

JUSTICE, NON-VIOLENCE, AND THE PRACTICE OF POLITICAL JUDGMENT:

A STUDY OF RICOEUR'S CONCEPTION OF JUSTICE

By

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(Under the Direction of CLARK WOLF)

ABSTRACT

In his recent works, Paul Ricoeur devotes considerable attention to the importance of John Rawls's political philosophy. At the same time, he develops his own positive account of justice, which concerns the moral foundation for society as well individual actions and decisions. Ricoeur is in substantial agreement that one of the main problems in a democratic society is securing the moral validity of public norms or principles. In addressing this problem, Ricoeur finds that Rawls's procedural conception of justice is extremely helpful, but limited in a fundamental way.

The aim of this study is twofold: the first aim is to explore Paul Ricoeur's critique of John Rawls's pure procedural conception of justice. The second aim is to show that Ricoeur's conception of justice is a suitable alternative to Rawls's conception. It is not my intention here to compare Ricoeur's position to Rawls's in a complete fashion. But it will be my thesis that Ricoeur's conception of justice is preferable to that of Rawls in several important respects. Most importantly, Ricoeur's conception of justice is more realistic, since its justification does not require an appeal to a hypothetical original position. And second, his conception is more practically applicable, since its realization is more plausibly grounded in an anthropological account of human action and because of its emphasis on the dynamism of justice, which connects philosophy to politics and history.

My study will proceed in two main parts. The first part, including the first and second chapters, deals with Rawls's theory of justice. The second, which includes the remaining chapters, discusses Paul Ricoeur's own positive account of justice. More specifically, I shall draw attentions to two crucial themes in Ricoeur's political thought: first, consideration of justice enables us to explain how morality plays an important role in social or political life, and also to explain the proper function of politics and history. Secondly, consideration of justice will show that Ricoeur's overall conception of justice is rooted in an appropriate understanding of human capabilities.

INDEX WORDS: Rawls, Ricoeur, Justice, Procedural justice, Ethics, Morality, Distribution, Arendt, Authority, Judgment.

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INTRODUCTION

The purpose of this dissertation is to explore Paul Ricoeur's conception of justice, as represented in his recent philosophical works. But the aim is in fact twofold: First I will evaluate Ricoeur's critique of John Rawls's pure procedural conception of justice, which dominates contemporary moral and political philosophy. I will then argue that Ricoeur's conception of justice is a suitable alternative to Rawls's conception. My thesis will be that Ricoeur's conception of justice is preferable to that of Rawls and to other alternative theories in several important respects. Most importantly, Ricoeur's conception of justice is more realistic, since its justification does not require an appeal to a hypothetical original position. Second, his conception is more practically applicable, since its realization is more plausibly based on an anthropological account of human action and because of its emphasis on the dynamism of justice.

My study will proceed in five chapters. In the first chapter, I give a brief outline of one important aspect of Rawls's theory of justice. Specifically, I focus on the question whether Rawls's thesis of the primacy of justice offers a reasonable and workable basis for a political theory of justice. I begin with an explication of Rawls's key concepts: the "moral point of view" of the "original position," two principles of justice, primary social goods, procedural justice, and Rawls holistic theory of justification.

In the second chapter, I examine a critique of Rawls proposed by Paul Ricoeur. I explore Ricoeur's primary doubts concerning the plausibility of the pure procedural conception of justice and Rawls's solution to the problem of distribution.

The third chapter discusses Ricoeur's thesis of the primacy of the ethical. Focusing on the notion of the ethical, I explore Ricoeur's key concepts of ethics: capability, initiative, human agent, attestation, and responsibility.

The fourth chapter addresses Ricoeur's dynamic conception of justice. I explain how three distinct "moments," (the teleological moment, the deontological moment, and the phronetic moment) are distinguished and related with each other within the structure of Ricoeur's theory. Ricoeur's notion of 'violence' and a 'tragedy of action' will be given special attention. Ricoeur's grand conception of justice, as I argue, requires that we understand each of the moments in its proper place.

The final chapter explains Ricoeur's account of political justice, focusing on characteristics that are unique to the political domain and which define its character. Paying special regard to Arendt's account of power, political authority, and political judgment, I explain Ricoeur's response to Arendt, focusing on the "moral point of view" from which Ricoeur develops a role for political justice. Then I explicate Ricoeur's account of non-violence, and the pivotal role it plays in his broader conception of justice.

CHAPTER 1

THE PRIORITY OF JUSTICE

What is justice? What are principles of justice? These questions, which dominate contemporary moral and political thought, have been among of the most urgent moral and political questions. In his classic work *A Theory of Justice* (Rawls 1971), John Rawls develops an original political theory that would provide a philosophical foundation for justice. In it, he tries to develop, extend, and specify a basic idea of contractualism, according to which principles of justice should be the product of a prior agreement in a hypothetical situation that gives a central role to a conception of persons as free, equal, and rational agents. Aided by a prior consent about principles of justice, Rawls attempts to defend one of the “central features” of his conception of justice (Rawls 1971: 32): the priority of the just over the good. The following passages exemplify this crucial thesis:

[A] just social system defines the scope within which individuals must develop their aims, and it provides a framework of rights and opportunities and the means of satisfaction within and by the use of which these ends may be equitably pursued. The priority of justice is accounted for, in part, by holding that the interests requiring the violation of justice have no value. (Rawls 1971: 31)

The principles of political justice impose limits on permissible ways of life; and hence the claims citizens make to pursue ends that transgress those limits have no weights. (Rawls 1996: 174)

In his later writings, Rawls’s thesis of the primacy of justice over the good is even more crucial in his discussion of contemporary democratic cultures. Highlighting and

limiting the directory role of the political conception of justice in contemporary democratic cultures, Rawls tries to find a reasonable basis for an “overlapping consensus” among those whose fundamental values are formed in contemporary democratic cultures. Rawls’s basic question is how the exercise of force by the state can be legitimated on the basis of principles of justice. Since a democratic regime is characterized by conflicting interests and a plurality of values, democratic citizens’ conceptions of the good are multiple and perhaps even incommensurable. Insofar as political society cannot encompass all the goods within itself, the function of a political community, therefore, is not to pursue any specific sets of goods but to establish the background for determining the justness of social and political arrangements. Hence, social conflict is not eliminated from a democratic regime and the mediating role of the state becomes more urgent. Here justice as a political virtue gives a central role to guaranteeing citizen’s civic and political rights and opportunities necessary for exercising their capabilities as much as they can. Thus the principles of justice will determine which forms of life are permissible in a just state.

My aim in this chapter is to give a brief outline of one important aspect of Rawls’s theory of justice. More specifically, I shall try to focus on the question whether Rawls’s thesis of the primacy of justice offers a reasonable and workable basis for a political theory of justice. In so doing, it seems natural to begin with an explication of Rawls’s key concepts. Among these concepts, the “moral point of view” of the “original position” is a top priority. In addition, I shall discuss the principles of justice that would be selected from the original position, and what Rawls calls the “primary social goods.” Then I shall attempt to examine some of Rawls’s methodological assumptions: the

essential connection between procedural justice and deontology, and the idea of pure procedural justice in association with a constructivist theory of justice. Finally, I shall consider Rawls's holistic conception of justification, his method of "reflective equilibrium."

Rawls argues that the principles of justice are just those principles that would be chosen from the morally credentialed "original position," an initial choice situation intended to capture our considered judgments about the freedom and equality of persons. Since an alternative description of the initial choice situation could be employed, Rawls argues that we should find the description that leads to results that match our "considered convictions" about the content of specific principles of justice. I shall try to show how the method of reflective equilibrium would be linked to some features of his political theory of justice in its justification.

The Original Position

For Rawls the original position is an appropriate standpoint for choosing principles of justice to govern the basic structure of social institutions.¹ But the original position is obviously not the appropriate perspective for individuals facing immediate

¹ In *Theory of Justice*, Rawls considers the original position as the Archimedean point, the standpoint of "*sub specie aeternitatis*." (Rawls 1971: 587) Comparing it to Kant's noumenal standpoint, Rawls writes: My suggestion is that we think of the original position as the point of view from which noumenal selves see the world. The parties qua noumenal selves have complete freedom to choose whatever principles they wish; but they also have a desire to express their nature as rational and equal members of the intelligible realm with precisely this liberty to choose, that is, as beings who can look at the world in this way and express this perspective in their life as members of society (Rawls 1971: 255).

More importantly, however, this foundational enterprise for Rawls is closely linked to the holistic approach that requires a method of 'reflective equilibrium.' (Rawls 1971: 20-21, 48-51) Thus Rawls's theory of

moral choices. It is rather applied to evaluate the justice of entire societies and the social or economic system. In this sense, the justice that would be associated with the original position should satisfy three main ideas of social cooperation: mutual advantage, publicity, and reciprocity. (Rawls 1996:16)

The original position is an initial choice situation that would generate principles for the justice of basic institutions. It is based on some of contractualist assumptions: just principles would be based on mutual consent of free and equal agents under a fair situation. It is thus assumed that the justness of principles is determined by the fairness of the contracting situation. Rawls puts this intuitive idea as follows:

The intuitive idea of justice as fairness is to think of the first principles of justice as themselves the object of an original agreement in a suitably defined initial situation. These principles are those which rational persons concerned to advance their interests would accept in this position of equality to settle the basic terms of their association (Rawls 1971: 118-9).

The original position is hypothetical and non-historical.² In it Rawls believes that his theory of justice can reasonably access and order certain conflicting views about the justice of the basic institutions of society. Thus Rawls gives a crucial role to deliberative reflection and interpretation in the adoption of principles from the original position. More importantly, he assumes that the political agreement in the original position can be unanimous if reasonable constraints are imposed on it. Rawls writes:

justice presupposes some basic values in the public culture of democracy. In this sense, his theory of justice is not timeless truth but 'reasonableness' in our times.

² Rawls emphasizes the hypothetical feature of the original position. For instance, he claims: "*We are to imagine* that those who engage in social cooperation choose together, in one joint act, the principles which are to assign basic rights and duties and to determine the division of social benefit." (Rawls 1971: 11, emphasis added); "*We conjecture* that the fairness of the circumstances under which agreement is reached transfers to the principles of justice agreed to; since the original position situates free and equal moral persons fairly with respect to one another, any conception of justice they adopts is likely fair. Thus the name: 'justice as fairness.'" (Rawls 1980: 522, emphasis added)

The original position is so characterized that unanimity is possible; the deliberations of any one person are typical of all. Moreover, the same will hold for the considered judgments of the citizens of a well-ordered society effectively regulated by the principles of justice. Everyone has a similar sense of justice and in this respect a well-ordered society is homogeneous. Political agreement can be reached (Rawls 1971: 139).

In his later works, Rawls considers the original position simply as a “device of representation.”³ As ‘device of representation,’ the original position is referred to as a fair situation of free, equal and rational agents.⁴

Mutual disinterestedness:

The parties to the original position choice are “artificial persons,” but are supposed to be rational. As Rawls writes, the parties are “self-interested individuals with individualistic aims.”(Rawls 1971: 142)⁵ But they are not merely self-interested. The participants in the original position are also reasonable to the extent that their interests can be judged in terms of long-term as well as short-term plans, and in that they are understood as putting forth proposals that they believe that other participants might

³ In *Political Liberalism*, Rawls attempts to eliminate Kant’s transcendentalism by emphasizing the earthly aspect of justice. He argues that the conception of justice is not one of comprehensive doctrines, but a political one. In other words, the political conception of justice is freestanding.

⁴ This leads Rawls to direct attention to a political conception of person, that is, that of citizen. He underscores the citizen’s capacity to revise his or her own conception of the good if there are reasonable grounds. (Rawls 1996: 30) Focusing on a difference between moral and personal persons, Norman Daniels regards this to be of characteristic of Rawls’s later works. He writes: “TJ [Rawls 1971] does not address persons as citizens but rather individuals trying to work out their own conception of justice as it applies to the basic political and social institutions of democratic society. For the most part their task is solitary as they reflect on their own considered judgments with their fixed points and the several first principles and intermediate concepts and their ideal they affirm. TJ is presented as a work individuals might study in their attempt – admitting never fully achieved and always to be striven for – to attain the self-understanding of wide reflective equilibrium.” (Wolf and Davion 2000: 128)

⁵ “The persons in the original position are not to view themselves as single isolated individuals. To the contrary, they assume that they have interests which they must protect as best they can and that they have ties with certain members of the next generation who also make similar claims.” (Rawls 1971: 206); “The persons in the original position are rational. In choosing between principles each tries as best he can to advance his interests.” (Rawls 1971: 142)

accept. According to Rawls, reasonableness is to be distinguished from mere rational self-interest, and parties must be free from parochial interests that would distort their judgment. Thus Rawls claims that, in order to put aside personal prejudices, the participants should be “mutually disinterested.” In this interest, Rawls denies the parties to the original position any knowledge of their specific conception of the good. Thus the parties are understood as self-interested but mutually disinterested individuals who try to further their own interests as best they can under the constraints of the initial position.

For Rawls, the parties in the original position presuppose a minimal conception of the good, which is indispensable to advancing their system of ends as far as possible. Rawls calls this minimal conception the idea of “primary social goods.” By ‘primary social goods,’ he refers to “social background conditions and all-purpose means generally necessary for forming and rationally pursuing a conception of the good.”(Rawls 1982: 169) They include basic liberties such as freedom, power, economic wealth and self-respect.⁶ Because we know that the parties in the original position would prefer a certain minimal conception of the good, Rawls argues that two basic claims seem obvious: first, the parties in the original position “prefer more rather than less” primary goods. (Rawls 1971: 93) They try to win for themselves the “highest score” of primary social goods. Second, they must satisfy the moral demand of mutual disinterest: “the parties take no interest in one another’s interests.” (Rawls 1971: 127)

In sum, the leading idea is that parties to the original position should be identical with respect to their motivation and information. As a result, they are concerned primarily with the effect their choice will have on their own interests. In the original position each focuses on the life of each individual in society as if it were his or her own

life. Thus the contracting parties are motivated to avoid the worst possible outcomes for anyone.

The Veil of Ignorance

For Rawls, the parties in the original position should choose principles of justice on the basis of minimal information.⁷ In order to insure the justice of the chosen principles, Rawls imposes special constraints on the circumstances of the original position choice. He argues that, in order for their choice to be just, the parties must not to be narrowly parochial or partial.⁸ To avoid inappropriate partiality in the original position, Rawls introduces a special constraint on information, the veil of ignorance:

Among the essential features of this situation is that no one knows his place in society, his class position or social status, nor does anyone know his fortune in the distribution of natural assets and abilities, his intelligence, strength, and the like. I shall even assume that the parties do not know their conceptions of the good or their special psychological propensities. (Rawls 1971: 12)

The veil of ignorance has the effect of motivating the parties to minimize the effect of luck on the lives of citizens. It is Rawls's belief that each individual's prospects and opportunities in life are strongly influenced by the position into which he is born, through no choice of his own. But it is another fundamental belief that luck can be equalized by regulating the rules of institutions that are to some extent under human control. Thus the original position behind the veil of ignorance is supposed to satisfy one of our most intuitive ideas: "no one is advantaged or disadvantaged in their choice of principle by the

⁶ Primary social goods will be more discussed in detail.

⁷ From behind the veil of ignorance one's choice will be focused on "primary goods" and on one's own interests. (Rawls 1971: 17-22, 118-50)

⁸ In this respect mutual disinterestedness is distinguished from benevolence. Benevolence lacks impartiality, while impartiality calls for disinterestedness.

outcome of natural chance or the contingency of social circumstances” (Rawls 1971: 12). The veil of ignorance eliminates all the ‘knowledge of particulars’ and ‘bias by arbitrary contingencies.’ It corrects for the influence of talents, wealth, social position, and particular conceptions of value.

For Rawls, unanimity flows from impartiality. As Rawls writes, since “the differences among the parties are unknown to them, and everyone is equally rational and similarly situated, each is convinced by the same arguments.” He later continues, “If anyone, after due reflection, prefers one conception of justice to another, then they all do, and a unanimous agreement can be reached.” (Rawls 1971: 139) From the original position behind the veil of ignorance, the parties would select principles of justice without making any reference to prior metaphysical conceptions of the good. Here they are concerned with principles of justice in general form. Since they know in advance that there may be different conceptions of justice, the parties behind the veil, blocked from any particular knowledge about themselves and their position in society, are deliberating which conception of justice would be better than the others. They do this by examining reasons that support alternative conceptions.

Two Principles of Justice and their Justification

Rawls believes that his theory of justice substantiates the ideas of the protection of liberty and the promotion of socioeconomic equality as fundamental values of his theory of justice. Rawls’s basic strategy is to attempt to determine the content and ranking of normative principles of justice, and to justify them by showing that they would

be chosen from the original position. He argues that the following principles of justice would be selected:

- a. Each person has an equal claim to a fully adequate scheme of equal basic rights and liberties, which scheme is compatible with the same scheme for all; and in this scheme the equal political liberties, and only those liberties, are to be guaranteed their fair value.
- b. Social and economic inequalities are to satisfy two conditions: first, they are to be attached to positions and offices open to all under conditions of fair equality of opportunity; and second, they are to be to the greatest benefit of the least advantaged members of society. (Rawls 1996: 5-6)

Rawls's first principle applies to the constitutional structures and guarantees of the political and legal systems. Rawls's first principle insures strict equality with respect to fundamental political liberties. Thus it intends to protect the basic liberties of the person, along with liberty of conscience and freedom of thought, which are regarded as basic to a free and responsible agent, necessary in order to enable each person to take part in social cooperation.⁹ In his second principle, Rawls tries to accommodate with permissible inequalities in a just society. He assumes that the operation of the social and economic systems in a society will generate inequalities particularly insofar as they can be affected by wealth, income, power, and social position.¹⁰ Rawls's strategy is to distinguish admissible from inadmissible causes of socioeconomic inequality. The second principle is thus divided into two parts – fair equality of opportunity (b1) and the difference principle (b2).

⁹ It seems important to realize that, even though he includes freedom of association in the first principle, Rawls rejects including any kind of broad economic liberty as well as individual assets as a fundamentally political value.

¹⁰ This is actually restricted by the 'circumstance of justice.' Rawls rejects the perfectionist account of justice as well as the utopian conception of society. Rawls says, "A society in which all can achieve their complete good, or in which there are no conflicting demands and the wants of all fit together without coercion into a harmonious plan of activity, is a society in a certain sense beyond justice." (Rawls 1971: 281) This is why the notion of distribution becomes essential to social or political institutions.

In presenting two principles of justice, Rawls offers priority rules that apply where principles conflict:

These principles are to be arranged in a serial order with the first principle prior to the second. This ordering means that a departure from the institutions of equal liberty required by the first principle cannot be justified by, or compensated for, by greater social and economic advantage. The distribution of wealth and income, and the hierarchies of authority, must be consistent with both the liberties of equal citizenship and equality of opportunity (Rawls 1971: 61).

According to Rawls, the first principle (maximum equal liberty) has priority over the second principle and the first part of the second principle (fair equality of opportunity) has priority over the second part (the difference principle).

Rawls's thesis for the priorities of the principles of justice is extremely important with respect to the proper role of the state. First, Rawls's priority of the first principle of justice, as the core of political liberalism, implies that political liberty is prior to economic efficiency. In this sense, the first aim of justice is not "to maximize the net balance of satisfaction but to establish just background institutions." (Rawls 1971: 280) Here Rawls's main argument is directed against the utilitarian account of justice according to which justice requires the maximization of economic efficiency. On this utilitarian view, justice is a means to the achievement of good consequences. But Rawls argues that political liberty is inviolable, and its loss can never be compensated by an increase in economic efficiency. Thus, as he remarks, "each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override. For this reason justice denies that the loss of freedom for some is made right by greater good shared by others" (Rawls 1971: 3-4/ 586).

Second, lexical orderings in the second principle are crucial and they account for the complexity of the idea of equality. As I have remarked, the second principle consists of two parts: (a) fair equality of opportunity and (b) the difference principle. The difference principle gives lexical priority to the interests of those who are worst off, but this aim is lexically subordinate to the principle of fair equality of opportunity. Such ordering of the principles of justice has an important implication: the total sum to be shared at the economic level is not fixed in advance, but it rather depends on the way in which it is shared. Differences in production result from the way that distribution is arranged. When social transfers become counterproductive, the difference principle becomes crucial. In effect, the difference principle tells us social and economic inequalities must be constrained by the requirement that they must be compatible with the rule of unanimity.

Rawls focuses careful attention on alternatives to the second principle of justice. Holding the first principle fixed, he argues that three competing interpretations of distributive justice must be considered according to their tendency to promote the sense of equality. (Rawls 1971: 65-90) These include: (a) natural liberty, (b) liberal equality, and (c) democratic equality. The “system of natural liberty” combines a conception of mutual advantage based on the principle of efficiency with a conception of equal opportunity according to which careers should be open to talents. “Liberal equality” combines the same conception of mutual advantage with a principle of *fair* equality of opportunity which aims to minimize the effects of luck on the circumstances of people’s lives. “Democratic equality” incorporates a different conception of mutual advantage

(that implicit in the difference principle) with this same conception of *fair* equality of opportunity.

Since each interpretation imposes certain constraints on the understanding of equality, Rawls considers the three possible two-part principles of distributive justice in order of increasing egalitarianism. Rawls's argues that liberal equality is fairer than natural liberty and democratic equality is fairer than liberal equality. To grasp this point, we need to consider this argument more specifically.

