency that can be mutually accepted.

What may cause misunderstanding is the thought that, using an abstract idea like the original position as a device of representation and imagining the parties to understand their selection of principles to hold in perpetuity, justice as fairness apparently supposes citizens' conception of justice can be fixed once and for all. This overlooks the crucial point that we are in civil society and that the political conception of justice, like any other conception, is

always subject to being checked by our reflective considered judgements. Using the idea of perpetuity here is a way of saying that when we imagine rational (not reasonable) parties to select principles, it is a reasonable condition to require them to do so assuming their selection is to hold in perpetuity.⁶⁶

What may lead to confusion is Rawls' use of the term 'rational'. What does Rawls mean by 'rational parties' and what stance toward each other and toward justice would such persons adopt? Considering the original position is a device of rational construction, rational persons in a pluralist world would be required to stand back from their particularity and adopt a universal attitude behind a veil of ignorance. But is this not simply Kantian noumenalism disguised behind an empirical theory? While some may think it is, what is interesting about Rawls' theory is the approach he takes to the design of his original position.

Rawls' primary aim is to arrive at a position of inter-subjective agreement within a pluralist polis. Thus, the conditions of his original position need not apply eternally. All they need do is reflect a common perspective on reason and autonomy within a heterogeneous world. The starting point for Rawls' theory is in the heterogeneous world, not the homogenous noumena (as with Kant). This is a Hegelian position. As we saw in the last chapter, Hegel attempted to uncover the universal via recognition in a heterogeneous world. Universal freedom was made manifest in the recognition of the difference between individuals and in their right to this difference from each other. The starting point of this process of recognition was in the individual's own particular concept of freedom and his coming into conflict with others. Similarly, Rawls seeks to uncover concepts that all individuals in a pluralist world accept upon considered reflection. His starting point is the empirical fact of pluralism and the requirement of inter-subjective agreement in society.

⁶⁶ John Rawls, *A Theory of Justice*, p.153.

The fact that Rawls' description of the original position involves a *veil of ignorance* that suggests abstract connotations does not entail that universal reason and principles of justice must *necessarily* be abstract. It simply reflects what people take to be the requirements of reason in a pluralist world. It is simply the case that it is inter-subjectively acceptable to presume that rational justification requires us to make appeals to universal principles. Principles of justice will be considered rational if they can be justified inter-subjectively, if they can be shown to be acceptable to all members of society. It is not their formulation in the original position per se that justifies Rawls' two principles of justice but their inter-subjective acceptability.⁶⁷ It is the inter-subjective agreement not the original position that justifies the principles of justice.

If my analysis of *reflective equilibrium* is correct and if the design of the original position and its method of rational construction is to be understood as a reflection of the prevailing concepts in a pluralist world, then Rawls places a much greater emphasis on inter-subjectivity and socio-historical determination than communitarians give him credit for. Although the agent of rational construction in the original position may indeed be the atomistic unencumbered self that communitarians criticise, this model of agency is arrived at inter-subjectively and historically via *reflective equilibrium*. The unencumbered self is not an entire account of the identity of the individual in society but simply an account of the moral identity required for agreement in a multicultural and heterogeneous society.

⁶⁷ 'Being designed to reconcile by reason, justification proceeds from what all parties to the discussion hold in common. Ideally, to justify a conception of justice to someone is to give him a proof of its principles from premises that we both accept, these principles having in turn consequences that match our considered judgements. Thus mere proof is not justification. A proof simply displays logical relations between propositions. But proofs become justification once the starting points are mutually recognized, or the conclusions so comprehensive and compelling as to persuade us of the soundness of the conception expressed by their premises.' [John Rawls, *A Theory of Justice*, p.508.]

3.1c The Social Dependency of the Unencumbered Self

Rawls never suggests that human beings should be considered as atomically isolated from each other. In a section of *A Theory of Justice* entitled 'The Idea of a Social Union' Rawls makes it abundantly clear that human beings are mutually dependent upon each other.

In a fully just society persons seek their good in ways peculiar to themselves, and they rely upon their associates to do things they could not have done, as well as things they might have done but did not...It is a feature of human sociability that we are by ourselves but parts of what we might be. We must look to others to attain the excellences that we must leave aside, or lack altogether.⁶⁸

Human nature has an enormous potential that must be realized over time and history. Given our short life spans and divergent capabilities no individual human being can realize human nature to the fullest. We lack the time and necessary resources to achieve such a realisation of our nature. We depend upon those who have gone before us, those around us, and those who are to follow us to bring about the complete realisation of our nature. This dependency on others is reflected in the division of labour in society. We have realised that by cooperating together and specialising in different tasks we can achieve a much greater efficiency in production and greater quality of life. Thus, human beings are both historically and socially dependent upon each other.