Rawls considers that there is already an important element of fairness in the system of natural liberty. It highlights a formal aspect of equality of opportunity and aims to eliminate private bias and discrimination, which would otherwise lead to social inequality. In this sense, natural liberty becomes a fundamental rule of fairness. But the system of natural liberty is not enough to serve as a foundation for a just political system. According to Rawls, it is morally unjustifiable because it allows peoples life prospects to be influenced by morally irrelevant factors such as social contingencies and natural fortune. Rawls's main objection to the system of natural liberty is that people's arbitrary advantages and disadvantages would have inappropriate influence. Rawls says:

The existing distribution of income and wealth, say, is the cumulative effect of prior distributions of natural assets – that is, natural talents and abilities – as these have been developed or left unrealized, and their use favored or disfavored over time by social circumstances and such chance contingencies as accident and good fortune. Intuitively, the most obvious injustice of the system of natural liberty is that it permits distributive shares to be improperly influenced by these factors so arbitrary from a moral point of view. (Rawls 1971: 72)

For that reason, the model of liberal equality is much fairer than that of natural liberty because it can be seen as an effort to “mitigate the influence of social contingencies and natural fortune on distributive shares.”(Rawls 1971: 73) The model of

liberal equality leads us to the replacement of formal equality for what Rawls calls ‘fair equality of opportunity’ by imposing political and legal constraints on the social system. “Fair equality of opportunity” satisfies one of our intuitive ideas of morality: the idea that everyone should have an equal life prospect without being influenced by the arbitrariness of fortune. (Rawls 1971: 12/18)

But Rawls also finds the ideal of liberal equality defective. He provides us with two main reasons. First, the ideal of liberal equality is practically unattainable. As long as the family exists, the realization of natural talents and abilities depends upon the limitations of different families and social circumstances. In other words, under the system of liberal equality, the probability of competitive success in social position will be substantially influenced by the degrees of training, connections, and motivation.¹¹ Second, liberal equality fails to deal sufficiently with an enormous source of inequality in social advantage— the natural lottery of talent. (Rawls 1971: 74) From a moral point of view, claims Rawls, the influence of either social contingencies or natural chance on the determination of distributive shares is equally arbitrary. For that reason, the distribution of income and wealth determined by natural talents and abilities is unacceptable.

On this consideration, Rawls tells that we may accept an undesirable but apparently inevitable consequence. Certain unequal distributions, in other words, are tolerable in a just society. Rawls argues that inequalities are tolerable under two

¹¹ Rawls considers the existence of family as impediment to realize the ideal of distributive justice. A clear example of this statement is this: “Even the willingness to make an effort, to try, and so to be deserving in the ordinary sense is itself dependent upon happy family and social circumstance.” (Rawls 1971: 74/64. See also 105/ 301) But Rawls never denies that the family is part of the basic structure of society, claiming thus that the principles of justice are applied to the family. The family as part of the basic structure is an institution that cannot violate some basic political freedoms. Furthermore, he argues that the principles of justice apply only indirectly to the family. They do not apply to the internal life of the family, although they do impose some external constraints that protect the basic rights, liberties, and fair opportunities of all its members. (Rawls 2001: 162-168)

conditions: first, unequal distribution is generally acceptable “only when it is necessary to avoid an even greater injustice” (Rawls 1971: 4). Generally, inequalities in wealth, income, social power, and social positions are permissible only where consistent with justice. More specifically, they are permissible only if they maximally benefit the least advantaged class in society. The “least advantaged” are “the individuals who are worst off under particular scheme” of social cooperation.¹² Second, unequal distribution must also be consistent with the priority of the first principle which requires that equal basic liberties cannot be traded for other benefits. Since the basic liberties are essential to guarantee background institutions of social justice, unequal distribution would be permitted insofar as it is consistent with these basic liberties.

To cope appropriately with these inequalities, Rawls says that we must appeal to the ideal of democratic equality. Democratic equality combines both the principle of equal liberty and the principle of fair equality of opportunity with the ‘difference’ principle. On the one hand, the fair equality of opportunity guarantees protection of the basic liberties and provides citizens with equally effective rights to participate in electoral processes and legislation. The difference principle guarantees that social inequalities will not undermine other great social values, including the requirement that social arrangements must be mutually advantageous, and the requirement of reciprocity. Rawls’s underlying intuitive idea is that inequalities of social advantages that are caused by factors over which people have no control are acceptable only if they can be justified to those who are worst off. In this way, the difference principle satisfies a fundamental

¹² Even though he identifies the least advantaged persons or groups as depending on their income and wealth, Rawls warns us that we should not consider the least advantaged as the particular persons or groups that enable us to compare their situation under all schemes of social cooperation. This means that the

conviction of equality: “No one deserves his greater natural capacity nor merits a more favorable starting place in society.”(Rawls 1971: 102)

Rawls’s difference principle is also justified in the name of reciprocity.¹³ A conception of reciprocity is a “principle of mutual benefit.” (Rawls 1971: 102) The requirement of reciprocity requires, according to Rawls, that “those who are better off at any point are not better off to the detriment of those who are worse off at that point.” (Rawls 2001: 124) Where this condition is met, “the social order can be justified to everyone, and in particular to those who are least favored.”(Rawls 1971: 103) Thus Rawls argues that the difference principle can be justified as follows:

To begin with, it is clear that the well-being of each depends on a scheme of social cooperation without which no one could have a satisfactory life. Secondly, we can ask for the willing cooperation of everyone only if the terms of the scheme are reasonable. The difference principle, then, seems to be a fair basis on which those better endowed, or more fortunate in their social circumstances, could expect others to collaborate with them when some workable arrangement is a necessary condition of the good of all. (Rawls 1971: 103/ cf. 15)

In a similar vein, Rawls claims that the difference principle will satisfy the principle of fraternity, which is rooted in an even deeper idea of reciprocity. As he says, “The difference principle...does seem to correspond to a natural meaning of fraternity: namely, to the idea of not wanting to have greater advantages unless this is to the benefit of others who are less well off” (Rawls 1971: 105).

Rawls provides us with a strong argument in favor of the difference principle. In his early work, he argued that the parties in the original position would prefer the

criterion of the least advantages depends on the history and traditions of that particular scheme of social cooperation. (JF 2001: 59)

¹³ Rawls takes the notion of reciprocity to be of crucial importance in his later works. He explicitly assumes that political principles of justice are fair terms of social cooperation that would satisfy the principle of reciprocity.

difference principle to any relevant alternatives ones solely on the basis of the rational choice. To show this, he argued that parties would be motivated to choose the arrangement that *maximize* the *minimal* share of the worst-off persons in the situation of uncertainty. In his later work, Rawls has placed less emphasis on this so called “maximin” rule, and my presentation here follows this later emphasis.

Parties to the original position are committed to respecting a contract whose terms have been publicly defined and unanimously accepted. The contract engenders a social bond and their commitment to it constrains them. Suppose that parties to the original position were to propose a utilitarian alternative. Such an alternative would sometimes sanction the sacrifice of some for the benefit of others. The prospect that they might be this sacrificial victim would prevent parties to the original position from choosing such principles. By contrast, the principles Rawls recommends are acceptable to all, even to those who are least advantaged. Rawls is at pains to show that the utilitarian theory makes those who are least advantaged sacrificial victims, while the conception of justice as fairness is the only one to treat these persons as equal partners.¹⁴

The difference principle, thus, requires that, in order for social institutions to be just, they must be “arranged to maximize the worth to the least advantaged of the complete scheme of equal liberty shared by all.”(Rawls 1971: 205) Where social institutions satisfy these two principles of justice, he argues, each person is ensured

¹⁴ This could be again justified by appeal to the notion of reciprocity. Rawls says: “The principle of utility is incompatible with the conception of social cooperation among equals for mutual advantage. It appears to be inconsistent with the idea of reciprocity implicit in the notion of a well-ordered society.”(Rawls 1971: 14)

adequate resources effectively to exercise her basic liberties and to become independent and self-governing.¹⁵

Distributive justice and Primary Social Goods

I have said that one important contribution of Rawls's theory of justice is his willingness to deal with distributive justice. As an egalitarian, Rawls regards the problem of distribution as crucial. The principles of justice are concerned with distribution precisely because they define "a scheme of activities that leads men to act together so as to produce a greater sum of benefits and *assigns to each certain recognized claims to a share in the proceeds.*" (Rawls 1971: 84, emphasis added) The existence of a distributional problem is among the circumstances that make it both necessary and possible for people to achieve fair social cooperation. (Rawls 1971: 126) This leads us to the so called 'circumstances of justice':

[C]ircumstances of justice obtain whenever mutually disinterested persons put forward conflicting claims to the division of social advantages under conditions of moderate scarcity. Unless these circumstances existed there would be no occasion for the virtue of justice, just as in the absence of threats of injury to life and limb there would be no occasion for physical courage (Rawls 1971: 128).

Sociologically speaking, a multiplicity of values makes justice necessary. A plurality of value is to be protected precisely because people are supposed to have different life plans and it is impossible for a political community to encompass all goods.

¹⁵ At this point, these principles are dealing exclusively with the theoretical foundation. But it is important to see that "the decision as to which system is best for a given people depends upon their circumstance, institutions, and historical traditions." (Rawls 1971: 280) The problem of applying his principles of justice to actual societies is introduced by his conception of "property-owning democracy." Rawls says that what he assumes in discussion of justice is a regime of a property-owning democracy. (Rawls 1971: 274) And he argues that the regime of a property-owning democracy is to be distinguished from that of capitalist

And, since the protection of pluralism and individual rights do not exclude the promotion of socioeconomic equality, the problem of distributive justice is inevitable.

Here Rawls considers the function of distributive justice as much broader than that of formal justice. Formal justice seeks the protection of individual rights against state coercion. Its aim is to guarantee that each individual should be protected from the interference of others as he or she pursues her (permissible) conception of the good.¹⁶ But Rawls believes that, precisely owing to the importance of distributive justice, the state plays a much broader role than that of the minimal libertarian state whose aim is only to guarantee individual rights. A fundamental role of the state is to regulate social inequalities, which will justify some redistribution of wealth and other primary goods.

In this sense Rawls's account might be thought to resemble Aristotle's notion of proportional equality. Aristotle distinguishes corrective equality from proportional equality in the fifth chapter of the *Nicomachean Ethics* (Aristotle: 1129b –1130b5). He argues that distributive justice is concerned primarily with proportional equality, whose ideal is to allocate to each person a share proportional to his or her worth (*suum cuique tribuere*, according to what is due to his own).¹⁷ From this standpoint, the meaning of

welfare state. For more detailed discussion on a property-owning democracy, see Rawls 2001: 135-136/139-140.

¹⁶ It is undeniable that this constitutes the core of Rawls's political liberalism. Emphasizing the priority of the first principle over the second one, Rawls believes that no theory of justice can override the dignity of the person, who has the two moral powers. Thus he says, "To respect is to recognize that they [persons] possess an inviolability founded on justice that even the welfare of society as a whole cannot override. It is to affirm that the loss of freedom for some is not made right by the greater welfare enjoyed by others." (Rawls 1971: 586)

¹⁷ This can be explained from the standpoint of reciprocity. For Rawls distributive justice involves a deeper sense of reciprocity, which mediates between justice and fairness. He says: "The question of reciprocity arises when free persons, who have no moral authority over one another and who are engaging in or who find themselves participating in a joint activity, are setting upon or acknowledging the rules which defines it and which determine their *respective shares* in its benefits and burdens." (Rawls 1999a: 208, emphasis added)

injustice can be specified as *pleonexia* (gaining more than fair share of each individual).¹⁸

Unlike Aristotle's proportional equality, Rawls's principles will not distribute (primary) goods according to a notion that people have different worth

Since distributive justice always presupposes some goods to be distributed, it is necessary that there be at least a minimal conception of the good involved in a theory of justice. Rawls identifies the minimal conception of the good in the conception of justice as fairness as the theory of "primary social goods."¹⁹ Primary social goods include the things that are necessary for any meaningful pursuit of a good life. They are, as Rawls writes, "social background conditions and all-purpose means generally necessary for forming and rationally pursuing a conception of the good." (Rawls 1982: 169)

Notice that Rawls's theory of primary social goods is a "thin theory of the good." Unlike thick conceptions, such as comprehensive religious, moral and philosophical doctrines, a thin conception of the good will include goods that are necessary for anyone. Furthermore, the thin conception of the good that serves as a foundation for liberal principles in the basic structure of society, would be consistent with or reconciled with multiple but reasonable comprehensive conceptions of the good. After the principles of justice are selected from the original position, primary goods will allow people

¹⁸ Rawls explicitly claims that his conception of justice is compatible with Aristotle's: "This approach may not seem to tally with tradition. I believe, though, that it is. The more specific sense that Aristotle gives to justice, and from which the most familiar formulations derive, is that of refraining from *pleonexia*, that is, from gaining some advantage for oneself by seizing what belongs to another, his property, his reward, his office, and the like, or by denying a person that which is due to him, the fulfillment of a promise, the repayment of a debt, the showing of proper respect, and so on." (Rawls 1971: 10)

¹⁹ Rawls's brief list of primary social goods can be outlined as follows: 1. Basic liberties (freedom of thought and liberties of conscience; freedom of association), the freedom defined by the liberty and the rule of law, and the political liberties. 2. Freedom of movement and choice of occupation against a background of diverse opportunities. 3. Powers and prerogative of offices and positions of responsibility, particularly those in the main political and economic institutions. 4. Income and wealth. 5. The social bases of self-respect.

effectively to pursue their more comprehensive conception, at least inasmuch as this conception is compatible with the principles of justice:

To establish these principles [of justice] it is necessary to rely on some notion of goodness, for we need assumptions about the parties' motive in the original position. Since these assumptions must not jeopardize the prior place of the concept of right, the theory of the good used in arguing for the principles of justice is restricted to the bare essentials. This account of the good I call the thin theory: its purpose is to secure the premises about primary social goods required to arrive at the principles of justice. Once this theory is worked out and the primary goods accounted for, we are free to use the principles of justice in the further development of what I shall call the full theory of the good (Rawls 1971: 396).

It is important to notice two features of primary social goods. First, the notion of primary goods is connected to certain feature of the basic structure of society, and, *ceteris paribus*, primary goods are to be equally distributed. This means that the list of primary goods serves as a public basis for making comparisons when questions of justice arise in regard to the basic structure. Thus the participants in the original position must know that a list of primary goods is part of the two principles of justice and, therefore part of what they consent to when these principles are adopted. Second, the theory of primary goods is used to identify the “worst off” persons, those who have least share of these goods. According to the difference principle we have examined in the previous section, all primary goods are to be distributed equally unless an unequal distribution of any of these goods is advantageous to the least favored members of society.

Rawls, however, offers several different accounts of the primary social goods. In *A Theory of Justice*, he considers primary goods as the “things which it is supposed a rational man wants whatever else he wants.” (Rawls 1971: 92) In his later works, primary social goods are understood to protect our ability effectively to exercise our

moral powers. They are especially required for formation, rational revision, and pursuit of one's conception of the good life. To understand better Rawls's position, we need to take into consideration at least two different interpretation of primary goods.

In Rawls's earlier account, he attempts to justify the theory of justice merely on an underlying theory of rational choice theory. He takes primary goods as "things which it is supposed a rational man wants whatever else he wants." (Rawls 1971: 92) He writes:

[I]t is rational to *want* these goods [primary goods] whatever else is wanted, since they are in general necessary for the framing and the execution of a rational plan of life. The persons in the original position are assumed to accept this conception of the good, and therefore they take for granted that they *desire* greater liberty and opportunity, and more extensive means for achieving their ends (Rawls 1971: 433, emphasis added).²⁰

As part of rational choice, primary goods are the things that make interpersonal comparison possible and, thus, the parties in the original position are supposed to seek as much primary goods as they can. (Rawls 1971: 93) The problem with this account is the ambiguity of the terms 'desire,' 'want,' and 'preference.' Do they depend on psychological terms, or are they something else? In *A Theory of Justice*, they seem to be based on psychological terms. In the *Preface for the French Edition of A Theory of Justice*, however, Rawls himself acknowledges that this approach has a crucial drawback:

A serious weakness of the original English Edition was its account of primary goods. These are said to be things that rational persons want whatever else they want, and what these were and why was to be explained by the account of goodness...Unhappily that account left it ambiguous whether something's being a primary good depends solely on the natural facts of human psychology or whether it also depends on a moral conception of the person that embodies a certain ideal (Rawls 1999a: 417).

²⁰ Similar views are found in Rawls 1971: 92/ 253/ 260.

In his later works including *Political Liberalism*, his view on primary goods underwent significant changes. Its justification shifts from personal expectation to the basic needs that are based on a moral conception of the person. Persons are characterized as having two moral powers and having higher-order interests in developing and exercising those powers. On this account, primary goods are what persons *need* in their status as free and equal citizens, and as normal and fully cooperating members of society over a complete life. Since the problem of justice requires a public standard that all may accept, it cannot be relative to personal or private interests. But basic needs, Rawls argues, can be differentiated from desires or deserts. They cannot be contextually determined. Since desires and deserts depend on many different contexts and many different purposes, the interpretations are variable and perhaps even incommensurable. In this sense, primary goods as basic needs differ from desires and just desserts. In Rawls's view, basic needs are based on the conception of citizens as free and equal persons. Citizens' needs are fundamentally objective, because moral persons are assumed to have a certain social roles and status in order to fulfill their highest interests. It is therefore natural to infer that primary goods are to be understood in terms of a special kind of need.

Such characterization leads us to two more significant features of the theory of primary goods. First, primary goods cannot be defined in terms of historical or social facts. The list of primary goods is instead identified by its "practical nature." Primary goods are necessary for ensuring a scheme of basic equal liberties when certain all-purpose means are equally distributed to everyone. These goods are needed when persons function normally or exercise their highest-order interests. People may form

competing conceptions of the good life, but primary goods provide a standard for comparing competing claims, since they embody a minimal conception of the good for everyone. Second, Rawls stresses the neutral aspect of primary goods. By simplifying the conception of the good in relation to the basic structure, he tries to show how social choice is possible without prejudice or bias. As a result, Rawls attempts to simplify the conceptions of the good that would suffice to select the principles of justice from a fair situation that will regulate the basic structure of society.

Although it is highly important, Rawls is less concerned with the matter of priority within the list of primary goods. He seeks a minimal conception of the good fundamental to human life, but hopes to avoid a priority problem that has to do with heterogeneous character of the different primary goods. For example, take a dispute between private property democracy and democratic socialism. But as Paul Ricoeur has pointed out, this introduces a potential difficulty: for where different people possess different goods, the heterogeneity of the goods in question may make it difficult to compare their positions. In such cases, such comparisons may ultimately depend upon historical traditions and on the specific circumstances of actual institutions. (Ricoeur 1992: 284/ Ricoeur 2000: 98-90)

On the other hand, Rawls's characterization of primary goods as basic human needs assumes that *there is* a set of identifiable minimum human needs. But this is, to say the least, controversial. How can one identify these 'minimum needs?' Do we *choose* them from the original position? Or, would they emerge prior to any selection of principles of justice? As Rawls himself notes, if we grant that the two principles of justice are the only ones that would be chosen in the original position, then principles of

need must be prior to the principles of justice themselves.²¹ (Rawls 1971: 434) In *Political Liberalism*, Rawls seems to accept this consequence, thus claiming that the minimum need principle is lexically prior to all other principles of justice. He writes:

The first principle covering the equal basic rights and liberties may easily be preceded by a lexically prior principle requiring that citizens' basic needs be met, at least insofar as their being met is necessary for citizens to understand and to be able fruitfully to exercise those rights and liberties. Certainly any such principle must be assumed in applying the first principle (Rawls 1996: 7).

To exercise the fundamental rights and liberties requires satisfaction of basic needs. If basic minimum goods are to be provided for a basic minimum welfare support, then these basic goods might be articulated and chosen regardless of the principles of justice chosen behind the veil of ignorance. Hence the theory of primary goods is prior to the conception of justice as fairness in the following senses: first, the theory of primary goods can be developed independently of the original position construction. Second, parties to the original position must have the primary goods in hand before they can articulate principles for their fair distribution.

Rawls's intention is to find a minimal conception of the good by simplifying conceptions of the good that are essential to live a free life. Thus Rawls does not set aside any conception of the good in its entirety, but rather seeks to distill a thin and uncontroversial conception of the good. In this way, Rawls attempts to show that, once this minimal conception of the good is presupposed, social choice in the original position is possible independently of any comprehensive doctrines that are the base for the "thicker" conceptions of the good accepted by citizens. The minimum need principle is an effort to provide a "neutral" conception of the good necessary for exercising our moral

²¹ This minimum need principle is provided by Rawls's response to the criticism by Marxists. The similar

powers. As Rawls notes, “The specification of these needs [basic needs] is a construct worked out from within a political conception and not from within a comprehensive doctrine. The thought is that this construct provides, given the fact of reasonable pluralism, the best available standard of justification of competing claims that is mutually acceptable to citizens generally.” (Rawls 1996: 188) In this sense, Rawls acknowledges that his conception of justice must include a minimal conception of the good.²²

Procedural justice and Priority of Justice

Rawls emphasizes the procedural aspect of justice. Procedural justice claims that “the legitimacy of any particular allocation of advantages and disadvantages depends on whether the *system* in which it arose is just.” (Nagel 2003: 114) Similarly Rawls assumes an essential connection between justice and social institutions.²³ In other words, his theory is concerned with the “basic structure of society.”²⁴ Its potential task is twofold: first, it is to “secure just background conditions against which the actions of individuals

point is also found in Clark Wolf’s discussion on human needs. Wolf 1998: 343.