To say that man is a historical being is to say that the realisations of the powers of human individuals living at any one time takes the cooperation of many generations (or even societies) over a long period of time. It also implies that this cooperation is guided at any moment by an understanding of what has been done in the past as it is interpreted by social tradition.⁶⁹

If we are to take Rawls' remarks at face value, there is no reason why we cannot view approaches to justice and rationality in a similarly dialectical manner; where our concepts unfold and evolve historically within traditions of enquiry. We can acknowledge that theories regarding justice and

⁶⁸ *Ibid*, p.464.

⁶⁹ *Ibid*, p.460.

morality are limited by history and tradition while at the same time seeking to understand the rationality of these theories for ourselves.

[T]he institutions [citizens] find themselves under are not the work of a political philosopher who has institutionalised them in theory beyond citizens' control. Rather, those institutions are the work of past generations who pass them on to us as we grow up under them. We assess them when we come of age and act accordingly.⁷⁰

The unencumbered agent of Rawls' rational construction does not embody what it means to be an actual individual in the world. Rather, the unencumbered individual behind the veil of ignorance is a conceptualisation of the morally sufficient conditions of agency - arrived at historically - for an agreement of political justice. The development of the notion of equality and centuries of conflict and oppression have inspired us to attempt to approach justice from a universal perspective and not to rely on the ideologies and interests of a few particular individuals. The unencumbered self reflects that aspect of our identities that is still considered relevant to a debate about political justice, namely, a universal capacity for a sense of justice. Rawls believes that we have two moral powers: a) a capacity for a sense of justice, and b) a capacity to pursue individual rational ends.⁷¹ He also maintains that this is the view of the person that would be accepted by all in a democratic and pluralist society. The unencumbered individual behind the veil of ignorance seeks to capture our capacity for a sense of justice, which is considered to be relevant to a debate about political justice.

Rawls' agent of rational construction is not the *necessary* and *sufficient* legislator of reason in Kant's *Kingdom of Ends* but the formulation of what is taken to be the predominant view about the subject of political justice in a pluralist world. This view of the subject has been arrived at historically in line with advances in moral theory and democratic practice. It is an attempt to capture

⁷⁰ John Rawls, 'Political Liberalism: reply to Habermas', in *The Journal of Philosophy*, vol.92 no.3 (March 1995, pp.132-180), p.153.

⁷¹ John Rawls, 'The Sense of Justice', in *The Philosophical Review*, vol.72 no.3 (July 1963, pp.281-305), pp.281-285.

a universal element common to all of us, despite our differences, rather than an entire human anthropology. We have developed this notion of the universal human subject in common through history rather than independently beyond history.

Rawls' comments regarding the social and historical dependency of individuals upon each other in 'The Idea of a Social union' suggest that even our understanding of universal human nature is arrived at historically via traditions of enquiry and political practice and that we should not take the notion of human agency in the Original Position to be fixed once and for all. Instead, it is open to interpretation in line with new developments in thought and *reflective equilibrium*, as are the very design of the original position and the principles of its outcome. On this account, then, Rawls can exempt himself from the charges brought against him by communitarians that he relies on an atomistic notion of human subjectivity beyond experience and a conception of reason that leaves no room for historical contingency. This dialectical interpretation of Rawls' *A Theory of Justice* recognises the role of contingency and history in debates regarding justice while maintaining that approaches to justice require the public use of reason. If this dialectical approach to Rawls is to be pursued it will have a number of significant consequences for how we understand liberal approaches to justice.

3.2 Consequences of a Dialectical Interpretation of *A Theory of Justice*

If the Hegelian interpretation of Rawls' thought is accepted then *justice as fairness* cannot be considered a freestanding theory regarding principles of justice. It cannot be considered a *neutral* theory about justice because it invokes a certain view of the moral agent as the basis for the design of the original position. This view of the moral agent, in turn, depends upon the social and intellectual history of western thought and democratic practice as the source of its origin and development. While Rawls' principles of justice may be neutral between members of a pluralist

democracy with competing conceptions of the good, they are not neutral between competing moral traditions or conceptions of the person.⁷² Rawls' theory of justice, in light of his notion of *reflective equilibrium*, could only be accepted by members of a pluralist society that shared the basic assumptions about the autonomy and equality of persons upon which Rawls' two principles of justice and the design of his original position depend. His theory of justice is applicable only to members of a particular society at a particular moment in time with a specific history of thought and practice that have led them to subscribe to Rawls' view about the moral powers of human individuals. As an adequate theory of justice for contemporary society, Rawls - if he is to be true to his own notion of *reflective equilibrium* - must be able to demonstrate that the assumptions behind the design of his original position and the two principles of justice are indeed in accordance with the considered convictions of members of contemporary society. As Habermas points out:

The impartiality of judgement would be guaranteed in the original position only if the basic normative concepts employed in its construction – those of the politically autonomous citizen, of fair cooperation, and of a well-ordered society, in the specific sense Rawls' attaches to these terms – could withstand revision in light of morally significant future experiences and learning processes.⁷³

The advantage of a dialectical interpretation of Rawlsian liberalism is that it avoids the abstract formalism of a Kantian approach to justice and, in so doing, accepts some of the criticisms brought against liberalism by communitarians. Furthermore, it recognises the importance that inter-subjective justification must play in our appeals to justice while remaining true to the conviction that all our knowledge and thought processes are in some way conditioned by history and tradition. What an adequate dialectical approach to liberalism achieves is a clarity regarding the grounds for

⁷² '[J]ustice as fairness is a moral conception: it has conceptions of person and society, and concepts of right and fairness, as well as principles of justice with their complement of the virtues through which those principles are embodied in human character and regulate political and social life. The conception of justice provides an account of the cooperative virtues suitable for a political doctrine in view of the conditions and requirements of a constitutional regime' [John Rawls, 'Justice as Fairness: Political not Metaphysical', p.247].

⁷³ Jurgen Habermas, 'Reconciliation through the Public Use of Reason: remarks on John Rawls's Political Liberalism', p.118.

inter-subjective agreement and the common principles that can be appealed to in a pluralistic society. As such, it is a presentation of the considered rationality within the western tradition of liberalism rather than a permanently applicable doctrine regarding the justification of principles of justice.

A dialectical approach to liberalism inevitably concedes some ground regarding neutrality to the communitarian. Nevertheless, in light of our inevitable historicity, it is unreasonable to suppose that we can ever reach a position in consciousness that is entirely neutral from all perspectives. This was the insight of Hegel. At best, all we can do is attempt to develop an approach to justice and morality that retains the critical use of reason via inter-subjective justification. Recognising the dangers of relying on the one-sidedness of an approach to justice that remains completely bound to particularity - as some models of communitarianism do - and seeing the difficulties involved in a purely abstract Kantian approach to justice, a dialectical interpretation of Rawls holds the middle ground, recognising the role of history in thought processes while maintaining that principles of justice need to be rationally appraised within traditions and not simply taken for granted. Liberalism must be prepared to admit that it is not a wholly neutral perspective regarding justice and depends upon the tradition of western thought and democratic practice for its origins. Since it is a political theory that has arisen historically it can never consider itself to be the final thought on the matter.

In the past liberal theories appealed to neutrality as a justification for their acceptance. This appeal has been shown to be deeply troublesome and questionable. The appeal to complete neutrality must be abandoned for it is unsustainable and cannot be defended against those with rival conceptions of the moral identity of the human person. Nevertheless, this does not entail that, as a doctrine of democracy, liberalism should be abandoned. Instead, it should be continually assessed in accordance with our political experiences so that we come to an even greater understanding of the

relationship between autonomy in practice and autonomy in theory, recognising that as historical beings engaged in processes of enquiry, more still remains to be said about justice.

Bibliography

1. Alejandro, Roberto, 'What is Political About Rawls' Political Liberalism?' in *The Journal of Politics*, vol.58 no.1 (February 1996, pp.1-24).
2. Franco, Paul, *Hegel's Philosophy of Freedom* (New Haven: Yale University Press, 1999).
3. Graham, Gordon, 'MacIntyre's fusion of History and Philosophy' in Horton, J. and Mendus, S. (eds.) *After MacIntyre: Critical Perspectives on the Work of Alasdair MacIntyre*, (Cambridge: Polity Press, 1994).
4. Habermas, Jurgen, 'Reconciliation through the Public use of Reason: Remarks on John Rawls's Political Liberalism' in *The Journal of Philosophy*, Vol. 92 no. 3 (March, 1995).
5. Hegel, G.W.F., 'On the Scientific Ways of Treating Natural Law' in Dickey, L. and Nisbet, H.B. (eds.), *Hegel: Political Writings*. (Cambridge: Cambridge University Press, 1997).
6. Hegel, G.W.F., *Lectures on the History of Philosophy Vol. III*, trans. E.S. Haldane and Frances H. Simson, (London: Routledge and Keagan Paul, 1968).
7. Hegel, G.W.F., *Phenomenology of Spirit*, trans. A.V. Miller, (Oxford: Oxford University Press, 1977).
8. Hegel, G.W.F., *Philosophy of Right*, trans. T.M. Knox, (Oxford: Oxford University Press, 1975).
9. Kant, Immanuel, *Groundwork of the Metaphysics of Morals*, trans. Mary Gregor, (Cambridge: Cambridge University Press, 1997).
10. Knowles, Dudley, *Routledge Philosophy Guidebook to Hegel and the Philosophy of Right*, (London: Routledge, 2002).
11. MacIntyre, Alasdair, 'The Privatization of Good: An Inaugural Lecture' in Delaney, C.F. (ed.), *The Liberalism-Communitarianism Debate*, (London: Rowman and Littlefield Publishers, 1994).