²² Rawls introduces six ideas of the good in his theory of justice (Rawls 1996: 176-206/ Rawls 2001: 141-142): (1) the good as rationality. Rationality is considered as a ‘basic principle of political and social organization’; (2) the good as primary social goods; (3) the good of permissible conception of the good. Permissible conceptions of the good are those the pursuit of which is compatible with the principles of justice; (4) the good of the political virtues. These are the virtues needed to become a good citizen of a democratic society. This includes reasonableness, fairness, and civility; (5) the good of a society well ordered by the two principles of justice; (6) the good of society as a social union of social unions. This is to secure the “good of justice and the social bases of their mutual self-respect.” (Rawls 1996: 203) Once these six conceptions of the good are specified, claims Rawls, justice as fairness is complete: “It [justice as fairness] generates from within itself the requisite ideas so that all perform their complementary roles with its framework.” (Rawls 1996: 207-8)

²³ At the beginning of *A Theory of Justice*, he says, “justice is the first virtue of social institutions.” (Rawls 1971: 3)

²⁴ The basic structure of society is taken to mean “the way in which the major social institutions fit together into one system, and how they assign fundamental rights and duties and shape the division of advantages that arise through social cooperation.” The basic structure consists of “the political constitution, the legally recognized forms of property, and the organization of the economy.” (Rawls 1996: 258) Very interestingly, Rawls adds the family to this category in his later works.

and associations take place” (Rawls 1996: 266); second, it is intended to deal with distributive justice. The arrangement of the basic structure of society assigns “fundamental rights and duties and shape[s] the division of advantages that arises through social cooperation” (Rawls 1996: 258).

In evaluating the basic structure of society, furthermore, Rawls prioritizes deontological standards rather than consequentialist standards. In other words, he believes that any criterion or standard must pass a moral requirement. The moral character of social norms is significantly different from the rationality of individuals. The rational character of each person is to pursue his or her particular interests. Rawls takes it as a “social fact,” that each person has a “capacity for a conception of the good,” that is, “the capacity to have, to revise, and rationally to pursue a conception of the good.” (Rawls 1996: 19) In other words, everyone pursues his or her conception of the good in accordance with “an ordered family of final ends and aims which specifies a person’s conception of what is of value in human life or, alternatively, of what is regarded as a fully worthwhile life. The elements of such a conception are normally set within, and interpreted by, certain comprehensive religious, philosophical, or moral doctrines in the light of which the various ends and aims are ordered and understood.”(Rawls 2001: 19)²⁵ But the conception of rationality alone, Rawls claims, cannot constitute a set system of rights. As he states, “The conception of rationality by itself is not an adequate basis for the concept of the right.” (Rawls 1971: 104) A set of

²⁵ In Rawls’s theory of justice two characteristics of rationality can be discerned. First, rationality is taken to mean maximum satisfaction of one’s own desires or needs. It is largely based on taking the most effective means to ends (Rawls 1971: 14). Second, rationality stands for a coherent system of ends as a whole in one’s desires or needs (Rawls 1971: 143/ Rawls 1996: 50-51).

social norms or rules must be somewhat independent of self-interests and partial prejudices.²⁶

For Rawls, the idea of reasonableness plays an important role in overcoming self-interest. Reasonable individuals are willing to cooperate when the terms are fair, at least when they have assurance that others will similarly cooperate. This attitude is already latent in our moral capacity “to understand, to apply, and to act from the principles of justice.” (Rawls 1996: 19) And reasonable agents are willing to accept just constraints because they are “moved solely by their highest-order interests in their moral powers and their concern to advance their determinate but unknown final ends.” (Rawls 1980: 528) Thus reasonableness is social or political mentality, because it can be “realized through citizens’ joint activity in mutual dependence on the appropriate actions being taken by others.” (Rawls 1996: 204) What is called upon here is “the particular form of moral sensibility that underlines the desire to engage in fair cooperation as such and to do so on terms that others as equals might reasonably be expected to endorse.” (Rawls 1996: 51)²⁷

This moral sensibility is missing in the notion of rationality. To fill the gap, Rawls says, we need to take the contractualist approach. As he explicitly announces, the aim is to “present a conception of justice that generalizes and carries to higher level of abstraction the familiar theory of the social contract” (Rawls 1971: 3, 11/ Rawls 1996:

²⁶ In considering an essential link between moral requirement of social norms and contractualism, Thomas Scanlon makes a similar point. He claims: “the right-making force of a person’s desires is specified by what might be called a product of moral argument; it is not given, as the notion of individual well-being may be, simply by the idea of what is rational for an individual to desire... The effect of contractualism, then, is to break down the sharp distinction... between the status of individual well-being and that of other moral notions. A framework of moral argument is required to define our legitimate interests and to account for their moral force. This same contractualist framework can also account for the force of other moral notions such rights, individual responsibility and procedural fairness.” (Scanlon 1982: 119)

²⁷ Rawls defends the lexical priority of the reasonable over the rational. He states: “The Reasonable presupposes the Rational, because, without conceptions of the good that move members of the group, there is no point to social cooperation nor to the notion of right, even though such cooperation realizes values

xvii). The basic idea is that a set of principles of justice can be reached through mutual consent among rational agents. More importantly, it is crucial to determine the reasonable grounds on which we agree. Like the original agreement in traditional contract theory, mutual consent is concerned with all the matters of the social system. Here Rawls distinguishes the original or initial agreement from the particular agreement: the initial agreement is intended to provide the standards to evaluate the basic structure of society, while the particular agreement is concerned with the situation in question.²⁸ In the original contracting situation, individuals are required to move beyond narrow self-interest to articulate public principles that can fairly govern the operation of social institutions. But unlike classic contractualists, Rawls does not try to justify political authority directly. What he tries to do is to set up moral authority for social and political institutions.²⁹

In this initial contract, what we agree upon is the reasons that are acceptable to us. These reasons, as in the case of the Kantian test of universalizability, must be universal and, thus deontological. Since Rawls believes that the parties in the original position are to be separated from their ordinary conceptions of the good, the reasons they agree upon are, Rawls claims, automatically deontological. Thus when we enter into a social contract we would agree to the two principles, because there are strong universal reasons that support these principles.

that go beyond what conceptions of the good specify taken alone. The Reasonable subordinates the Rational because its principles limit...the final ends that can be pursued.”(Rawls 1980: 530)

²⁸ The idea of the initial contract whose aim is to establish the political community, is restricted by three features of political society. (Rawls 1996: 276). And since there are multiple conceptions of justice in political society, “the availability of general social theory gives a sufficient basis for estimating the feasibility and consequence of the various conceptions of justice.” (Rawls 1996: 278). But it is important to realize that Rawls seems to ignore individual’s potential contribution to that society in this initial agreement.

Rawls believes that principle of justice that would be chosen in the original position can serve as an ideal to judge the justness of the existing institutions. (Rawls 1971: 246) Since the basic structure influences the total life prospects for all individuals, principles of justice can be used to “eliminate injustice and steer towards a fair basic structure” (Rawls 1977: 164). In other words, principles of justice can be used practically to “guide the course of social reform.” (Rawls 1971: 245)

Viewing the theory of justice as a whole, the ideal part presents a conception of a just society that we are to achieve if we can. Existing institutions are to be judged in the light of this conception and held to be unjust to the extent that they depart from it without sufficient reason. The lexical ranking of the principles specifies which elements of the ideal are relatively more urgent, and the priority rules this ordering suggests are to be applied to nonideal cases as well (Rawls 1971: 246).³⁰

For Rawls, there are ‘three points of view’ from which the justness of social or political institutions can be judged (Rawls 1996: 28): (1) that of the parties in the original position; (2) that of citizens in a well-ordered society; finally (3) that of individuals like ourselves. Rawls assumes that each standpoint should be differently considered and constrained. Among them, he argues, the parties in the original position should be properly constrained in order to insure their impartiality. On the other hand, citizens in a well-ordered society are considered as reasonable, while individuals in a political society

²⁹ This claim seems to be consistent throughout his writings. For example, Rawls insists that his political conception of justice is a moral conception of basic structures. See Rawls 1996: 11.

³⁰ This has been controversial. The issue is whether Rawls’s later writings would be consistent with the early one or not. Here I assume that his later writings would still hold the primacy of the ideal theory of justice. The only difference is a shift of emphasis, thus paying more attention to the application of the principles of justice to contemporary democratic regime. As Rawls acknowledges, this shift generates its own problems – for example, that of stability. And Ricoeur argues that his argument against Rawls’s theory of justice militates in favor of this interpretation. Ricoeur writes: “[A] series of articles began to appear, aimed not at revising the definition of the principles of justice enunciated in the *princeps* works, or the argumentation by means of which these principles would be shown to be those that would be chosen in preference to all others in a situation that would itself be characterized by fairness. The revision had to do solely with the field of application and the means for carrying out a theory that remained essentially unchanged. We may, therefore, without fear hold *A Theory of Justice* to be canonical.” (Ricoeur 2000: 58)

are required to be reflective about certain “fundamental ideas seen as implicit in the public political culture of a democratic society.” (Rawls 1996: 13)

Rawls assigns a certain priority to the perspective of the parties in the original position.³¹ The main reason is that this position plays a directory role in political deliberation. In other words, choice in the original position would provide us with “a guiding framework of deliberation and reflection which helps us reach political agreement on at least the constitutional essentials and the basic questions of justice.”(Rawls 1996: 156) Thus the decision of the parties in the original position is lexically prior to its application to political deliberation.³² The question is whether principles of justice in the original position can be obtained independently of commitment to a more specific and comprehensive conception of the good life.³³ If the principles of justice can be derived independently of the political deliberation of what a good life is, the primacy of justice over the good would be established.

Thus the ideal part of justice is indispensable for the establishment of just legislation and fair social institutions. In that sense, the existence of an ideal conception of justice is lexically prior to particular instantiations of this conception. As Rawls puts it, “The principles of justice that are agreed to [in the ideal situation] are *lexically prior in their application* in a well-ordered society to claims of the good.” (Rawls 1980: 532, emphases added) This ideal conception becomes the practical basis for the improvement

³¹ This accounts for the importance of his original position: “The intuitive idea is this: the concept of something’s being right is the same, or better, may be replaced by, the concept of its being in accordance with the principles that in the original position would be acknowledged to apply to things of its kind.”(Rawls 1971: 111)

³² The directional role of justice seems to be circular in justification when it is applied to the perspective of individuals. In this standpoint, we are searching for reflective equilibrium between considered convictions and principles of justice adopted in the original position.

of existing political institutions.³⁴ Reform in a society, Rawls claims, would be called just only if its direction mirrors the ideal conception of justice. This ideal theory of justice is necessary “to incorporate into the basic structure an effective political procedure which *mirrors* in that structure the fair representation of persons achieved by the original position” (Rawls 1996: 330, an emphasis added).³⁵

Pure Procedural Justice

According to Rawls, deontological principles of justice are procedurally justified: that is, they are justified because they are chosen under ideal circumstances. The derivation of principles in the original position is thus an exercise in pure procedural justice. The leading idea is that the justness of standards of social institutions can be evaluated on the basis of the intrinsic character of the procedures themselves. To put it briefly, the pure procedural conception of justice says that the fairness of the procedure guarantees the fairness of the outcome:

³³ This is not to say that the choice in the original position has nothing to do with the conception of the good. As is already mentioned, Rawls’s theory of justice presupposes the minimal conception of the good identified as ‘primary social goods.’

³⁴ There are at least four stages for the theory of justice to apply: (1) the original position, (2) a constitutional conventional stage, (3) a legislative stage, and (4) a judicial stage. It is important to see that to apply the theory of justice to each stage requires more information about actual conditions.

³⁵ Joshua Cohen takes it to represent Rawls’s “informal argument,” according to which Rawls’s theory of justice is to search for an “abstract model for the intuitive ideal of justice.” he claims: “The suggestion is that, since we accept the intuitive ideal of a fair system of cooperation, we should want our political institutions themselves to conform, in so far as it is feasible, to the requirement of equal liberties with fair value, rather than arriving at it indirectly, through a hypothetical choice of that requirement under fair conditions are, and of what we should strive to mirror in our political institutions, rather than as an initial choice situation in which regulative principles for those institutions are selected.” (Cohen 1989: 20) Cohen’s point is that the original position plays a constitutive rather than regulative role in Rawls’s theory of political deliberation. But this interpretation seems to ignore that the conception of justice adopted in the original position is a provisional fixed point. It only suggests a minimal form of right, thus remains too formal. The more actual conditions are considered, the more it is likely to change this fixed point. In this way, Rawls seems to emphasize the limiting function of justice in political deliberation.

The idea of the original position is to set up a fair procedure so that any principles agreed to will be just. The aim is to use the notion of pure procedural justice as a basis of theory. (Rawls 1971: 136)

The defining character of pure procedural justice is the absence of any independent criterion of justice. As Rawls puts it, the core of pure procedural justice is that “what is just is specified by the outcome of the procedure, whatever it may be.”

(Rawls 1996: 73) Hence, “in their rational deliberation the parties [to the original position] do not view themselves as required to apply, or as bound by, any antecedently given principles of right and justice.” (Rawls 1996: 73)

According to Rawls, pure procedural justice consists of two stages. The first stage is to set up a fair situation. In the fair situation, everyone is represented as free and equal. An individual’s basic rights should be protected, and the situation must honor the Kantian injunction to treat persons as ends and not merely as means.³⁶ Rawls’s original position behind the veil of ignorance is, in this sense, appropriate for this purpose. The second stage, more importantly, is deriving standards of what is just from that fair situation.³⁷ Here Rawls assumes that it is possible to transfer from fair situation to substantial principles of justice with a due deliberation. This means that justifiable social norms can be generated from the just procedure.

In spite of its plausibility, however, it is very difficult to see how this transfer of fairness, from procedure to outcome, can take place. In *Political Liberalism*, Rawls tries to give further clarification by introducing the constructivist perspective. Constructivism

³⁶ Rawls maintains, “citizens themselves (via their representation) are to specify the fair terms of their cooperation, putting aside for the present the criterion of reflective equilibrium.” (Rawls 1996: 72)

³⁷ For Rawls, these stages are lexically ordered. According to Rawls’s pure procedural justice, the justness of outcomes is determined by the justness of its procedure. Consider gambling. Insofar as the betting procedure is fair and all the participants follow its rule, gambling is regarded as pure procedural. Since the fairness of a gamble depends on its procedure, moreover, the fairness of its procedure assures the fairness

in ethics claims that standards of justice are to be constructed on the basis of abstract and reasonable assumptions. For Rawls such an approach is not something totally new, but derives from Kant. The main trouble with the Kantian approach is Kant's heavy reliance on a comprehensive metaphysical view, including an abstract notion of transcendental subjects. In order for the Kantian constructive method to be applied to the problem of justice, Rawls argues, moral constructivism must be sufficiently "detached from its background in transcendental idealism." (Rawls 1977: 165)³⁸

Rawls's emphasis is upon certain *justifiable procedures* of construction. The point is that justifiable procedures depend on the reasonableness of the moral judgments they assume. So justifiable procedures will result from "following the correct procedure correctly and rely only on true premises." (Rawls 1996: 102) Rawls writes:

The agreement in the original position represents the outcome of a rational process of deliberation under ideal and nonhistorical conditions that express certain reasonable constraints. There exists no practicable way actually to carry out this deliberative process and to be sure that it conforms to the conditions imposed. Therefore, the outcome cannot be ascertained by pure procedural justice as realized by deliberations of the parties on some actual occasion. Instead *the outcome must be determined by reasoning analytically*: that is, the original position is to be characterized with sufficient exactness so that *it is possible to work out from the nature of the parties and the situation they confront which conception of justice is favored by the balance of reasons*. *The content of justice must be discovered by reason*: that is, by solving the agreement problem posed by the original position. (Rawls 1996: 273-274, emphases added)

Again, the crucial step is to lay out the fair situation whose premises are considered as reasonable. Then standards of what is just can be constructed through hypothetical deliberation. Following Rawls, we consider a procedure that exhibits

of its outcome. As the outcome of a fair game, the distribution that results depends on the fairness of the procedure.

reasonable constraints to impose on the parties. We can then “conjecture that the correct working through of the argument from the original position should yield the most appropriate principles of justice.” (Rawls 1996: 103) Its outcome would be substantial:

...only the substantial principles specifying content of political right and justice are *constructed*. The procedure itself is simply laid out using as starting points the basic conceptions of society and person, the principles of practical reason, and the public role of a political conception of justice. (Rawls 1996: 104, emphasis added)

This constructivist view is not to be confused with an intuitionist approach.

Rawls carefully distinguishes his political constructivism from intuitionism. He states:

The intuitionist regards a procedure as correct because following it correctly usually gives the correct independently given judgment, whereas the political constructivist regards a judgment as correct because it issues from the reasonable and rational procedure of construction when correctly formulated and correctly followed. (Rawls 1996: 96)

Rawls’s pure procedural justice rests on the ideal situation, the original position, that is constructed to embody underlying principles of freedom and equality. The original position is constructed to model rational choice under reasonable constraints. On the basis of this ideal situation, the substantial contents of justice would be brought out with a due deliberation. They are constructed by the procedure itself. For that reason, standards of justice cannot be known in advance.³⁹

³⁸Ricoeur characterizes Rawls’ position to be “a deontology without a transcendental foundation” (Ricoeur 1992: 231). For discussion on the difference between Rawls’ position and Kant’s, see Rawls 1971: 251-257 and Rawls 1996: 99-102.

³⁹It cannot be denied that there is the intuitive side in Rawls’ theory of justice. As I have already discussed, primary social goods can be intuitively enumerated as basic needs. As basic needs, primary goods that reasonable and autonomous person must have can be possibly selected independently of the original position. If the critical role of the original position were emphasized here, it would be correct to infer that his central task is to secure the priority of justice over the good. As I shall show in the following chapter, Ricoeur’s comment on it would be fruitful in this sense: “When the just is subordinate to the good,

Reflective Equilibrium

Rawls believes that his principles of justice selected from the original position will match our best justifiable convictions. This idea is developed in his discussion of reflective equilibrium.⁴⁰ Reflective equilibrium is a method according to which we must see “if the principles which would be chosen match our considered convictions of justice or extend them in an acceptable way.”(Rawls 1971: 19) This method is designed to test “various parts of our system of moral beliefs against other beliefs we hold, seeking coherence among the widest set of moral and non-moral beliefs by revising and refining them at all levels.”(Daniel 1996: 2) This method helps us to loosen a tension between social norms effective in society and moral decisions undertaken by individuals.⁴¹

Rawls argues that the principles of justice adopted in the original position are regarded as provisional, and subject to critical revision.⁴² Reflective equilibrium involves going back and forth between principles of justice, moral judgments, and aspects of the constructed choice situation. “By going back and forth, sometimes altering the conditions of the contractual circumstances, at others withdrawing our judgments and

it has to be discovered; when it is engendered by purely procedural means, it has to be constructed. It is not known in advance.” (Ricoeur 2000: 40/60)

⁴⁰ In *A Theory of Justice* Rawls says, “A conception of justice cannot be deduced from the self-evident premises or conditions on principles; instead, its justification is a matter of the mutual support of many considerations, of everything fitting together into one coherent view.”(Rawls 1971: 21) He also discusses the problem of justification at the end of *A Theory of Justice*, especially see Rawls 1971: 578-587. Coherence justification is evident in *Political Liberalism*. A political conception of justice is possible “only when such facts [certain considered judgments] are coherently connected together by concepts and principles acceptable to us on due reflection.”(Rawls 1996: 124)

⁴¹ This problem is also connected to the idea of publicity. Emphasizing the political character of justice, Rawls answers to this problem: “[I]f it is asked how principle- and conception-dependent desires become elements in people’s motivational sets in the first place, the superficial answer ... is that they are learned from the public political culture. This is part of the idea of publicity.”(Rawls 1996: 85 33n)

⁴² For example, *Political Liberalism* begins with provisional fixed points that are inherent in constitutional democracy. Cf. Rawls 1996: 8/ 124. However, it seems clear that these provisional fixed points for Rawls become the foundation for his political liberalism.

conforming them to principle, ... eventually we shall find a description of the initial situation that both expresses reasonable conditions and yields principles which match our considered judgments duly pruned and adjusted.”(Rawls 1971: 20)

Considered in this way, the original position itself may be considered a provisionally fixed point. It serves as the basis for critical revision about social and political institutions by way of a dialectical movement between theory and our considered conviction. Rawls’s ultimate objective is to balance the theory adopted in the original position against our considered judgments. Reflective equilibrium is general in its application.⁴³ For Rawls, the role of the original position is to “help to put in order our considered convictions of justice at all levels of generality, from the most general to the most particular” (Rawls 1996: 45). But its ultimate objective is to match our considered convictions, justified from the point of view of the reader, of “you and me, here and now,” as Rawls sometimes puts it:

The third point of view – that of you and me – is that from which justice as fairness, and indeed any other political conceptions, is to be assessed. Here the test is that of reflective equilibrium: how well the view as a whole articulates our more firm considered convictions of political justice, at the level of generality, after due examination, once all adjustments and revisions that seem compelling have been made. A conception of justice that meets this criterion is the conception that, so far as we can now ascertain, is the one *most reasonable for us* (Rawls 1996: 28, emphasis added).

The importance of the method of reflective equilibrium is apparent when we take a careful look at and endeavor to justify the culture of a democratic society. According to

⁴³ This wide application of reflective equilibrium is already operant in *A Theory of Justice*. Rawls contends, “the process of mutual adjustment of principles and considered judgments is not peculiar to moral philosophy.” (Rawls 1971: 20 n) This is significant because Rawls’s appeal to reflective equilibrium doesn’t merely bring considered judgments and proposed principles into coherence with each other (this is called narrow reflective equilibrium), it also appeals to deeper and more general intuitions we hold. Perhaps a good example is our judgment that “slavery is unjust,” which Rawls identifies as a ‘provisional fixed point’ in reasoning about justice.

Rawls, a great enemy of the ideal of democratic culture is the competing view that the proper role of a political community is to guide its members toward a particular contested idea of the ends of life, using coercion, compulsory education, and control of the cultural environment.⁴⁴ Rawls argues that we should adopt an attitude of toleration, and that we should simply accept pluralism, because there are deep differences in fundamental conceptions of the good in a democratic culture.⁴⁵ This deep pluralism cannot be eliminated except through the unacceptable use of coercive force.

Rawls distinguishes between comprehensive values and more narrowly political values and argues that political institutions should regard political values as having primacy over comprehensive values. Thus he attempts to show two things that are crucial to understanding Rawls's project: First, the original position satisfies the ultimate sense of justice, which will match the values of pluralism and toleration. Since parties in the hypothetical situation are supposed not to know their own "thick" conception of the good, but to know a thin conception of the good, their choice will be restricted to more narrowly political values. And the original position represents an important form of fairness, because, owing to the veil of ignorance, everyone is equal.

The second thing Rawls wishes to show is that a justification for liberty and pluralism does not rely on the individualistic system of values. More positively, he tries to show that his conception of justice, which is restricted by focusing on constitutional essentials, will be compatible with the broadly plural comprehensive values reasonable individuals may possess. The compatibility of each of the comprehensive doctrines with a political conception of justice can be explained in terms of two interrelated ideas – the

⁴⁴ This is a doctrine one or another form of perfectionism would imply. Rawls strongly opposes to this form of perfectionism.

idea of public justification and the idea of reasonable overlapping consensus.⁴⁶ He

writes:

Public justification *happens* when all the reasonable members of political society carry out a justification of the shared political conception by embedding it in their several reasonable comprehensive views....A crucial point here is that while the public justification of the political conception for political society depends on reasonable comprehensive doctrines, *this justification does so only an indirect way*. That is, the express contents of these doctrines have no normative role in public justification; citizens do not look into the content of others' doctrines, and so remain within the bounds of the political. Rather, they take into account and give some weight to only the fact – the existence – of the reasonable overlapping consensus itself. (Rawls 1996: 387, emphasis added)

The very different idea of consensus in political liberalism – the idea of I call a *reasonable overlapping consensus* – is that the political conception of justice is worked out first as a freestanding view that can be justified *pro tanto* without looking to, or trying to fit, or even knowing what are, the existing comprehensive doctrines. It tries to put no obstacles in the path of all reasonable doctrines endorsing a political conception by eliminating from this conception an idea which goes beyond the political, and which not all reasonable doctrines could reasonably be expected to endorse (to do that violate the idea of reciprocity). When the political conception meets these conditions and is also complete, we hope the reasonable comprehensive doctrines affirmed by reasonable citizens in society can support it, and in fact it will have the capacity to shape those doctrines toward itself. (Rawls 1996: 389, underlines added)

For Rawls, public justification depends on the relative autonomy of the political conception of justice from any comprehensive doctrines – priority of *pro tanto* justification over public justification. This means that a political conception of justice may be theoretically justified independently of any public justification. However, the “completeness” of the political conception of justice means that just institutions will gain

⁴⁵For more details, see Rawls 1996: xxiii-xxvii.

⁴⁶ A complementary idea of an overlapping consensus is the idea of “reasonable disagreement.” This leads us to acceptance to the significance of pluralism in democratic culture. Rawls argues that reasonable disagreement is internal to democratic culture. He writes: “we can say that reasonable disagreement is disagreement between reasonable persons, that is, between persons who have realized their two moral powers [these faculties are the capacity to have a sense of justice and a conception of the good] to a degree

public justification as people live under them. Rawls claims that his theory of justice as fairness is ultimately complete, because it “generates from within itself the requisite ideas so that all perform their complementary roles with its framework.” (Rawls 1996: 208)

If the ideal conception of justice as fairness is internally coherent within itself, then it is possible to reach an overlapping consensus. And Rawls gives reason to hope that such a consensus is likely. He says:

How might political philosophy find a shared basis for settling such a fundamental question as that of the most appropriate family of institutions to secure democratic liberty and equality? Perhaps the most that can be done is to narrow the range of disagreement. Yet even firmly held convictions gradually change: religious toleration is now accepted, and arguments for persecution are no longer openly professed; similarly, slavery, which caused our Civil War, is rejected as inherently unjust, and however much the aftermath of slavery may persist in social policies and unavowed attitudes, no one is willing to defend it. We collect such settled convictions as the belief in religious toleration and the rejection of slavery and try to organize the basic ideas and principles implicit in these convictions into a coherent political conception of justice. These convictions are provisional fixed points that it seems any reasonable conception must account for. We start, then, by looking to the public culture itself as the shared fund of implicitly recognized basic ideas and principles. We *hope* to formulate these ideas and principles clearly enough to be combined into a political conception of justice congenial to our most firmly held convictions. We express this by saying that a political conception of justice, to be acceptable, must accord with our considered convictions, at all levels of generality, on due reflection, or in what I have called elsewhere “reflective equilibrium.” (Rawls 1996: 8, emphasis added)

Concluding Remarks

An important element in Rawls’s theory of justice is the requirement that a just state refrain, so far as possible, from trying to impose on its members a single conception

sufficient to be free and equal citizens in a democratic regime, who have an enduring desire to be fully cooperating members of society over a complete life.” (Rawls 1996: 55)

of the ends and meaning of life. The key idea of Rawls's proposal is that we are collectively responsible for the general shape of what results from the sum of individual choices within that framework. This clearly shows the essential role of the state, the law, and the conventions of property. More importantly, Rawls believes that we are also responsible for large-scale inequalities that would have arisen for morally arbitrary reasons. For that reason, we have reason to alter the system to reduce such inequalities. This shows why an idea of justice is crucial to human affairs.

It is unquestionable that Rawls's theory of justice has its attractions. His ideal theory of justice is an attempt to provide the moral foundation of society by searching for universal principles. If there were such an ideal standard, then we could reliably evaluate the justness of our present institutional practices. It would give us a guide to direct the reforms we should make. This task seems to be more urgent in a democratic society, because present democratic regimes suffer from theoretical insecurity of the basic underlying public norms or principles.

The thesis for a priority of the right over the good is Rawls's effort to provide coherent formulation of Political Right by proposing the original position choice behind the veil of ignorance. This remarkable device enables us to justify our ordinary convictions. In this way, pure procedural justice occupies a central place. According to pure proceduralism, impartial social norms result from common consent of free and equal citizens in a fair situation. This will not only satisfy the moral condition for social norms. This will also help us to find a just standard of distribution with which to assess our present institutional practices. Rawls's ideal theory of justice, then, provides us with "a guiding framework of deliberation and reflection which helps us reach political

agreement at least on constitutional essentials and the basic questions of justice.” (Rawls 1996: 156)

In subsequent chapters, I shall concentrate on Paul Ricoeur’s critique of Rawls’s ideal theory of justice and Ricoeur’s noncontractual alternative. Ricoeur agrees with Rawls’s emphasis on the need for universal principles, individual freedom, and fair procedures in pluralistic contexts. As I shall illustrate, nonetheless, Ricoeur casts doubts on the plausibility of Rawls’s theory of justice and presents his own thesis for a priority of our ethical projects. Hence, it will be fruitful to examine Ricoeur’s theory of justice in a systematic way. This project will occupy us in the subsequent chapters.

CHAPTER 2

A CRITIQUE OF RAWLS'S CONCEPTION OF JUSTICE

In Chapter I I have discussed Rawls's procedural conception of justice, primarily focusing on his treatment of distributive justice. In this chapter I shall examine a critique of Rawls's conception of justice proposed by Paul Ricoeur.¹ Ricoeur's primary doubts concern the plausibility of the pure procedural conception of justice and Rawls's solution to the problem of distributive justice. Ricoeur argues that the validity of Rawls's conception of justice resides in its assertion of universal or trans-historical norms for basic social institutions. This trans-historical vantage point is the foundation of Rawls's claim that the just is prior to the good. It is by way of pure proceduralism that we reach the principles of justice which Rawls sees as the very essence of social justice.

What is problematic, claims Ricoeur, is the very plausibility of pure procedural justice, which Ricoeur regards as insufficient to accommodate the problem of distributive justice. Ricoeur raises two crucial questions: first, we may ask whether pure procedural justice is possible. The question is whether Rawls's pure procedural conception of justice is autonomous in its own right. Second, we may ask whether Rawls's principles of justice, especially the 'difference' principle, are appropriate distributive principles. Ricoeur regards Rawls as having made a serious attempt to cope with the Aristotelian

¹ These include Ricoeur 1991a, Ricoeur 1991c, Ricoeur 1992, and Ricoeur 2000.

notion of proportional equality. But according to Ricoeur, Rawls fails to provide a sufficient solution to the problem of distribution.

In what follows I shall try to give Ricoeur's central arguments against Rawls's theory of justice. Having examined Rawls's argument for the primacy of justice over the good, and his account of pure procedural justice, I will present Ricoeur's crucial claim about the primacy of the ethical over the moral. Ricoeur's main point is that the just gets its concrete meaning by reference to some conception of the good. Ricoeur asks the following essential question: "Does not the reduction to procedure leave a residue that requires a certain return to a teleological point of view, not at the price of repudiating the formalizing procedures, but in the name of a demand to which these very procedures lend a voice?" (Ricoeur 1992: 228) Ricoeur's own conclusion is that Rawls's pure procedural conception of justice does not exclude the teleological point of view that has roots in Aristotle and not in classical utilitarianism. More specifically, Rawls's theory is an attempt to rationalize a sense of justice in ordinary life, which is rooted in our sense of reciprocity. (Ricoeur 2000: 50/ Ricoeur 1992: 236)

Another important argument is brought out in Ricoeur's attempt to apply Rawls's principles of justice to the problem of distribution. The idea of a just distribution, argues Ricoeur, is always problematic, because the goods to be distributed by basic institutions are multiple, heterogeneous, and even incommensurable. The problem of distributive justice, which is vital to contemporary political thought, arises when we assume that human goods are always in conflict. In this context, the principles of just distribution are necessary for minimal social unity and consensus. But the process by which such principles are discovered, argues Ricoeur, turns out to be interminable.

In what follows, I briefly outline Ricoeur's case for this claim. I begin by laying out the major assumptions and Ricoeur's understanding of the key concepts in Rawls's theory. Among these, the most important are the conception of 'basic social institutions as a system of distribution' and the very conception of 'distribution' itself. These are associated with two crucial images of society in both Rawls and Ricoeur: society as a cooperative venture, and society as a set of institutions for the regulation of conflict. In the second step I discuss Ricoeur's appropriation of Rawls's theory of justice. As I shall illustrate, Rawls's argument hinges on the plausibility of pure proceduralism. But importantly, Ricoeur's critique does not confine itself to the procedural aspect of Rawls's theory, but focuses centrally on distributive justice. Finally, I shall examine Ricoeur's critical arguments against Rawls.

Ricoeur's argument against Rawls proceeds in three steps. First, Ricoeur argues against the strategy of political contractualism, which separates the just from the good. Ricoeur claims rather that political contractualism should be seen as only one of several possible ways to generalize the sense of justice ordinary people typically possess. Second, Ricoeur casts doubt on the essential connection between political contractualism and a moral deontology. Ricoeur argues that Rawls makes this connection weak, because the justification of Rawls's principles of justice, instead of founding the notion of the just on firm deontological foundation, seeks equilibrium between "theory" and "considered judgments." This means, Ricoeur argues, that the whole project of social justice must begin with a critique of our considered convictions. Finally, Ricoeur questions whether Rawls's theory is practical. He argues that Rawls's principles are too abstract and formal to accommodate the heterogeneous character of the goods considered by political society.

Because of this heterogeneity of goods, Ricoeur argues that there is a tragic aspect of political *choice* which Rawls has neglected.

Justice and Social Institutions

Before examining Ricoeur's critique, it will be helpful to lay out his assumptions. I shall take up two assumptions in particular, which are crucial to understanding Ricoeur's conception of justice. First, Ricoeur concurs with Rawls that society is fundamentally a 'cooperative enterprise.' Taking a well-ordered society to be "a social union of social unions," Rawls considers society to be a necessary condition for realizing human capabilities. Rawls says, a well-ordered society "realizes to a preeminent degree the various forms of human activity; and given the social nature of human kind, the fact that our potentialities and inclinations far surpass what can be expressed in any one life, we depend upon the cooperative endeavors of others not only for the means of well-being but to bring to fruition our latent powers."(Rawls 1971: 571/ cf. Rawls 1996: 323) But rules of this society must be based on mutual recognition or acknowledgment of social rules. This in turn requires that society be founded on justice. As Rawls declares, "It is this notion of the possibility of mutual acknowledgment which makes the concept of fairness fundamental to justice. Only if such acknowledgment is possible, can there be true community between persons in their common practices; otherwise their relations will appear to them as founded to some extent on force and violence."(Rawls 1957: 658) Rawls regards this as a necessary condition for a well-ordered society. Political liberalism must provide "sufficient space for worthy ways of life."(Rawls 1996: 210)

Similarly, Ricoeur believes that social institutions are fundamental for self-realization. By 'institution' Ricoeur understands "the structure of *living together* as this belongs to a historical community – people, nation, region, and so forth – a structure to interpersonal relations and yet bound up with these in ...the notion of distribution." (Ricoeur 1992: 194) And he claims that "the individual...becomes human only under the condition of certain institutions." (Ricoeur 1992: 254) For Ricoeur, as with Rawls, mere participation in political society does not suffice to guarantee the well-being of its members. What is more important is the sufficient condition for human flourishing which make it possible for people to realize or actualize their capabilities.² In this sense, Ricoeur goes on to argue, "the obligation to serve these institutions is itself a condition for the human agent to continue to develop." (Ricoeur 1992: 254-5)

While justice is supposed to be the cardinal virtue of social and political institutions, Ricoeur argues that his own conception of justice does not necessarily presuppose a 'liberal self.' By the 'liberal self,' he understands "a rational self that would be equipped with rights prior to engaging in any form of societal life." (Ricoeur 1993: 119) Inasmuch as Rawls's political liberalism presupposes such a notion of self, Ricoeur is skeptical of this prerequisite. Instead Ricoeur shifts his emphasis to the institutional mediation of human persons. He says:

² According to Bernard Dauenhauer, Ricoeur's view can be best understood by distinguishing individual liberalism from communitarian liberalism. In some sense, Ricoeur is closer to a communitarian liberal precisely because of his emphasis on the importance of communal life. Ricoeur's argument is clearly based on the distinction between a person's capacity and his or her actualization of that capacity. The major difference between these two forms of liberalism depends on whether or not serving to community is revocable. Dauenhauer puts the point as follows: "For the individualistic liberal, all of the individual's obligations to the community are conditional. They are relative to the individual's consent, which is always revocable. On this view, the individual, by reason of his or capacity to act, is already a full-fledged agent prior to entering the contractual relations that constitute citizenship. For the communitarian liberal, by contrast, capacities to act get their meaning and their importance from their orientation to actualization. Because their human capacities can reach fruition only through their coming to membership in a

Without institutional mediation, individuals are only the initial drafts of human persons. Their belonging to a political body is necessity to their flourishing as human beings, and, in this sense, this mediation cannot be revoked. On the contrary, the citizens who issue from this institutional mediation can only wish that every human being should, like them, enjoy such political mediation, which when added to the *necessary* condition stemming from a philosophical anthropology becomes a *sufficient* condition for the transition from the man with capacities to the real citizen. (Ricoeur 2000: 10)

From this point of view, belonging to a political community is not an option to choose but an “obligation.”(Ricoeur 1992: 254-5)³ Thus Ricoeur says, “It is not right that individuals should reap the benefits of belonging to a community without being willing also to pay the costs of such participation. Belonging and participating lead to an obligation to the extent that those capacities whose flowering is socially conditioned are themselves worthy of respect.”(Ricoeur 1987b: 37)

Ricoeur emphasizes the finite, historical character of human existence, and the importance of human choice. Human beings must pursue their ambitious projects in society. In the pursuit of these projects, self-respecting citizens meet the arbitrariness of state power and the state’s monopoly on legitimated “violence.” Ricoeur uses the term ‘violence’ where Rawls uses ‘coercion.’ We will further consider the problem of violence and coercion in Chapter 5.

Like Rawls, Ricoeur believes that the problem of conflict between the individual and the state helps to explain why the notion of justice plays a crucial role in human society. Unlike Rawls, who tries to reconcile individual rights and social norms, aided by

community that antedates them, they have some obligations that are not revocable but are at most transferable from one community to another.” (Dauenhauer 1998: 149)

³ This thesis can be interpreted as a thesis against political atomism, which Charles Taylor proposes in his main works. Ricoeur borrows this thesis from Taylor’s view. For more discussion, see Charles Taylor, “Atomism,” in his *Philosophy and the Human Sciences* (New York: Cambridge University Press, 1985), 187-210.

universal principles of justice, Ricoeur claims that, despite its necessity, the mediation of justice to human society is just a limiting idea rather than a complete achievement. It is an unending project between just institutions and the most important decisions of our existence. Nonetheless, Ricoeur readily agrees that the practical mediation between the individual and the state is indispensable for the development of our unfulfilled capabilities. We can fulfill these capabilities only by establishing a legal state, albeit an incomplete one. To build a legal state is to frame its constitution. By identifying the state as its polity, Ricoeur stresses the importance of constitutionalism:

In the constitution the community takes form, deliberate form; in it the community knows itself and is known. But in the constitution, also, freedoms are defined and interrelated, pass into the realm of the feelings and also into that of reality. Thus the constitution is perhaps the sole point in human experience at which freedom and necessity are united. (Ricoeur 1978a: 221)

This means that the framing of a constitution is essential for securing justice and stability in political society. Both Rawls and Ricoeur accept the importance of the formal structure of basic social institutions. This structure is crucial because it is the framework which makes possible deliberation and action with others. In other words, a constitution is a coherent normative framework which regulates the space between individuals and the state.⁴

⁴ A constitution has been crucial for many political philosophers. Taking a constitution as a foundation for political society, for example, Kant attempts to specify the concrete contents of the constitution as follows: “A constitution allowing *the greatest possible human freedom* in accordance with laws by which *the freedom of each is made to be consistent with that of all others* ... is at any rate a necessary idea, which must be taken as fundamental not only in first projecting a constitution but in all its laws.” (Kant, *Critique of Pure Reason*, B 373)

Following Eric Weil’s interpretation of Hegel’s notion of the State, Ricoeur argues that the constitution is closely bound up with an idea of a State. According to Ricoeur, Hegel’s idea of the State can be understood as an effort to represent the ideal status of human relationships. It is “a teleological reality” “a reality willed by responsible citizens,” whose status is merely “an idea at work, a meaning in gestation.” For that reason, he suggests that the conservative view that Hegel’s ideal is simply an apology for the Prussian State should be discarded. (Ricoeur 1978a: 220) For specific arguments against this interpretation of Hegel see Weil 1998: chapter 4. Ricoeur highlights the communitarian aspects of Rawls’s

For Ricoeur, the framing of a constitution is not just an establishment of formal laws. It is rather seen as involving personal commitment where interpersonal relationships and individuality (being irreducible to one other) are of great importance. In this sense, it is to be understood that a constitution represents the ideal of social relationship which contains a number of constraining rules. What is often overlooked here, Ricoeur wishes to show, is that the foundation for a human community cannot be dissociated with interpersonal relationships, which must be based on genuine reciprocity. In other words, Ricoeur tries to show that the concept of justice springs from the true foundation of social institutions, which is “the bond of common mores, not that of restraining rules.” (Ricoeur 1992: 194)

In this, Ricoeur emphasizes the gap between the ideality and reality of the legal state. While the central characteristic of the legal state is its universality and constitutional impartiality, in reality it is clearly constrained by timely decision in the specific time-bound contexts. In other words, in practice the autonomy of a constitution will be impeded by the arbitrary influence of particular historical traditions and personal interests. This means that arbitrariness, and human partiality are inherent in the political domain. Because of this, Ricoeur argues, the problem of authority and stability cannot be eliminated.⁵

view. According to Ricoeur, a genuinely political problem emerges from the transition of a capacity to its actualization. As he argues, in order to achieve this transition, neither individualist liberalism nor communitarian liberalism can be satisfactory, because the dialectical development between the capacity and its actualization has been ignored.

⁵ The importance of timely decision in the political domain is one of Ricoeur’s most important contributions to political thought. According to Ricoeur, we should recognize the “political paradox” and take up a perspective of social dynamics, in which free creation or innovation of politics can be occurred. At the same time, Ricoeur maintains that we should consider the origin and meaning of political authority,

Distribution and Social Institutions

Political society is fundamentally conflict-ridden and consensus-directed.⁶ This raises serious questions about the function of political society: In what ways is political society conflict-ridden? In what ways does it provoke consensus that may be a foundation for basic social institutions? Rawls's answer to these questions, Ricoeur argues, is given in his conception of social institutions as systems of distribution. The concept of distribution becomes central to any political institutions precisely because unequal shares of their members must be justified. In other words, a main function of basic social institutions is to eliminate or reduce possible social conflicts stemming from unequal distribution of goods. Thus the conception of distribution, Ricoeur says, becomes a "moral basis of the social practice of justice ... as the regulation of conflicts." (Ricoeur 1995a: 323)

There is, Ricoeur argues, one great advantage to be gained by regarding society as a system of distribution. This perspective helps to clarify a false dispute concerning the relationship between the individual and society. This is a dispute over the fundamental nature of social reality, and is represented in two competing views: Holism and (methodological) individualism. Holists emphasize the impersonal or transcendent nature of socio-cultural phenomena. According to holism, society is 'greater than the sum of its constituent members.' But as it is often represented, this view has a serious problem. By

which is concerned with legitimate use of physical force of the state. For Ricoeur, these problems are the crucial ones that should deserve special attentions in the discussion of justice.