12. MacIntyre, Alasdair, 'The virtues, The Unity of a Human Life and the Concept of a Tradition', in Sandel, M.J. (ed.), *Liberalism and Its Critics*, (Oxford: Blackwell, 1986).
13. MacIntyre, Alasdair, *After Virtue* (London: Duckworth, 1985).
14. Moore, Margaret, *Foundations of Liberalism*, (Oxford: Clarendon Press, 1993).
15. Patten, Alan, *Hegel's Idea of Freedom*, (Oxford: Oxford University Press, 1999).
16. Putnam, Hillary, 'Why reason can't be naturalized?' in Putnam, Hillary, *Realism and Reason: Philosophical Papers Vol.3*, (London: Cambridge University Press, 1983).
17. Rawls, John, 'Justice as Fairness: Political not Metaphysical' in *Philosophy and Public Affairs*, vol.14 no.3 (Summer 1985, pp.223-251).
18. Rawls, John, 'Kantian Construction in Moral Theory' in *The Journal of Philosophy*, vol.77 no.9 (Sep. 1980, pp515-572).
19. Rawls, John, 'Political Liberalism: reply to Habermas' in *The Journal of Philosophy*, vol.92 no.3 (March 1995, pp.132.180).
20. Rawls, John, 'The Priority of Right and Ideas of the Good' in *Philosophy and Public Affairs*, vol.17, no.4 (Autumn 1988, pp.251-276).
21. Rawls, John, 'The Sense of Justice' in *The Philosophical Review*, vol.72 no.3 (July 1963, pp.281-305).
22. Rawls, John, *A Theory of Justice (Revised Edition)*, (Oxford: Oxford University Press, 1999).
23. Sandel, Michael, 'Justice and the Good' in Sandel, M.J. (ed.), *Liberalism and Its Critics*, (Oxford: Blackwell, 1986).
24. Sandel, Michael, 'The Procedural Republic and the Unencumbered Self' in *Political Theory*, vol.12 no.1 (February 1984, pp. 81-96).
25. Sandel, Michael, *Liberalism and the Limits of Justice*, (Cambridge: Cambridge University Press, 1982).

26. Schwarzenbach, Sibyl A, 'Rawls, Hegel and Communitarianism', in *Political Theory*, vol.19 no.4 (November 1991, pp.539-571).
27. Stern, Robert, 'MacIntyre and Historicism', in Horton, J. and Mendus, S. (eds.), *After MacIntyre: Critical Perspectives on the Work of Alasdair MacIntyre*, (Cambridge: Polity Press, 1994).
28. Stern, Robert, *Routledge Guidebook to Hegel and the Phenomenology of Spirit* (London: Routledge, 2002).
29. Taylor, Charles, 'Justice After Virtue' in Horton, J. and Mendus, S. (eds.), *After MacIntyre: Critical Perspectives on the Work of Alasdair MacIntyre*, (Cambridge: Polity Press, 1994).
30. Taylor, Charles, *Hegel* (Cambridge: Cambridge University Press, 1975).
31. Waldron, Jeremy, 'Particular Values and Critical Morality' in Waldron, J., *Liberal Rights: Collected Papers 1981-1991*, (Cambridge: Cambridge University Press, 1993).
32. Walzer, Michael, 'The Communitarian Critique of Liberalism' in Etzioni, A (ed.), *New Communitarian Thinking: Persons, Virtues, Institutions, and Communities* (Charlottesville: University Press of Virginia, 1995).
33. Williams, Robert R., *Hegel's Ethics of Recognition* (Berkeley: University of California Press, 1997).
34. Wood, Allen, 'The Emptiness of the Moral Will' in Stern, R. (ed.), *G.W.F. Hegel: Critical Assessments Volume IV*, (London: Routledge, 1993).