⁶ "Although a society is a cooperative venture for mutual advantage, it is typically marked by a conflict as well as by an identity of interests. There is an identity of interests since social cooperation makes possible a better life for all than any would have if each were to live solely by his own efforts. There is a conflict of interests since persons are not indifferent as to how the greater benefits produced by their collaboration are distributed, for in order to pursue their ends they each prefer a larger to a lesser share." (Rawls 1971: 4)

emphasizing impersonal and transcendental norms, holism risks reification of social and cultural entities, and may de-emphasize the complex, multiple, inconsistent, and even contradictory nature of personal relations. Methodological individualism abandons any attempt to represent the personal as impersonal. On this view, human society is essentially constituted by individuals. This is not to deny the notions of society and culture, but to say that they should be understood in terms of the behavior of their constituent members. As Ricoeur puts it, social entities can be explained in terms of “the probability that the individuals will conduct themselves in a certain way.”(Ricoeur 1992: 200) Thus methodological individualism affirms the mutuality between the individual, the social, and the cultural. But this view neglects the importance of the *relationship* among them. In effect, political institutions would seem to be redundant if they can be reduced to individual actions.

According to Ricoeur, methodological individualists are partly correct when they assert that “social class is itself an abstraction. The only reality, in the end, are individuals who do things.” (Ricoeur 1985a: 216) But individualists have difficulty accounting for the meanings and social effects of human action. For Ricoeur, while society is always more than the sum of its members and the role each plays, it depends nonetheless on the participation of individual. Thus the human world is represented by its paradoxical nature: The “human being constitutes social reality and is constituted by it.”(Ricoeur 1978a: 215) Ricoeur’s crucial point is that the individual and society must be dialectically connected to one another. It is by the aid of the notion of distribution that we can understand this interdependence. This is the implicit role of basic social institutions in Rawls’s theory of justice. Thus “the wall between the individual and

society” may be torn down through institutional mediation. Stressing the distributive role of basic social institutions, Ricoeur comments:

The institution as the regulation of the distribution of roles, hence as a system, is indeed something more and something other than the individuals who play these roles. In other words, the relation is not reduced to the terms of the relation. But at the same time, a relation does not constitute a supplementary entity. An institution considered a rule of distribution exists only to extent that individuals take part in it. And this participation, in the sense of taking part lends itself to probabilistic analyses that have no point of application other than individual comportments. (Ricoeur 1992: 200-201)

Distribution and Equality

For Ricoeur, however, the notion of distribution as a function of basic social institutions is itself highly problematic. The idea of distribution, he argues, is closely bound up with the idea of ‘apportionment.’ But the idea of apportionment becomes highly problematic when it applies to political institutions. For example, we may distinguish “being part” from “receiving a share.” “Being part” highlights the cooperative aspect of society. Personal commitment and “mutual indebtedness” (Ricoeur 1992: 202) are extremely important. On the contrary, “receiving a share” brings up the importance of an individual’s contribution to public institutions. In short, the ambiguity of apportionment springs from the fact that there are two different aspects of the idea of a ‘just share.’

The notion of distribution becomes problematic when we ask the extent to which a distribution is just. Do we emphasize the cooperative aspect (being a part) or separate aspect (receiving a share) of distribution? When it applies to a strategy of separation, the idea of just shares underscores the fact that each person possesses his or her own portion.

This is what the Latin adage *suum cuique tribuere* would mean. This is also what Rawls takes up in his notion of *mutually disinterested interest*. When it applies to a strategy of cooperation, however, it stresses the just division of the share. This brings to the fore the importance of “the sense of mutual indebtedness.”

A focal point here is the idea of a just share that calls into question the very idea of the justness of shares. This has, claims Ricoeur, been one of the central topics in political philosophy because it is intimately connected to the controversial idea of equality. Here Aristotle’s discussion of equality is of enormous importance. On Aristotle’s view, the justness of shares is equivalent the notion of equality (*isotes*). In order for shares to be just, they must be equal. Insofar as shares are concerned, injustice refers to the case where there is too much or not enough. Aristotle calls this injustice *pleonexia*. The problem of justice for Aristotle becomes more complex when we divide the basic idea of equality into ‘arithmetic’ and ‘proportional’ equality. Arithmetic equality presupposes that all the shares are equal, regardless of circumstances and the different contributions of different members. On the other hand, proportional equality underscores the importance of commitment of its members. Thus it is to be understood in terms of “equality of relations supposing four terms.”(Ricoeur 1992: 226) For example, distributive justice is to equalize “two relations between, in each case, a person and a merit. It therefore rests on a proportional relation with four terms: two persons and two shares.”(Ricoeur 1992: 210/ Aristotle: 1131a30-33)

For Ricoeur the problem of distribution is essential to in any discussion of justice and the role of public institutions. It is essential because it reveals the “mutation the sense of justice undergoes in passing from the teleological to the deontological point of

view.” (Ricoeur 2000: xviii) Rawls’s strategy to resolve this, on Ricoeur’s reading, is to associate “the deontological point of view with the contractual tradition where recourse to accepted procedures for dividing things reinforces the right decision belonging to the deontological approach in general, without making any reference to the substantial weight of the goods to be distributed.”(Ricoeur 2000: xix) Aided by social choice in the original position behind the veil of ignorance, furthermore, Rawls tries to reconcile two ideas of equality in his principles of justice. More specifically, Rawls’s principles of justice that would be chosen from the original position reflect his effort to reconcile Aristotle’s two different notions of equality. Rawls’s first principle, which is vital to ensuring and maximizing “basic political rights,” is one of Rawls’s most serious attempts to formalize Aristotle’s notion of arithmetic equality. His second principle, especially the “difference” principle, should be understood as an effort to revive Aristotle’s notion of proportional equality.⁷

Upon closer consideration, however, we may find it extremely difficult to implement or institutionalize arithmetic equality. This is what we are taught from Aristotle’s discussion of equality. There are two crucial reasons. First, arithmetic equality presupposes society without conflict, which is not a practical assumption given the human condition. Second, and more importantly, equal shares for all are “*too ideal*.” Its practical implication would lead to a violently repressed society.⁸ Ricoeur points out:

⁷ From the outset, it is important to see that Rawls’s principles of justice intentionally exclude the worth of individual’s contribution to that society. (Ricoeur 1991c: 360)

⁸ This issue has to do with the connection between tyranny and totalitarianism. It shows how the notions of justice, truth, and freedom, are “meta-functionally” connected to one another. On Ricoeur’s reading, the ancient notion of justice is an endless struggle against the bad form of government, namely, tyranny. Plato’s *Gorgias* is a good example to show how tyranny is possible. One of Plato’s central theses is that the “perversion of politics” has to do with the lack of true knowledge. To put it differently, it is “the perversion of philosophy,” the good example of which is sophistry. In this way, the ancient thinks that tyranny is the consequence of untruth. (Ricoeur 1965: 256-7) But totalitarianism is a modern phenomenon.

We have all had the dream of equal shares for all; but very few social problems can be resolved by the equality of shares, because there is no doubt that a generalized egalitarianism would be associated with a violent society, in which an extremely strong power would be required to keep everyone at every instant in a position of equality. An egalitarian society cannot be a free society. (Ricoeur 1998: 120)

The implausibility of implementing arithmetic equality into social institutions, relatively speaking, leads to the practical importance of proportional equality. Ricoeur considers this to be Rawls's intention in *Theory of Justice*. According to Ricoeur, Rawls is one of those who seriously attempt to give a coherent account of proportional equality. For Rawls assumes that the fundamental task of social justice is to guarantee an optimum of social primary goods necessary for the self-realization of citizens.

Ricoeur's Interpretation of Rawls

According to Ricoeur, one of Rawls's great achievements is his recognition that the central focus of social conflict is disagreement about the distributions of goods and power. This leads Rawls to regard distributive justice as the centerpiece of his theory of justice. To find the just distribution, however, we need standards of mutual obligation for the evaluation of the basic institutions of society. How can we obtain these standards or principles of justice? Rawls's answer, argues Ricoeur, rests on his account of pure procedural justice. The function of pure procedural justice is twofold: first, pure

It is defined as the violation of human freedom. It eliminates the possibility of a plurality of the good that each individual may valuably pursue. Thus Ricoeur claims, "it was precisely the error – or rather, the crime – of totalitarianism to want to impose a univocal conception of what it believed to be a new man and to thereby avoid the historical groupings of modern man in the attempt to reach self-understanding." (Ricoeur 1992: 260) In spite of the difference of its ground, these two forms of governments have in common: the imposition of violent repression on people.

procedural justice is a basis for the Rawlsian distinction between the just and the good; Second, it is by reference to pure procedural justice that Rawls justifies the derivation of the substantial principles of justice from the original position. This is why Rawls puts so much emphasis upon the thesis of the priority of justice over the good.

In order to obtain these standards, argues Ricoeur, Rawls assumes that there is an essential connection between contractualism and the deontological point of view.

(Ricoeur 1992: 228) Rawls believes that social contract theory is the only option for obtaining just social norms, because Rawlsian moral objectivity can be obtained only through consent.⁹ But a crucial question remains: what is the underlying basis for the deontological tone of Rawls's social contract theory? According to Ricoeur, Rawls employs the social contract theory in order to derive the substantial principles of justice from a fair procedure without presupposing pre-given objective criteria about the just. Rawls's deontology, he argues, is a "deontology without a transcendental foundation." (Ricoeur 1992: 231) This is because it does not need to presuppose anything concerning the common good and transcendent standards. Thus Rawls's pure procedural conception of justice occupies a privileged position in his project.

On Ricoeur's reading, questions about the plausibility of Rawls's pure proceduralism are built upon the following questions regarding the original position (Ricoeur 1992: 231/ Ricoeur 2000: 40-1/ 61): First, what would guarantee the fairness of a deliberate situation out of which one could expect to derive principles of justice? Second, what principles would the parties in this deliberate situation choose? And,

⁹ This is a clear implication when Rawls says the following: "Moral objectivity is to be understood in terms of a suitably constructed social point of view that all can accept. Apart from the procedure of constructing the principles of justice, there are no moral facts. Whether certain facts are to be recognized as reasons of

finally, what arguments could convince them to choose Rawls's principles rather than others?

The answer to Ricoeur's first question is provided by what Rawls calls "justice as fairness," in which Rawls combines individualism with contractualism. In order for self-interested individuals to cooperate, there must exist a set of reasonable principles which each participant can reasonably be expected to accept. Since fair principles of justice can be derived from a fair situation where every individual is represented as free and equal, the only question for Rawls is to identify such a fair situation where everyone is supposed to be autonomously free and equal. Here the original position emerges as the focal point. This initial situation is fair precisely because "no one knows his place in society, his class position or social status, nor does any one know his fortune in the distribution of natural assets and abilities, his intelligence, strength, and the like." (Rawls 1971: 12) Hence, this veil of ignorance guarantees a sufficient condition for universal and impartial principles of justice. Therefore, the substantial principles of justice, which will serve as a foundation for evaluating social institutions, would emerge from this process. Rawls writes, "The aim is to use the notion of pure procedural justice as a basis of theory." (Rawls 1971: 136)

Moreover, Rawls's contract is hypothetical. The apparatus of the original position is "figuratively" employed by the capacity of reason. Equally important, this apparatus is not a creation *ex nihilo*, because it is developed from "our considered convictions." (Rawls 1985: 237) Thus, as Rawls himself emphasizes, the original position is a "device of representation." It "describes the parties, each of whom is responsible for

right and justice, or how much they are to count, can be ascertained only from within the constructive procedure when suitably represented as free and equal persons." (Rawls 1980: 519)

the essential interests of a free and equal person, as fairly situated and as reaching an agreement to appropriate restrictions on what are to count as good reasons.”(Rawls 1985: 237)

Ricoeur notes four crucial elements of Rawls’s original position: (Ricoeur 1992: 232) First, parties have a general understanding of human nature. Second, they understand the theory of primary social goods—the goods that every reasonable person needs, and without which the exercise of liberty would not be possible. The problem of distribution arises as soon as we recognize that individuals prefer to have more rather than less primary social goods.¹⁰ Thirdly, parties face a choice among competing conceptions of justice. And finally, the stability of the social contract requires that its terms will constitute acceptable constraints, binding all members of society regardless of the specific circumstances.¹¹ As they choose principles of justice, they will strongly prefer conceptions of justice that can be made public. For example, the parties in the original position might reject utilitarian principles, since they could not be publicized because they would justify the sacrifice of the rights of some for the sake of others.

In the original position, the symmetrical situation of the parties assures fairness. The veil of ignorance ensures equal representation. It also helps not only to free us from bias in favor of our own special interests, but also to blind us from facts about personal

¹⁰ Here Ricoeur’s point is twofold. First, primary goods lead us to consider the teleological concern in the parties’ moral deliberation. Second, more importantly, consideration of primary goods in their moral deliberation leads us to the importance of distributive justice, because distributive justice arises as soon as the parties prefer to *have more rather than less* certain forms of primary goods.

¹¹ The ‘formal constraints of the concept of right’ are inevitable to avoid arbitrariness. Rawls claims that “a conception of right,” formally justified, “is a set of principles, general in form and universal in application, that is to be publicly recognized as a final court of appeal for ordering the conflicting claims of moral persons.”(Rawls 1971: 135) Among those formal constraints, publicity is of special importance in his discussion of justice. In this respect, it is necessary that the presentation of alternatives and of arguments be public. For detail discussion on the formal constraints of the concept of right, see Rawls 1971: section 23.

relationships and historical contingencies.¹² It is then possible to move from the “fairness of the circumstance” to the “fairness of the contents.” For “since the differences among the parties are unknown to them, and everyone is equally rational and similarly situated, each is convinced by the same arguments.”(Rawls 1971: 139) A unanimous agreement, in other words, will be reached “if anyone after due reflection prefers a conception of justice to another.”(Rawls 1971: 139)

Under the fairness of such a circumstance, Ricoeur’s second question seems relevant: What principles would the parties choose? On the proceduralist view, “the fairness of the circumstance” is automatically transferred to “the fairness of principles.” As noted earlier, Rawls argues that parties to the original position would choose the following:¹³

Each person has an equal right to a fully adequate scheme of equal basic liberties, which is compatible with a similar scheme of liberties for all.

Social and economic inequalities are to satisfy two conditions. First, they must be attached to offices and positions open to all under conditions for fair equality of opportunity; and second, they must be to the greatest benefit of the least advantaged members of society (Rawls 1971: 60/ Rawls 1996: 291).

¹² It would be erroneous to assimilate Rawls’s position to Kant’s transcendental will, which is entirely detached from any teleological connotation. Ricoeur says, “[T]his assimilation is mistaken. According to Rawls, the subject has earthly interests but does not know what they will turn out to be... This opacity is reflected principally in the answers Rawls gives to the question of just what individuals *must know* behind the veil of ignorance so that the choice will bear on actual earthly things; that is, not just on rights and duties, but on the distribution of social benefits. In other words, to the degree that the choice has to do with interests in conflict, the participants placed behind the veil of ignorance must have some knowledge of what it means ‘to be interested.’ ”(Ricoeur 2000: 42)

¹³ Rawls’s principles of justice seem paradoxical, since they contain both an egalitarian principle and a nonegalitarian principle. This led many political philosophers to a serious dispute. The consequences of dispute, Ricoeur rightly states, are in two directions: “On his right, he [Rawls] is accused of egalitarianism (giving priority to the most disadvantaged); on his left, he is accused of legitimizing inequality. To the first group, he replies: in a situation of arbitrary inequality the advantages of the most favored would be threatened by the resistance of the poor or simply by the lack of cooperation on their part; to the second group: a more egalitarian solution would be rejected unanimously because everyone would lose out” (Ricoeur 1992: 235 fn.53/Ricoeur 2000: 48). As I have already remarked in Chapter one, this explains why the lexical orderings of Rawls’s principles of justice are of crucial importance.

According to Ricoeur, there are several things that require special attention. First, he notes Rawls's priority rules: the first principle is prior to the second, and the first part of the second principle is prior to the difference principle.¹⁴ But why is the first principle of justice prior to the second? On Ricoeur's reading, Rawls believes that this lexical ordering is important, because Rawls hopes to offer an alternative to utilitarianism. His principles of justice will provide strong arguments against utilitarian sacrifice. This expresses his conviction that infringements of first principle liberties cannot be justified or compensated for, by greater social or economic advantages. (Rawls 1971: 61)

Second, Rawls's project can be considered one of the central attempts to provide an egalitarian theory of distribution. Rawls's second principle provides us with a possible solution to the problem of distribution. Ricoeur agrees with Rawls claim that utilitarian principles of distribution would violate an intuitive conception of reciprocity, and regards this as an important argument in support of Rawls criterion for the distribution of primary goods. But Ricoeur would emphasize that this conception of reciprocity is itself an embedded moral concept. Of course, Rawls would acknowledge that reciprocity is a morally loaded concept.

But we still need to address Ricoeur's final question: For what *reasons* do the parties in the original position prefer Rawls's principles of justice over the utilitarian alternative? Since every participant is assumed to have equal access to information and to the competing conceptions of justice, what kind of arguments do they provide for Rawls's principles? Rawls's initial answer to this question is, rooted in his assumption

¹⁴ Let me cite against the importance of a serial order: "These principles are to be arranged in a serial order with the first principle prior to the second. This ordering means that a departure from the institutions of equal liberty required by the first principle cannot be justified by, or compensated for, by greater social and economic advantages." (Rawls 1971: 61)

of rationality which he takes from formal decision theory. His theory involves two related assumptions: first, parties to the choice are rational actors whose choices can be completely defended on the basis of their preferred outcomes; secondly, it is assumed that the membership in political society is fundamental to the pursuit of individual well-being. Social institutions enable individuals to pursue their own system of ends more effectively than they could independently. Thus the notions of cooperation and mutuality are central.

Another important argument in favor of Rawls's conception of justice as fairness depends on the so-called "maximin" rule. Maximin reasoning requires us to choose the arrangement that *maximize* the *minimum* of the worst-off persons. The basic idea is that we would rationally choose principles of distribution that would guarantee the worst off participants a share that was larger than the share allocated by any relevant alternative principles. Thus if parties to the original position use maximin reasoning, it is easy to see why they would favor the difference principle.

Nonetheless, Ricoeur observes that Rawls's principles can be defended by a more direct moral argument. This was mentioned earlier in the discussion of Rawls's rejection of the utilitarianism. While utilitarians accept the sacrifice of the worst-off persons for the benefit of the whole population, Rawls says that such sacrifice is unacceptable since it violates central values of publicity and reciprocity. As Ricoeur puts it,

In a society that publicly professes Rawls's principles, the least favored will know that their position draws the maximum advantage of the inequalities they perceive. Less important inequalities will still victimize them. As for the most favored, who seem to be less favored than those like them in every known society, they will be convinced by the argument that their relative loss, compared to the more favorable position a less fair distribution would assure them, will be compensated for by the cooperation of their partners, without which their relative privilege would be threatened. (Ricoeur 2000: 49)

This the anti-sacrificial implication importantly explains why original position parties would adopt Rawls's principles of justice rather than utilitarianism.

The Separation Between the Just and the Good

Although Ricoeur accepts some of Rawls's crucial arguments, he offers several arguments against Rawls's pure proceduralism, and raises methodological and theoretical objections to Rawls's overall strategy. On Ricoeur's reading, Rawls's basic strategy is twofold: first, Rawls tries to find the fundamental principles of justice by distinguishing between the *basic structure* of society and its *particular institutions*. Second, he tries to deal with distributive justice by neutralizing the heterogeneity of the good in the theory of social primary goods. More generally, Rawls's entire project depends on his constructivist interpretation of pure procedural justice.¹⁵

According to Ricoeur, Rawls's pure procedural justice rests heavily on the distinction between the just and the good. Rawlsian contractarianism implies that the just is radically separated from the good.¹⁶ As Ricoeur points out,

The aim and the function of the fiction of a contract are to separate the *just* from the *good*, by substituting the procedure of an imaginary deliberation for any prior commitment to an alleged common good. (Ricoeur 1992: 228)

¹⁵ According to Ricoeur, there are at least two ways of interpreting Kant's moral philosophy. The first is to emphasize constructivist aspect of morality, which constitutes one of Rawls's central claims. Another is to emphasize transcendentalist aspect of morality, which draws central focused on the opposition between the obligation and inclination. This tendency, taken by Habermas, underscores the vital role played by the principle of universalizability.

¹⁶ This does not mean that Rawls's theory of justice does not presuppose any conception of the good. As Ricoeur rightly points out, the crucial point here is that "the just is constructed inasmuch as it proceeds

Rawls's formalized choice procedure is crucial to his separation of the just from the good. But Ricoeur raises a theoretical objection: A formal procedure cannot be sufficient to generate principles of justice unless it indirectly relies on a substantive conception of the good. The formalized procedure cannot be autonomous.¹⁷ More positively, a formalization procedure gets its meaning only if certain forms of the good are presupposed in advance.¹⁸ Ricoeur writes:

The question will... be whether this reduction to procedure does not leave a residue that requires a certain return to a teleological point of view, not at the price of repudiating the formalization procedures, but in the name of a demand to which these very procedures lend a voice. (Ricoeur 1992: 228)

Ricoeur does not entirely dismiss the significance of a formalization procedure. For example, he accepts that Rawls's procedural conception of justice is extremely helpful to deal with contemporary moral and political problems. But Ricoeur is doubtful that pure proceduralism alone can support an independent theory and provide a firm foundation for the theory of justice. He argues that Rawls must make some substantive moral assumptions before he can even lay out the project, and that this compromises the supposed priority of right.¹⁹ Focusing exclusively on Ricoeur's own questions, I shall briefly outline some of these important arguments.

from a reasonable choice, whereas the good is reputed to be found, discovered, inasmuch as it is apprehended intuitively." (Ricoeur 2000: 60)

¹⁷ Ricoeur believes that his theoretical objection extends to the whole contractual tradition. In *The Just*, Ricoeur says, "My objection seems to challenge the whole contractualist school, for which the procedural dimension must be independent of any presupposition concerning the good in a teleological approach to the concept of justice or even concerning the just in a transcendental version of deontology." (Ricoeur 2000: 51-52)

¹⁸ Rawls's concept of the good is clearly linked to utilitarian conception of the good, while Ricoeur's notion of the good is far broader. It covers Aristotle's teleological notion of the good.

¹⁹ Before proceeding to dig into this question, Ricoeur claims that Rawls's theory of justice is formally circular in its justification. This circularity is confirmed in the following way: "On the one hand, the principles of justice are largely defined and interpreted before the proof is given that these are the principles that would be chosen in the original situation. On the other hand, the original agreement has to be anticipated so that the formulation of the two principles acquires relevance." (Ricoeur 2000: 51) After

Ricoeur's first argument addresses the idea of fairness in the original position, as embodied by the constraint of the veil of ignorance. (Ricoeur 1992: 234/ Ricoeur 2000: 52) Ricoeur argues that the veil embodies some of our most fundamental moral beliefs, and presents them in a clear and coherent way. Rawls's "moral point of view", says Ricoeur, does not originate from making entirely new principles, but from proposing our familiar moral values in a clear and coherent way. For that reason, choice from behind the veil of ignorance is not an *ex nihilo* discovery, but a gradual development of our antecedent moral convictions.²⁰

Rawls's notion of fairness in the original position makes better sense when we identify it as a combination of the Aristotelian notion of 'proportional equality,' and Kant's conception of persons. The contracting parties in the original position are supposed to be equal representatives in spite of inequalities in real life. Even if the parties try to ignore "the inequalities related to the diversity of contributions made by individuals to the functioning of society, to differences of qualification, of competence, of efficiency in the exercise of responsibility," (Ricoeur 1992: 234) the primary intention of Rawls's theory of justice is to realize the egalitarian form of justice by reducing these inequalities to a minimum. Like the Greek notion of *isotes* (equality), Rawls associates the just with the equal, and the unjust with the unequal. But Ricoeur argues that the underlying association of justice with equality derives from an antecedent association

Ricoeur declares that this circularity is "characteristic of all ethical reflection," (Ricoeur 2000: 50) he interprets Rawls's principles of justice to be following: "Before the maximin argument, the definition of justice is merely exploratory; after the maximin argument, it is definitive." (Ricoeur 2000: 51) So there is a progression of justification in Rawls's text. I intend to exclude this argument as a minor one, because the argument is shown to be part of Ricoeur's major argument.

²⁰ Rawls seems to accept this interpretation when he claims that the aim of justice is "to provide a *better understanding* of freedom and equality in a democratic society." (Rawls 1996: 292, emphasis added)

with what is regarded as unequal in real life. Thus the Rawlsian notion of justice is rooted in certain pre-theoretical moral understandings.²¹

More importantly, Ricoeur claims that the Rawlsian idea of fairness in the original position presupposes the Kantian idea of persons. Kant teaches us that a person is to be distinguished from a thing, and from this distinction, he tries to show that no person should be treated as a mere thing. More positively, Kant claims that persons are to be treated as “ends,” for the rational beings by nature exist as ends in themselves. Similarly, Ricoeur argues, Rawls considers the parties in the original position as free and equal partners. This is necessary if parties are to behave as promise-makers as they contract, with an obligation of respecting the autonomy of others. Echoing Kant’s notion of persons, this requires that each persons be treated as an end in her or himself. But this means, as Ricoeur points out, that a specific good of being a person is to be respected for its own sake. Therefore, Rawlsian fairness makes sense only if this kind of good is presupposed.²²

²¹ The primacy of the sense of injustice over justice, Ricoeur argues, is clearly indicated in Greek tragedy. He says: “The quasi-immemorial origin of the idea of justice – its emergence out of the mythical mode in Greek tragedy and the perpetuation of its divine connotations in secular societies – shows that the sense of justice is not limited to the construction of legal systems, which, nevertheless, it never ceases to bring about. On the other hand, the idea of justice is better named *sense of* justice on the fundamental level where we remain here. Sense of justice and of injustice, it would be better to say here, for what we are first aware of is injustice: “Unjust! What injustice!” we cry.” (Ricoeur 1992: 197-98)

²² The Kantian root of the original position is clear in *A Theory of Justice*. In section 40, Rawls emphasizes the autonomous feature of the parties in the original position: “My suggestion is that we think of the original position as the point of view from which noumenal selves see the world. The parties qua noumenal selves have complete freedom to choose whatever principles they wish; but they also have a desire to express to express their nature as rational and equal members of the intelligent realm with precisely this liberty to choose, that is, as beings who can look at the world in this way and express this perspective in their life as members” (Rawls 1971: 255). The crucial question here is not the plausibility of “the transcendental subject” as a foundation for Rawlsian political liberalism. We should rather concentrate on question of how Rawlsian fairness is rooted in the notion of equality as which Greek people call *isotes*. This is plainly clear when we investigate *Political Liberalism*, which gives weight to the importance of the revisability of the conception of the good. Ricoeur claims that this respect for persons should be considered as the ethical found in Ricoeur’s notion of “the ethical intention.” For details on the ethical intention, I shall explicate in the next chapter in a more specific way.

Ricoeur examines a second argument for the claim that Rawls's principles of justice would be chosen over utilitarianism. According to Ricoeur, Rawls's theory is ultimately based on two arguments: One appeals to the anti-sacrificial principle in comparison with that of the utilitarian account, while the other employs the maximin rule. To grasp Ricoeur's specific points, let me take look at them more closely.

According to Rawls, utilitarianism is unacceptable for two main reasons: First, utilitarians hold that a society is just when it strives to maximize the net balance of satisfaction in its institutions. But Rawls claims that this could make sense only if there is an "impartial spectator" or "perfectly rational individual" to judge the maximization of social well being. (Rawls 1971: 27) On Rawls's view, this is absurd. Second, Rawls argues that utilitarianism neglects "the separateness of persons." There are many disparate persons in a society, which means that there are many different, often incommensurable conceptions of the good. If the utilitarian argument depended on the truth of the premise that the principles for society are the outcome of one peculiar person's choice, then it is a fatal mistake "not to take seriously the distinction between persons." (Rawls 1971: 27)

According to Ricoeur, Rawls's "moral argument" is convincing when we assume the uniqueness or Kantian autonomy of persons. Rawls's argument is clearly influenced by Kant's second formulation of the categorical imperative: the injunction to treat persons as "ends in themselves," and as mere means. Echoing Kant, Rawls writes:

To respect persons is to recognize that they possess an inviolability founded on justice that even the welfare of society as a whole cannot override. It is to affirm

that the loss of freedom for some is not made right by greater welfare enjoyed by others. (Rawls 1971: 586)²³

On this basis, Ricoeur argues, Rawls's principles are actually grounded in the ethical presupposition of Kant's imperative that forbids us to treat others as a mere means. Here Ricoeur once again draws attention to Rawls's rejection of the utilitarian "sacrifice." Utilitarianism takes it for granted that "the sacrifices imposed in a few are outweighed by the larger sum of advantages enjoyed by many." (Rawls 1971: 4)²⁴

Ricoeur makes a similar argument concerning Rawls's use of the maximin rule behind the veil of ignorance. Rawls clearly assumes that the maximin rule plays a central role in the selection of the two principles of justice. But this rule, argues Ricoeur, would be meaningless without some antecedent understanding of the just and the unjust. For according to Ricoeur, the maximin rule reflects an underlying principle of reciprocity.²⁵ Without presupposing reciprocity, Ricoeur argues, maximin would be nothing more than a prudential rule of utilitarian calculation (Ricoeur 2000: 56/ Ricoeur 1992: 250-51).²⁶

²³ This conclusion also constitutes one of Rawls's basic premises, which is derived from his deliberation on the inequalities affecting the starting point. From the beginning of *A Theory of Justice*, we read the following:

Justice is the first virtue of social institutions, as truth is of systems of thought. A theory however elegant and economical must be rejected or revised if it is untrue; likewise laws and institutions no matter how efficient and well arranged must be reformed or abolished if they are unjust. Each person possesses an inviolability founded in justice that even the welfare of society as a whole cannot override. For this reason justice denies that the loss of freedom for some is made right by a greater good shared by others. (Rawls 1971: 3-4)

²⁴ With respect to this argument, Ricoeur seems to follow the main argument of Jean-Pierre Dupuy. (Dupuy 1988) Also see Ricoeur 1992: 230-235 and Ricoeur 2000: 50.

²⁵ As has been remarked, Rawls himself tries to convince us to select the difference principle solely in virtue of the reliance on the rule of reciprocity in his subsequent works.

²⁶ The proper place of the Golden Rule has been one of Ricoeur's original contributions to contemporary moral and theological thought. Highlighting an essential nexus between the maximin principle and the rule of reciprocity (the Golden Rule), Ricoeur says: "For my part, I will say that it is our preunderstanding of the unjust and the just that assures the deontological intention of the self-proclaimed autonomous argument, including the maximin rule. Detached from the context of the Golden Rule, the maximin rule would remain a purely prudential argument characteristic of every exchange relation. The deontological intention, and even the historical dimension, of our sense of justice are not simply intuitive; they result from a long *Bildung* stemming from the Jewish and Christian as well as from the Greek and the Roman traditions.

So, just as Rawls's conception of freedom and equality in the original position presupposes Kant's categorical imperative, Ricoeur argues that the maximin must be associated with the Golden Rule. ("Do not do to your neighbor what you would not want him to do to you")²⁷

According to Ricoeur, Rawls's pure procedural conception of justice is a systematic attempt to rationalize our moral sense of equality. In Ricoeur's own term, Rawls's theory of justice "provides at most the formalization of a sense of justice that it never ceases to presuppose." (Ricoeur 1992: 236/ Ricoeur 2000: 50) On Ricoeur's view, this should help explain why the teleological conception of the good, like the Aristotelian one, cannot be eliminated from deontological procedural justice. A meaningful theory of justice cannot be ethically neutral because it must be rooted in ethical presuppositions. What interests Ricoeur is the role that these ethical presuppositions play in a theory of justice. Ricoeur calls our ethical concern for justice the "ethical intention." By this he refers to our "aiming at the 'good life' with and for others, in just institutions." (Ricoeur 1992: 172)

In specifying the idea of justice, Ricoeur tries to show that it is intimately associated with antecedent ethical commitments and ideals of equality. He wishes to show that the concept itself can be traced back to reciprocal relations among human

Separated from this cultural history, the maximin rule would lose its ethical characterization." (Ricoeur 2000: 56) Ricoeur's thesis here is the priority of the Golden Rule over Kant's second categorical imperative and Rawls's maximin rule. According to Ricoeur, the relative priority of the Golden Rule reflecting the rule of reciprocity urges us to focus on the "initial dissymmetry related to the power an agent has over the patient of his action, a dissymmetry that violence transforms into exploitation" (OAA 251). This issue will be more discussed in Chapter four.

²⁷ In his provocative essays, Ricoeur attempts to investigate a link between the second formulation of the categorical imperative and the Golden Rule. His conclusion is that the Golden Rule is more advantageous than the second formulation of the categorical imperative. The Golden Rule actually initiates all the moral problems, because it copes with violence that results from the initial asymmetry of human interaction

beings. An idea of justice, aided by the notion of equality, can be applied to institutional setting via reciprocal relations. But Ricoeur's emphasis is upon the interpersonal commitment to live together—what Heidegger calls “solicitude.” Ricoeur states the point as follows:

Friendship ...gives the self as its vis-à-vis an other who has a face in the strong sense that Emmanuel Levinas has taught us to recognize it. Justice conceived as equality gives the self as its vis-à-vis an other who is an “each.” In this way, the sense of justice takes nothing away from solicitude. Rather the sense of justice presupposes it inasmuch as solicitude regards persons as unsubstitutable for one another. Conversely, justice adds to friendship inasmuch as the field of applicability of equality is the city, the historical community ruled by the State, and, ideally, all of humanity (Ricoeur 1991a: 182 1n/ Ricoeur 1992: 202).

Despite the importance of solicitude in the origin, Ricoeur argues that the institutionalization of justice is indispensable. Like Rawls, Ricoeur takes it for granted that the primary subject of principles of justice is political institutions. Thus, as he says, “Equality is to life in just institutions, what solicitude is to interpersonal relations.” (Ricoeur 1992: 202) Nonetheless, he maintains that the sense of justice is fundamentally rooted in our specific teleological conception of the good, and that it reflects our will to live together.

Reflective Equilibrium and Political Stability

Rawls argues that his principles of justice can be justified by showing that they are in reflective equilibrium with our considered convictions. The very fact that Rawls must appeal to our considered judgments in the justification of the principles of justice,

between what someone does and what is done to another. This issue will be further examined in later chapters. (Ricoeur 1995: 293-302 and Ricoeur 1990: 392-397)

argues Ricoeur, shows that his principles are not ethically neutral. The formalization of the procedure does not imply that the principles are without ethical roots.

Ricoeur raises a further concern about the role of reflective equilibrium in political justification. Insofar as Rawls's theory seeks "mutual adjustment between convictions and theory," the method of reflective equilibrium involves complicated accommodation among our commitments. But Ricoeur sees the role of reflective equilibrium to be ambiguous. He asks whether the method of reflective equilibrium can produce rational justification for a conception of justice we might not otherwise have held, or if instead, it is simply a method that allows us to clarify commitments we already hold. (Ricoeur 2000: 56) The first case would imply the complete replacement of our considered judgments about the just and the unjust, whereas the second alternative simply implies a critical rearrangement of our commitments. The first case presumes an independent argument of the formalization procedure without any further appeals, while the second one abandons its independence.

According to Ricoeur, Rawls's account of the role of reflective equilibrium in his theory of justice is even more deeply ambiguous. When Rawls underscores the hypothetical aspect of the original position and the rationalistic features of the maximin argument, the method of reflective equilibrium seems to justify the complete replacement of the procedural conception of justice with a formalization process. In this sense, Rawls's whole argument in favor of his theory of justice can be interpreted as follows: "Before the maximin argument, the definition of justice is merely exploratory; after the maximin argument, it is definitive." (Ricoeur 2000: 51) On the other hand, when we

consider Rawls's definition of reflective equilibrium, its role seems much wider.

Consider that Rawls defines reflective equilibrium as follows:

By going back and forth, sometimes altering the conditions of the contractual circumstances, at others withdrawing our judgments 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 judgments duly pruned and adjusted. This state of affairs I refer to as reflective equilibrium. (Rawls 1971: 20)

In this case, the method of reflective equilibrium consists in dialectical circularity.

Beginning with our considered conviction that “no one should be advantaged or disadvantaged by natural fortune or social circumstances,” Rawls seeks principles to match this conviction. But such a process is potentially endless. It is extremely difficult to find an exact fit between theory and convictions. Hence the argument of the original position is never complete and, in this sense, cannot be entirely independent.

According to Ricoeur, any formalization procedure will always be open to critical revision. Ricoeur emphasizes in our every day lives, we are more prone to recognize injustice than justice. This is partly, perhaps, because injustice is simply more common than justice. But it is also explained by the fact that we feel personally aggrieved when we have been treated unjustly, and our indignation calls injustice forcefully to our attention. But the path from the sense of injustice to the sense of justice is long—to know what justice requires (positively), it is not sufficient simply to be able to recognize when (negative) requirements of justice have been violated. (Ricoeur 1992: 198) Since the sense of injustice is more salient in real life and principles of justice are required to

eliminate such injustices, the sense of justice originates from critical evaluation of our considered convictions.²⁸ But Ricoeur argues that this critical task is ceaseless:

[I]n the expression “considered conviction,” the epithet “considered” has as much weight as does the substantive term “convictions.” In this context, “considered” means open to the criticism of another or, as Karl-Otto Apel and J. Habermas would put it, submitted to the rule of argumentation. (Ricoeur 2000: 57)

In his later works, Rawls assigns the method of reflective equilibrium a positive role in the public justification of a political conception of justice. There, in applying his principles of justice to constitutional democracies, Rawls takes it to be a central task for a theory of justice to address what he calls the “fact of reasonable pluralism.”²⁹ This is the fact that “the diversity of comprehensive doctrines is not a historical contingency, but a natural result of the exercise of reason under conditions of freedom.” (Wolf and Davion 2000: 5) Rawls emphasizes that reasonable people will often disagree about fundamental values:

²⁸ Ricoeur claims the priority of the sense of injustice over the sense of justice. He says: “The sense of injustice is not simply more poignant but more perspicacious than the sense of justice, for justice more often is lacking and injustice prevails.” (Ricoeur 1992: 198) Ricoeur claims that the path from the sense of injustice to the sense of justice is long. In the case of distributive justice, the derivation of the sense of justice from the sense of injustice is more complicated. For indignation originated from the sense of injustice represents “a demand for arithmetic equality,” whereas distributive justice calls for more articulate statement of the sense of justice. Ricoeur states: “[T]he problem is always to know if there are distributions that are more just, or less unjust, than others. I would note, moreover, in passing that in Plato and in Aristotle the word *adikos* (unjust) always comes before the word *dikaisune* (justice): perhaps this is indeed the way we initially enter into the problem of justice, through the feeling of *injustice*, through the feeling that there are unjust apportionment. Indignation is then, faced with what we feel is unjust – the cry “It is unjust!” – the first expression of our sense of justice. But indignation has its limits; in particular, it fixes itself on a demand for arithmetic equality.” (Ricoeur 1998: 120)

²⁹ Rawls’s application of his principles of justice to a particular society raises an internal as well as external problem about political society. The internal problem is associated with what Rawls identifies the “problem of political stability.” As Rawls himself puts it, the application raises an “internal problem with *A Theory of Justice*,” because ‘its analysis of the stability of a democratic society...does not fit with the theory taken as a whole.’ (Rawls 1996: xvii) Two features of the political are important here: First, political society is closed. In other words, we do not voluntarily enter or leave political society. Second, political society has the coercive use of physical force. Taken them together, Rawls’s basic question is this: if our whole activities are merely expressions of individual life and particular interests, what role, then, does the conception of justice play in the political domain?

We can say that reasonable disagreement is disagreement between reasonable persons, that is, between persons who have realized their two moral powers [the capacity for a sense of justice and the capacity for a conception of the good] to a degree sufficient to be free and equal citizens in a democratic regime, who have an enduring desire to be fully cooperating members of society over a complete life. (Rawls 1996: 55)

Despite these disagreements, Rawls argues that we can still hope to achieve an overlapping consensus with respect to a political conception of justice. Such a consensus would express positive assent, on the part of those involved, to the political conception of justice in question. The possibility of such assent, in turn, is essential for political stability. As Ricoeur characterizes this move, Rawls hopes to resolve the problem of political stability by drawing attention to “a new type of positive relation between the procedural level of the ideal of justice and the substantial plane of religious, philosophical, and moral conceptions.”(Ricoeur 2000: 69-70)

According to Ricoeur, the relation between the political conception of justice and comprehensive doctrines is itself paradoxical, for the political conception of justice must be both *freestanding*-- that is, independent of any comprehensive doctrine, and also *supported* by the different comprehensive doctrines of different members of society, for whom this conception of justice is the object of an overlapping consensus. In seeking an overlapping consensus between the political conception of justice and underlying comprehensive doctrines, the method of reflective equilibrium plays a crucial deliberative role.

In his later works, Rawls emphasizes the importance of democratic deliberation in the public justification of principles of justice. He argues that we should seek an overlapping consensus on a political conception of justice. While we cannot justifiably

unify a political community by forcing people to accept a common comprehensive doctrine, Rawls argues that this is not necessary. An appropriate political conception of justice will be fully compatible with the comprehensive doctrines accepted by a substantial majority of citizens, at least under what Rawls calls “favorable conditions.” (Rawls 1999b: 5)

Ricoeur considers an example employed by Rawls to illustrate the possibility of an overlapping consensus. Consider the following comprehensive doctrines: (1) “A religious conception that ties tolerance to its very self-understanding of its faith; (2) a form of philosophical liberalism, like that of Kant or Mill, that derives the theory of justice as fairness as one of the consequences of its general vision of the world³⁰; and finally, (3) a political conception sufficiently independent in its expression of its political values where ‘under the relatively favorable conditions that make a constitutional regime possible, that aim is a reasonable guide and may be in good part realized.’”(Ricoeur 2000: 74) Rawls proposes that adherents to each of these doctrines could accept the same liberal conception of justice as the object of an overlapping consensus. But what is the role of the theorist in such a claim? Ricoeur writes:

Rawls does not tell us where he situates himself as an individual in relation to this typical case of overlapping consensus. His role as a philosopher ends at the moment when he underscores the contingent character of the very conditions of stability without which the objection of *unreality* he addresses to the idea of a well-ordered society governed by the theory of justice as fairness, in the sense of *A Theory of Justice*, would remain insurmountable. (Ricoeur 2000: 74-75)

³⁰ Rawls confesses that his position “steers a course between the Hobbesian strand in liberalism – liberalism as a *modus vivendi* secured by a convergence of self-and group-interests as coordinated and balanced by well-designed constitutional arrangements – and a liberalism founded on a comprehensive moral doctrine such as that of Kant or Mill.” (Rawls 1999a: 446)

Because of the opacity of this objection, Ricoeur's point deserves further explication. Rawls intends, in describing these comprehensive doctrines, to show that the goal of overlapping consensus is not excessively idealistic or unreal. But as he describes this consensus, it appears to be entirely a contingent matter whether it will be possible to discover such a consensus among the comprehensive doctrines that are in fact accepted by the members of any actual society. It is not sufficient to show that different people may have different reasons for accepting the same political conception of justice. In order for a stable consensus on a liberal political conception of justice to play the role Rawls requires, he needs to show that stability is not just contingent on the particular doctrines people happen to accept. But this he has not done.

The Problem of Distribution

Ricoeur's final criticism addresses Rawls' theory of distribution. Ricoeur expresses deep respect for Rawls's account, and regards its treatment of distributive justice as one of the great advantages in Rawls's theory. He emphasizes Rawls's claim that the subject of justice is the "basic institutions" of society. For Rawls, writes Ricoeur, "an institution [is] a system for dividing or distributing rights and duties concerning money and property, responsibilities and power, and, in short, benefits and burdens. This *distributive* character of institutions, in the broad sense of distribution, is what poses a *problem of justice*." (Ricoeur 1991c: 356) On Ricoeur's reading, this means that the

distributive function of political society is reducible neither to legal nor to economic relations among citizens.³¹

According to Rawls, justice regulates the distributive function of social institutions, as they allocate primary goods to different members of society. The theory of primary goods is intended to be a neutral currency, since they are understood to be the things everyone wants equally. Only if the primary goods are neutral in this sense can they provide a metric for comparing the situation of different members of society. But Ricoeur points out that Rawls's index of primary goods is itself heterogeneous and complex. Since Rawls gives no instructions to tell us how to compare different baskets of such goods, the theory of primary goods cannot, Ricoeur argues, serve the role Rawls has assigned to it.

By introducing the notion of primary social goods Rawls tries to demonstrate that his principles of justice are substantive, and not merely formal. Primary goods are not arbitrary, they are minimal goods that every human being must have, necessary for the very exercise of the "two moral powers."

The essential question raised by Ricoeur is whether Rawls's principles of justice are able to deal appropriately with distributive justice. Ricoeur's response to Rawls is twofold: First, Ricoeur argues that Rawls ignores the "qualitative difference between the things to be distributed." (Ricoeur 1992: 251) According to Ricoeur, the problem of distributive justice arises from a conflict generated by the heterogeneity of the good. But Rawls's strategy to neutralize the conceptions of the good by introducing primary social goods is not adequate because of the plurality of the primary goods to be distributed:

³¹ Another unique feature of the political is the requirement of timely decisions. See Paul Ricoeur, "Ethics and Politics" (Ricoeur 1991b)

A genuine conflictual situation appears when, digging under the pure rule of procedure, one unearths the diversity among the goods that are distributed which the formulation of the two principles of justice tends to obliterate. (Ricoeur 1992: 251)

In addition, Rawls's principles of justice may be *excessively* egalitarian since they ignore the fact that different people deserve different things. For a distributive problem arises when we note people's different contributions to a society. It is implausible, according to Ricoeur, that different people will all deserve the same thing.

Ricoeur identifies yet another salient problem: the conceptions of the good that are the basis for distributive justice, are themselves plural, heterogeneous, and perhaps even incommensurable. And in dealing with distributive justice, the real problem we confront resides in a conflictual situation that springs from the multiple, different conceptions of the good. If this is correct, then the concept of justice plays another crucial role: a task for a theory of justice, in this case, is to define a public relationship between these different conceptions of the good.³² Ricoeur writes:

A more concrete notion of justice arises when there is question of arbitrating between these concurrent spheres of justice, of dealing with the threat of one sphere encroaching on another. It is here that the fiction must give way to reality in the daily handling of the social conflicts implied by the very ideas of *problematic distribution*. (Ricoeur 1991a: 215)³³

Ricoeur's second criticism addresses Rawls's basic approach to conceptions of the good. According to Ricoeur, Rawls's theory of justice emphasizes the separateness of persons, but the theory of primary goods makes them "neutral." Justice must identify

³² As will be examined closely in Chapter 4, Ricoeur here calls attention to what he calls the "juridical pluralism." In "The Plurality of Instances of Justice," Ricoeur examines two crucial views, that is, that of Michael Walzer and that of Luc Boltanski and Laurent Thévenot. (Ricoeur 2000)

each individual's due, and abstract rights represent individual dessert at an abstract level. This is what the classic idea of *suum cuique tribuere* (to each what she or he is due) stands for. Similarly, Rawls believes that distributive justice would be complete only when each member of society receives his or her *respective* share. But as Ricoeur argues, if the primary goods are "neutral," then they cannot accommodate the very different things that different people deserve. And inasmuch as these goods are plural and heterogeneous, they will not resolve the interpersonal conflicts that constitute the very nature of politics.

Ricoeur offers a very different account of the role of politics. As Ricoeur writes, "no system of distribution is universally valid; all known systems express revocable, chance choice, bound up with the struggles that mark the violent history of societies." (Ricoeur 1992: 284) This leads him to emphasize the importance of the political in human affairs. By 'the political,' Ricoeur understands "the set of organized practices relating to the distribution of political power." (Ricoeur 1992: 257) And he points out that the function of the political domain is unique to the extent that it tries to encompass different domains or "spheres." It can be reduced neither to the legal, nor the moral, and nor the ethical. But the autonomy of the political is fragile because of its paradoxical nature: political power requires political legitimacy, which requires a kind of public objectivity. But political power is always exercised by individuals, in accordance with their own subjective intentions. This undermines its public objectivity.³⁴

³³ "Une notion plus concrète de justice se fait jour dès lors qu'il s'agit d'arbitrer entre ses sphères concurrentielles de l'une sur l'autre. C'est ici que la fiction doit faire place à la réalité dans le traitement quotidien des conflits sociaux, impliqu l'idée même de *distribution problématique*."

³⁴ The political paradox has been one of Ricoeur's key notions in his political philosophy. It has many different forms. It fundamentally originates from the asymmetrical relation between political power, which generates political legitimacy. The gap between the ideality and reality of the political domain is also

Ricoeur takes for granted the importance of the role played by the state in arbitrating qualitatively different conceptions of the good. The state is not merely a historical contingency, for there must be institutions to integrate different conceptions of the good in a coherent whole. However, Ricoeur also claims that there is indeterminacy in the application of particular principles to a particular historical community. Thus the object of consensus and consequences of the state are always subject to revision. The values expressed in public institutions are limited since they must be acceptable to many different people with different values.

In Ricoeur's view, it is problematic to regard a conception of political good as an object of distributive justice. In his discussion of the view of Michael Walzer, Ricoeur puts the point as follows:

A political philosophy constructed entirely around the theme of the heterogeneity of social goods is poorly armed to pose the problem of the self-constitution of the political body with the connected problems of its self-limitation. (Ricoeur 2000: 89-90)

Linking distributive justice to actual political activities, Ricoeur emphasizes the importance of political deliberation and the role of democracy. He emphasizes two aspects of political deliberation. First, political deliberation is not like scientific deliberation, since it has a practical objective. Rather than truth or knowledge, it aims at justified opinion. Second, public deliberation requires timely decisions and responsibility

characterized as paradoxical. He writes: "It [the abyss of politics] pertains to polity as such: a pact which is a virtual act and which founds a real community; an ideality of law which legitimizes the reality of force; a ready-made fiction to clothe the hypocrisy of a ruling class, but which, before giving rise to falsehood, founds the freedom of citizens, a freedom which ignores particular class, the real differences of power, and the real conditions of persons, but which is nevertheless valuable because of its very abstraction – such is the peculiar labyrinth of polity." (Ricoeur 1965: 253)

in the face of unpredictable consequences. Its cardinal virtue is to make room for alternative options. As Ricoeur says:

Political discussion is not a political system without conflicts but a system in which conflicts are open and negotiable in accordance with recognizable rules of arbitration...For the same reason, the free access of the pluralism of opinion to public expression is neither an accident nor an illness nor a misfortune; it is the expression of the fact that the public good cannot be decided in a scientific or dogmatic manner...Political discussion is without conclusion, although it is not without decision. But every decision can be revoked in accordance with accepted procedures, themselves considered indisputable, at least at the level of deliberation where we are situated. (Ricoeur 1992: 258)

For Ricoeur, the search for political justice is always “the search for equality in the midst of inequality.” (Ricoeur 1992: 192)³⁵ Political justice is not the mere imposition of equality in interpersonal relations. It is most complicated because of unequal relations of power. The notion of political justice always remains an aim to be accomplished:

While equality is presupposed in friendship, in the case of the injunction coming from the other, equality is reestablished only through the recognition by the self of the superiority of the other’s authority; in the case of sympathy that comes from the self and extends to the other, equality is reestablished only through the shared admission of fragility and, finally, of mortality. (Ricoeur 1992: 192)

³⁵ In accounting for his concern for Rawls’s theory of justice, he mentions: “I have always found myself caught between non-violent utopia and the feeling that something irreducible subsists in the relation of commanding, of governing; this is what I rationalize now as being the difficulty of joining together an asymmetrical relation and a relation of reciprocity. When, by duty or by mandate, one is the bearer of the vertical relation, one continually seeks to give this a legitimacy drawn from the horizontal relation; this legitimization, in the end, is fully authentic only if it allows the asymmetry tied to the vertical institutional relation to disappear; yet this vertical relation cannot completely disappear because it is irreducible – the agency of decision cannot perfectly correspond to the ideal representation of a direct democracy, where each and every person would actually participate in every decision. Do we not observe on the juridico-political level that *the true problems of justice are not those of equal distribution but those posed by inegalitarian distribution? And the question finally amounts to determining what are the least unjust inequalities. Inegalitarian distributions are the daily bread of the governing of institutions of all sorts.* This is the problem I find again today in Rawls and in various theories of justice.” (Ricoeur 1998: 39-40, emphasis added)

For Ricoeur, a conception of political justice must be qualified by commitment to the ideal of democracy. By democracy, he understands an attempt to control the abuse of political power by requiring public legitimation. Or, to put it in Arendt's term, democracy involves an attempt to "place power under the control of the power-in-common." (Ricoeur 1992: 257) More specifically, the idea of constitutional democracy, insofar as it is understood as a regime where political power is equally distributed by self-governing principles, remains a fragile idea. It is a hopeful "utopian dream." (Ricoeur 1998: 39) Ricoeur's point is that the problem of fair distribution cannot be finally solved by appeal to consent in a hypothetical situation.³⁶ But Ricoeur does not deny the importance of utopian thought in political deliberation. Utopian ideals provide a critical point of view that can help us to evaluate our own situation.

Beyond Political Contractualism

Ricoeur's broader skeptical argument is directed against political contractualism. By 'political contractualism,' he understands any attempt to derive principles of a body politic from that of moral autonomy. (Ricoeur 1998: 99)

Ricoeur identifies Rawls's pure procedural justice as an attempt to resolve "the unresolved enigma of the foundation of the republic" found in Kant and Rousseau.

³⁶ Recognizing the specificity of the political necessarily leads to the problem of legitimacy of political authority. This is true of Rawls's political conception of justice. In an emphasis upon the political character of justice, Rawls attempts to demonstrate that his political conception has an overlapping consensus with our considered convictions. Similarly, Ricoeur accepts the role of reflective equilibrium. But Ricoeur gives more weight to the critical function. He argues that in politics we are looking for "a subtle dialectic between *argumentation* [in Habermas's sense] and *conviction*, which has no theoretical outcome but only the practical outcome of the arbitration of moral judgment in situation." (Ricoeur 1992: 287) The function of argumentation is not to eliminate convictions but rather bring them to the level to

(Ricoeur 1992: 229/ Ricoeur 2000: 37) Rawls's deontological approach clearly employs Kant's conception of persons as free and equal rational agents. Rawls uses this language to describe the situation of the representatives behind the veil of ignorance. Ricoeur recognizes the Kantian roots of Rawlsian contractualism, and regards it as one of the most serious attempts to develop Kant's notion of an original contract by making it more systematic and coherent. Kant writes the following about the original contract:

“The act by means of which the people constitute themselves a state is the original contract. More properly, it is the Idea of that act that alone enables us to conceive of the legitimacy of the state. According to the original contract, all (*omnes et singuli*) the people give up their external freedom in order to take it back again immediately as members of a commonwealth, that is, the people regarded as the state (*universi*). Accordingly, we cannot say that a man has sacrificed in the state a part of his inborn external freedom or some particular purpose; rather, we must say that he has completely abandoned his wild, lawless freedom in order to find his whole freedom again undiminished in a lawful dependency, that is, in a juridical state of society, since this dependency comes from his own legislative Will.” (Kant 1996: 6.315-16)

In Kantian contractualism, individuals must go beyond their violent state of nature and enter a state of law. The contract makes possible the fundamental shift from ‘lawless freedom’ to ‘true freedom.’ Thus Kant argues that there is an essential link between ‘autonomy of self-legislation’ and ‘the social contract.’

Similarly, Ricoeur takes Rawls's theory of justice as an attempt to link the moral autonomy of individuals to the “foundation of the republic.” (Ricoeur 1992: 229) As Ricoeur puts it, “the declared goal of *A Theory of Justice* is to give a procedural solution to the question of the just.” (Ricoeur 2000: 39) Rawls's original position behind the veil of ignorance plays such a role. Insofar as the contracting parties are autonomous (to the extent that they are free, equal, and similarly situated), universally valid principles of

considered convictions in a Rawlsian reflective equilibrium. In his later view, Ricoeur prefers the term

justice are supposed to emerge. Further, these principles of justice have deontological status because they are the consequence of fair agreement in the ideal contracting situation. Thus, for Rawls “the contract is found to occupy on the plane of institutions the place that autonomy claims on the fundamental plane of morality.” (Ricoeur 1992:

239) Ricoeur writes:

For Kant, the law is what liberty would give to itself if it were freed from the inclination produced by desires and pleasure. For Rawls, a just institution would be what a pluralistic society of rational and disinterested persons would choose if they could deliberate in an equitable situation, that is, in a position whose conditions and constraints are immediately evident to them. (Ricoeur 1991a: 203)³⁷

The function of the social contract is to carry the normative value of autonomy from personal choices to social choices, and in Rawls’s theory this is accomplished by the original position choice. Kant’s influence is clear. But Ricoeur raises a question about this connection between individual and social autonomy. According to Ricoeur, Rawls aims to explain:

[H]ow to pass from the first principle of morality, autonomy, understood in its etymological sense – namely, the freedom one has insofar as one is rational to give oneself the law as the rule for the universalization of one’s own maxims of action – to the social contract by means of which a multitude abandons its external freedom in view of recovering it as a member of a republic. In other words, what is the connection between autonomy and the social contract? This connection is presupposed but not justified by Kant. (Ricoeur 2000: 37)³⁸

‘critique’ to the term ‘argumentation.’

³⁷ “Pour Kant, la loi est celle qu’une liberté se donnerait à elle-meme si elle était sous-trait à l’inclination des désir et du plaisir. Pour Rawls, une institution juste serait celle qu’une pluralité d’individus raisonnables et désintéressés choisiraient s’ils pouvaient délibérer dans une situation qui serait elle-meme équitable, autrement dit une position dont on va montrer à l’instant les conditions et les constraints.” The same remark is found in *The Just*: “For Kant, the law is the law freedom would give itself if it could remove itself from the inclination of desire and of pleasure. For Rawls, a just institution would be one that a plurality of reasonable and disinterested individuals would choose if they could deliberate in a situation that would itself be fair.” (Ricoeur 2000: 39)

³⁸ For Rousseau, a lawmaker occupies a privileged position to escape this difficulty. But this leads us to another puzzle, which is to find a just law. Rousseau believes that it would be beyond a human effort (*Social Contract* Book II, chapter 7): “Discovering the rules of society best suited to nations would require a superior intelligence that beheld all the passions of men without feeling any of them; who had no affinity

Ricoeur is very skeptical about the analogy between the autonomy of the body politic and moral autonomy. (Ricoeur 1992: 229/ 239) His skeptical argument is based on his belief that there is a difference in the nature of justification in the two cases. This is indicated in the abstract or hypothetical use of the social contract:

Whereas autonomy can be said to be a ‘fact of reason,’ the social contract appears to be capable only of drawing its legitimacy from a fiction – a founding fiction, to be sure, but a fiction nonetheless. (Ricoeur 1992: 239)

Kant’s conception of moral autonomy plays a constitutive role in his theory as he works out universal laws of justice. Kant hopes to discover universal laws to regulate human affairs.³⁹ He believes that morality is inherently associated with the concept of law, and in this sense, morality simply means “the obligation to the law.” For Kant, the concept of law can be obtained by passing ethical maxims through the test of universalization specified in the categorical imperative. We can understand Kant’s account of moral law as a three-step process (Kant 1990: 4. 436/ Ricoeur 1992: 210-211)⁴⁰: First we are required to set aside all personal and cultural prejudices-- what Kant

with our nature, yet knew it through and through; whose happiness was independent of us, yet who nevertheless was willing to concern itself with ours; finally, who, in the passage of time, procures for himself a distant glory, being able to labor in one age and find enjoyment in another. Gods would be needed to give men laws.”

³⁹ This does not mean that Kant is the first person to argue for the importance of law in human affairs. The crucial function of law in a political society is already fully recognized since the Greek political thoughts. Let me quote two important passages that are especially noteworthy. (1) Plato’s *Republic*, 519e2-520a3: “It is not the law’s concern that any class in a state should live surpassingly well. Rather it contrives a good life for the whole state, harmonizing the citizens by persuasion and compulsion, and making them share with one another the advantage which each class can contribute to the community. It is the law which produces such men in the city; not I order to leave each man free to turn where he will, but it may itself use them to bind the city together.” (2) Aristotle’s *Nicomachean Ethics*, 1134a29-36 where he argues that the law is the principle for a just rule: “The just exists only among men whose mutual relationship is regulated by the law, and the law exists where injustice may occur. For legal judgment decides and distinguishes between what is just and what is unjust. Where there is injustice there is also unjust action – although unjust action does not always imply that there is injustice – and unjust action means to assign to oneself too much of things intrinsically good and too little of things intrinsically evil. That is why we do not allow the rule of a man but the rule of reason.”

⁴⁰ This process will be discussed in Chapter 4.

calls the empirical inclinations in rational willing. Second, we must reject any theories or views that treat other persons as a mere means. And finally, one comes to understand the coherence of all universal principles or norms obtained by the above processes. Importantly, Kant regards the categorical imperative as a practical decision rule. It is rooted in the “fact of reason.” Hence, the Kantian account of moral autonomy derives from the basic status of the good will and the conception of persons as ends in themselves.⁴¹

However, Ricoeur argues that the legitimacy of a body politic is radically different from that of moral autonomy. Moral autonomy is based on the ‘fact of reason,’ while political autonomy is based on a ‘fictional’ character of ideal choice. Since the political domain presupposes a plurality of persons, the body politic requires a different form of legitimacy, namely, mutual consent. The device of the ideal social contract helps us to make such social decisions. But this founding event is not fact, but fiction. As Ricoeur writes, “the self-foundation of the political body lacks the basic attestation from which good will and the person as end in himself draw their legitimacy.”(Ricoeur 1992: 239)

As Ricoeur acknowledges, in presenting a new relationship between metaphysical views and the political conception of justice, Rawls still holds that the perspective of the parties in the original position takes priority over the perspective of citizens. But Ricoeur argues that there is still a gap between these two perspectives, for it is difficult to answer

⁴¹ When Kant tries to defend the universal laws of justice, he puts more weight to the second formulation of the categorical imperative. As a result, the legitimacy of moral autonomy lies in the existence of the rational nature in an end in itself (Kant 1990: 4. 429) to the extent that it “proposes an end to itself.”(Kant 1990: 4. 437)

to the question of “To what extent can an ‘ahistorical’ pact be *binding on* a ‘historical’ society?”(Ricoeur 1992: 236/ Ricoeur 2000: 67)

Like Rawls, Ricoeur takes it for granted that political institutions must provide timely resolution of problems of political action. Founding values of basic social institutions can be realizable only in a very limited way, since not all ideals can be realized simultaneously.⁴² But further, actual political societies are shaped by historical memories that make them unique. The need to restrict the political domain explains the abstract structure of the original position. But it is a problem that our historical and personal experiences are eliminated in the original position. The members of a society are supposed to comply with the principles of justice. But since their histories and experiences are eliminated in the original position whence we derive these principles,⁴³ it is difficult to see where they acquire the motive to comply.

More specifically, the main problem with the Rawlsian original position is that it has difficulty accounting for the cooperative aspect of a political community. On Ricoeur’s view, Rawls fails to explain how the idea of society as both a distributive system and cooperative enterprise can be appropriately related to each other. He writes:

What is it that makes society something more than a system of distribution? Or better: what is it that makes distribution a means of cooperation? (Ricoeur 2000: 132)

⁴² Isaiah Berlin considers this as one of the basic features of the political domain. Emphasizing the timely decision of political action, he argues that “[s]ome among the Great Good cannot live together. That is a conceptual truth. We are doomed to choose, and every choice may entail an irreparable loss.” (Berlin 1991: 13) Rawls also accepts this fact. For example, Rawls claims that “there is no social world without loss; that is, no social world that does not exclude some ways of life that realize in special ways certain fundamental values.”(Rawls 1996: 197) Furthermore, the limited realization of human values within political institutions leads Rawls to accept certain burdens. For example, he claims that constitutional democracy is based on the “precepts of reasonable discussion.” These burdens make us call attention to reasonable discussion of deliberation. In this sense, Ricoeur identifies Rawls’s approach to be closer to Habermas’s discourse ethics. (Ricoeur 2000: 74)

From Ricoeur's point of view, this constitutes a major weakness of all the traditional social contract theories. Such theories underestimate the mutual and integrative function played by the political body. How can men and women live together even though they have different conceptions of the good? What are the common things to be shared by them? According to Ricoeur, these questions cannot be answered by contractual theories of justice. Keeping in mind Rawls's version of contractualism, Ricoeur makes the following point:

[W]hat is fundamentally lacking in abstract right, as well as in the contract and the idea of justice bound up with it, is the capacity to bind men and women together organically; right, as Kant admitted, is limited to separating what is mine and what is yours. The idea of justice suffers from essentially the same juridical atomism. In this sense, the split ... which affects society as a whole as a system of distribution – a split presupposed by Rawls's original position – becomes...an insurmountable weakness. The juridical person remains as abstract as the law that defines it. (Ricoeur 1992: 254)

This is clearly the emphasis of many communitarian critics of Rawlsian liberalism. But Ricoeur's point can be distinguished from the communitarian claim that personal identities are determined in advance by the identities of community. Ricoeur does not argue for such a strong thesis. His interest is rather to find "the capacity to bind men and women together organically." His crucial question is how and why, if at all, men and women can be cooperative in spite of being in conflict. This helps to explain why a "shared life (*suzen*)" is indispensable to Aristotle's political thought and why a "*sensus communis*" is crucial to Kant's political thought.⁴⁴

⁴³ The problem of political authority will be more investigated in the final chapter.

⁴⁴ According to Ricoeur, this has to do with the "ultimate finality of the act of judging." For instance, he says: "Returning to our analysis of the act of judging starting from the far-reaching operation that consisted in the State taking from individuals the direct exercise of justice, and in the first place of vengeance as the means of justice, it turns out that the horizon of the act of judging is finally something more than security – it is *social peace*. How does this ultimate finality throw any light on our initial definition of the act of judging in terms of its short-term finality, that is, its putting an end to uncertainty through the act of

A political body comes into being whenever people live together, but the achievement of political union is not automatic. As Rawls's shows, the political body demands normative principles or norms that will enable people to evaluate their institutions. Ricoeur's point is that an abstract notion of mutual consent is not sufficient explain the possibility of political union. Ricoeur writes:

Here is where a more substantial element than pure procedural justice has to be taken into account, namely, something like a common good, consisting in shared values. We are then dealing with a communitarian dimension underlying the purely procedural dimension of the societal structure. Perhaps we may even find in the metaphor of sharing the two aspects I am here trying to coordinate in terms of each other. In sharing there are shares, that is, those things that separate us. My share is not yours. But sharing is also what makes us share... (Ricoeur 2000: 132)

This additional feature, including contingent historical memories we 'share,' in Ricoeur's view is partly constitutive of our political community. This provides a richer notion of 'common good.' But this notion of a common good is not be understood as the same thing as a final political end. Like Rawls, Ricoeur rejects that a political community has pre-given ends or a final end. In order for a political community to be a basis for mutual consent, there must be a common ground of some kind. But Ricoeur believes that this common good, which binds people together, is not a fact but a project to be accomplished.

Ricoeur considers Kant's use of history as an example. Kant attempts to show how the idea of human progress as a narrative can play a limiting role in our beliefs about

rendering a decision? To decide, we said, is to separate, to draw a line between "yours" and "mine." The finality of social peace makes apparent something more than profound that has to do with mutual recognition." (Ricoeur 2000: 131)

the possible development of the human species.⁴⁵ For Ricoeur, the notion of ‘humanity’ can play a similar role. Stressing that the achievement of the Kantian notion of persons is “primarily a project,” Ricoeur tries to show that it could serve as a common ground for the development of humanity:

This project is what I call *humanity*, not in the collective sense of all men, but the human quality of man, not an exhaustive enumeration of human beings but the comprehensive significance of the human element which is capable of guiding and regulating an enumeration of human beings. (Ricoeur 1986c: 107)⁴⁶

We ‘achieve’ the Kantian conception of persons when we instantiate in our institutions the requirement that persons be treated as ends, and that their rights be respected. Thus the “rights of humanity” are not given in advance. They are rather “rights attached to the capacities and potentialities.” And the ideal of human rights “constitutes, in effect, the rights of *humanity*, in the precise sense of this term – that is, as rights attached to human beings as human beings and not as members of some political community conceived of as the source of positive rights.”(Ricoeur 2000: 9)

⁴⁵ Immanuel Kant, “Idea of a Universal History from a Cosmological point of View,” “Conjectures on the Beginning of Human History,” and “Perpetual Peace,” in Kant 1991.

⁴⁶ This is also one of Kant’s crucial ideas of history. Suggesting that the idea of humanity can be possibly developed into one history in spite of its narrative limitation, Kant claims:

Now, here we have a duty *sui generis*, not of human beings toward human beings but of the human race toward itself. For every species of rational beings is objectively – in the idea of reason – destined to a common end, namely the promotion of the highest good as a good common to all. But, since this highest moral good will not be brought about solely through the striving of one individual person for his own moral perfection but requires rather a union of such persons into a whole toward that every end, [i.e.] toward a system of well-disposed human beings in which, and through the unity of which alone, the highest moral good can come to pass, yet the idea of such a whole, as a universal republic based on the laws of virtue, differs entirely from all moral laws (which concern what we know to reside within our power), for it is the idea of working toward a whole of which we cannot know whether as a whole it is also in our power: so the duty in question differs from all others in kind and in principle. – We can already anticipate that this duty will need the presupposition of another idea, namely, of a higher moral being through whose universal organization the forces of single individuals, insufficient on their own, are united for a common effect. First of all, however, we must follow up the leading thread of that moral need and see where it will lead us. (Kant 1998: 6:97-98/ 108-109)

From this perspective, the idea of a social contract is very limited but still useful.

Its usefulness is not simply that it can justify or legitimize principles of basic social institutions, but also that it can help us to imagine new ways of living together. In this function, the use of the social contract is always abstract and hypothetical.⁴⁷ Ricoeur shows that the social contract allows us to abstract a sense of justice from the teleological roots of our will to live together.⁴⁸ It reflects concrete experiences of selves that would be fragmentary. But finding the meanings of these experiences is a task provided by critical reflection. Ricoeur claims:

Reflection is a task, an *Aufgabe* – the task of making my concrete experience equal to the positing of “I am.” Such is the ultimate elaboration of our initial proposition that reflection is not intuition; we now say: the positing of self is not given, it is a task, it is not *gegeben* [given], but *aufgegeben* [projected]. (Ricoeur 1971: 45)⁴⁹

⁴⁷ For Ricoeur’s discussion on social contract, see Ricoeur 1965: 252

⁴⁸ In dealing with the notion of social contract, Ricoeur attempts to show that the notion of social contract aims at revealing our teleological point of view that is rooted in our will to live together: “Rousseau, at the bottom, is Aristotle. The pact which engenders the body politic is, in voluntarist language and on the level of the virtual pact (of the “as if”), the *Telos* of the State referred by the Greeks. Where Aristotle speaks of “nature” and “end,” Rousseau uses “pact” and “general will”; but it is fundamentally the same thing; in both cases, the specific nature of polity is reflected in philosophical consciousness. Rousseau recognized the artificial *act* of an ideal subjectivity, of a “public person,” whereas Aristotle discerned an objective *nature*. But Rousseau’s general will is objective and Aristotle’s objective nature is that of man aiming toward happiness. The fundamental accord of these formulae comes out in their very reciprocity. In the two cases, with the *Telos* of the State and the generating *pact* of the general will, it is a matter of manifesting the coincidence of an individual and passionate will with the objective and political will, in short, of making man’s humanity pass through legality and civil restraint.” (Ricoeur 1965: 252-3)

⁴⁹ The epistemological role of reflection or abstraction has to do with the possibility of ethics and politics. According to Thomas Nagel, the possibility of politics is connected with what he calls the “impersonal point of view” or “the view from nowhere.” (Nagel 1986 and Nagel 1991) He argues that the political question of how to live together is concerned mainly with the ‘capacity to view the world.’ There are two standpoints to view the world, according to Nagel. The starting point of the political question, he agrees, is absolutely the personal point of view. But it is also possible to detach ourselves from our personal point of view through abstraction or reflection. The impersonal standpoint is our capacity “to be able to stand back from their motives and reasons that influence their choices, and submit to them only if they are acceptable.” (Nagel 1986: 127) He thus says: “Most of our experience of the world, and most of our desires, belong to our individual points of view: we see things *from here*, so to speak. But we are also able to think about the world in abstraction from our particular position on it – in abstraction from who we are... Each of us begins with a set of concerns, desires and interests of his own, and each of us can recognize that the same is true of others. We can then remove ourselves in thought from our particular position in the world and think simply of all those people, without singling out as I the one we happen to be.” (Nagel 1991: 10) The adaptation of the impersonal point of view to both ethics and politics is extremely important in two respects. One lies in its Kantian implication, which means that everyone counts the same. For

Despite the emphasis upon the aspect of mutuality within a political body, Ricoeur acknowledges the fundamental difference between the idea of friendship as mutual basis and that of justice. While the notion of friendship applies to interpersonal relationship, the notion of justice extends beyond interpersonal relations to basic human institutions that presuppose a plurality of human persons. The broad plurality of human persons means that it is more difficult to apply the idea of proportional equality to social institutions. As Ricoeur puts it,

Friendship...is not justice, to the extent that the latter governs institutions and the former interpersonal relationships. This is why justice encompasses many citizens, whereas friendship tolerates only a small number of partners. Moreover, in justice equality is essentially proportional equality, taking into account the inequality of contributions, while friendship exists only between those of equal rank. In this sense, equality is presupposed by friendship, whereas in the cities it remains an aim to be attained. (Ricoeur 1992: 184)

Nonetheless, Ricoeur argues that the will to live together has priority over the justification of principles of justice. A political conception must explain the “conditions of justice that will make a State a State of Right, and a regime a constitutional regime. It is the adhesion of citizens as free and equal persons that justifies the general feature of political authority.”(Ricoeur 2000: 74) In this sense, Ricoeur claims, the primary task of justice is not to “justify our obligation to live within a state of some form but rather to make possible a discussion of what form it should be, where it is a question of the nature

example, he claims, “the basic insight that appears from the impersonal standpoint is everyone’s life matters, and no one is more important than anyone else.” (Nagel 1991: 11) The other is to recognize that the resolution of the political questions depends on the acceptance of individuals. This means plainly that “such ‘external’ solutions [given by the impersonal standpoint] will be valid only if they give expression to an adequate response to the division of the self, conceived as a problem for each individual.” (Nagel 1991: 16) This is the importance of the notions of reflective equilibrium (Rawls) and of an examined life (Socrates). For Ricoeur’s discussion on Nagel’s view, see “Justice et Verite,” in Ricoeur 2001: 78-80

of the state per se, of its constitution, of its branches of government, taking the word ‘state’ in the broad sense.”(Ricoeur 1987b: 39)⁵⁰

This touches on a perennial problem in political philosophy: to find an appropriate compromise between rigorous formalism and radical utopianism. Theoretical representation of the idea of the common good and of the radical equality of humans in real life can easily become radical utopianism. For Ricoeur, political life requires a combination of ideality with reality.⁵¹ To accomplish this reconciliation, he emphasizes the critical function of reason. To avoid radical utopianism, we must find achievable ends within our own capacities.⁵² And we should seek principles of justice that would result from re-interpretation and re-formulation of our familiar ideas or convictions. This requires imagination as well as critical reflection.

The Tragedy of Human Action

Ricoeur is careful to distinguish between the “justification” and the “application” of social norms. (Ricoeur 1992: 283) He argues that the application of norms to a particular historical situation raises a problem that would not appear in the context of their justification: in application, we must find the “best decision” in a concrete situation. Ricoeur says:

⁵⁰ Kant’s definition of constitution also seems to be fitted to the notion of the state Ricoeur keeps in mind.

⁵¹ It is important to see that this contains two complex processes: ideology critique and ideology creation. The critical function of ideology happens when it tries to “unmask the hidden mechanisms of distortion through which the legitimate objectification of the communal bond become an intolerable alienation.” (Ricoeur 1991b: 206) At the same time, it aims at playing the “integrative” role, that of “legitimizing established power or other powers ready to substitute themselves for the former, with the same ambition of domination.” (Ricoeur 1991b: 207)

⁵² The harmony between ideology and utopia constitutes one of Ricoeur’s political concerns.

It is important to be clear about this difference of site so as not to confuse the arguments that stress the historical character of choices to be made along the second path with the skeptical arguments that are addressed to the foundational enterprise. (Ricoeur 1992: 283-4)

Ricoeur's point is that the implementation of just institutions requires more than the application of universal norms to concrete situations. Since moral norms claiming universal validity may come in conflict with positive values that belong to particular historical and communal interests, it is necessary to understand political decisions in terms of their particularity. Universal norms considered by political institution are multiple and may even be incommensurable. But not all moral norms can be simultaneously satisfied even if they are universally accepted. Ricoeur calls this the "tragedy of action." As Ricoeur himself points out, "the irreducible plurality of the ends of 'good' government implies that historical realization of one set of values can be obtained only at the expense of another set; in short, this implies that one cannot serve all values at once." (Ricoeur 1992: 259) Echoing Rawls's theory of justice, Ricoeur writes:

It is this tragic dimension of action that is left out in a wholly formal conception of moral obligation, reduced to the test of universalization of a maxim. It is largely overlooked too in the Rawlsian conception of justice, where the confrontation between substantial goods is set aside to the benefit of a wholly formal procedural rule. (Ricoeur 2000: 154)

We note two important aspects of this view: First, Ricoeur emphasizes that the political enterprise is inherently fragile. Second, perhaps more important, he urges the importance of 'right' choice or decision in concrete historical situations, so principles of choice must be rooted in our actual considered convictions. This leads us to move our discussion from the conflicts within the rule of justice to the ethical conflict posed by the sense of

justice, or, in other words, from moral norms per se to what he calls the ‘ethical aim’ of the norms.

The tragic dimension of action, thus, ultimately requires us to clarify our convictions beyond convention and the impartiality of an abstract ethics. It brings us to the level of “well-considered convictions,” made possible by the “reflective equilibrium between universality and historicity.” (Ricoeur 1992: 289)⁵³ In the search for reflective equilibrium, the concept of justice will serve as a genuine possibility for what Marx calls “human emancipation.” Stressing a perpetual struggle in our ethical life, Ricoeur says that it is our hope that human emancipation will be reached within our cultural situation:

There are no other paths, in effect, for carrying out our interest in emancipation than by incarnating it within cultural acquisitions. Freedom posits only itself by transvaluating what has already been evaluated. The ethical life is a perpetual transaction between the project of freedom and its ethical situation outlined by the given world of institutions. (Ricoeur 1974a: 269)

Every culture has a potential for universality. But it can become universal only if its members critically examine their own conventional convictions. In this sense, the idea of justice refers not merely to an impartial viewpoint of morality, but also, and more importantly, to our own deepest critically examined conceptions of the good.

⁵³ This actually constitutes the problem of value in Ricoeur’s view. He says, value is not merely a “moral concept” but “compromise concept.” This means that values are “justified by the case in which universality and historicity provide mutual comfort to one another, rather than separating off from one another: the condemnation of torture, of xenophobia, of racism, of the sexual exploitation of children or nonconsenting adults, etc. It was already in this partly transcendent, partly empirical – partly a priori, partly historical.” (Ricoeur 1992: 289 n83)

CHAPTER 3

RICOEUR AND THE PRIMACY OF THE ETHICAL

Ricoeur believes that the idea of justice plays a pivotal role in human affairs, and that it applies to individual actions and decisions as well as social institutions. Ricoeur also believes that the idea of justice as applied to social institutions is concerned with the most general sense of the good life and not only with obligations and constraints. As usual, Ricoeur accepts a fundamental distinction between teleological and deontological ethical standpoints, the former concerned with what is considered to be good and the latter with what is obligatory. In his “little ethics” (*Oneself as Another* Chapters 7-9), Ricoeur tries to show that these standpoints are ultimately compatible with each other. He strives to show that they are not distinct, but are rather complementary. But unlike Rawls, Ricoeur argues that the teleological (the “good”), is in a sense prior to the deontological (the “right”).¹ Ricoeur argues that our ethical concern in its most general sense is prior to deontological duties. He states this clearly in the beginning of his little ethics:

According to the working hypothesis I am proposing, morality is held to constitute only a limited, although legitimate and even indispensable, actualization of the ethical aim, and ethics in this sense would then encompass morality. (Ricoeur 1992: 170)

¹ In 2000, Ricoeur published “*De la morale à l’éthique et aux éthiques*,” in which he more closely ties together the teleological and the deontological, and reduces the priority of the teleological. But his overall position is not substantially changed. (Ricoeur 2001: 55-68).

In defending this working hypothesis, Ricoeur acknowledges that his project is an effort to bridge Hume's fact/value gap, the chasm between description and prescription. Hume is typically understood to hold that it is impossible to derive prescriptive statements from factual statements. But such Humean skepticism, argues Ricoeur, is a major obstacle to meaningful discussion about justice.

Ricoeur believes that, in order to give any meaningful discourse on justice, we need to respond to Hume. In this interest, Ricoeur endeavors to show that ethics and morality are ultimately reconciled with one another. He sees this as a crucial step toward the resolution of Hume's fact/value gap:

If we are able to show that the deontological viewpoint is subordinate to the teleological perspective, then the gap between ought and is will appear less unbridgeable than in a direct confrontation between description and prescription, or, in a related terminology, between judgments of value and judgments of fact.”(Ricoeur 1992: 171)

On Ricoeur's view, we cannot avoid the teleological perspective, since teleological ends are involved in all human action and choice. By bridging the gap between teleological ends and deontological principles, he aims to show that principles are similarly unavoidable.

It is the fundamental aim of this chapter to explain Ricoeur's claim that ethics is prior to morality. This theme is extremely important for Ricoeur's conception of justice, which is developed from his conviction that “justice is a search for human good.” In what follows, I shall explain why the ethical is primary in Ricoeur's treatment of justice. This will constitute a preliminary investigation of his dynamic conception of justice, to be examined in the subsequent chapter.

A “Capable Person” and Value

Before discussing ethics, we must clarify Ricoeur’s broader conception of justice.

Ricoeur begins by rejecting liberal views that presuppose an autonomous self with absolute rights prior to any engagement in social life. Instead of focusing on the standpoint of a liberal self with absolute rights, he recommends that attend to the perspective of ordinary individuals with their capabilities. He summarizes the starting point as follows:

The main emphasis of my argument has been placed on the concept of a *capable* subject, of a subject *able* to designate himself/herself as responsible for his/her thoughts and acts. Now these capacities require the continual mediation of social and political institutions in order to become *actual* powers. What lays claim to esteem and respect is nothing more than capacities and potentialities. You are permitted to deconstruct the so-called “liberal” self, as the political atom of all kinds of contractualist political theories. The further task then presents itself, that of that of reconstructing the self as *ipse* which, as a capable subject, requires the mediation of institutions to become an actual citizen. Such a capable subject is worthy of esteem and respect. And that may be deemed sufficient to make sense of the concept of a subject of rights. (Ricoeur 1993: 119, Underlines added)

In the discussion of justice, it is necessary to emphasize the “ethical and moral dimension” of human capabilities. Ethical and moral capability, according to Ricoeur, involves at least two philosophically important themes: the themes of value, and a subject. The problem of value for Ricoeur is one of the most crucial issues we confront.²

² The notion of ‘value’ occupies a special place for Ricoeur. Although he confesses that the notion of value is highly ambiguous, it seems important to note two crucial features of value. The first thing to be noticed is its relation of ethical reflection. In *The Conflict of Interpretations* (Ricoeur 1974b: 453), Ricoeur says that value comes from the stage of ethical reflection, that is, “when it becomes necessary for us to establish a harmony between our powers and our existential situation, i.e., the institutions and structures of economic, political, and cultural life.” In other words, “value appears at the intersection between our unlimited desire to be and the finite conditions of its actualization.” The second component for value Ricoeur makes is to consider the concept of value as a “compromise concept whose meaning can be determined only by the dialogue between cultures.” Here his emphasis is upon the ontological aspect of value, arguing thus that “the term ‘value’... corresponds in public discussion to those *inchoate universals*

If ‘value’ essentially concerns what is permissible and what is forbidden, then we must ask how these terms are related to each other, and to human capability. As discussed in the previous chapter, Ricoeur does not believe that values can be entirely new principles, created *ex nihilo*. He instead claims that we should investigate values by proposing more coherent interpretations and formulations of familiar ideas. Ricoeur focuses on the practical relevance of norms in human life, and on the importance of choice, deliberation, and agency.

As Ricoeur says, “action means having to choose, hence having to state preference, hence having to exclude something in favor of others.”(Ricoeur 1987b: 40) Ricoeur contends that human choice always involves the recognition of values and goods which provide reasons for action. (Ricoeur 1974a: 35) In this sense, human choice cannot be ethically neutral, because “an action has been already interpreted, evaluated, in terms of what is allowed and what is forbidden.”(Ricoeur 2002: 286) For Ricoeur, this is what is called a “teleological moment” of our ethical life.

The problem of value springs from complex situations where our initial powers are closely bound up with their surrounding circumstances. In that sense, “every value is a compromise among an exigence, a recognition, and a situation.”(Ricoeur 1978b: 183)

More specifically, values are “the compromise between the desire for freedom of

whose genuine moral tenor will be established only by the subsequent history of the dialogue between cultures. In this sense, I hold the quasiconcept of value to be a compromise term, at the point of intersection of the claim to universality and the admission of the historicity of certain derivative duties to which corresponds the right of others to make claims on us. In this sense, *the notion of value is not a genuine moral concept but a compromise concept, justified by the cases in which universality and historicity provide mutual comfort to one another*, rather than separating off from one another: the condemnation of torture, of xenophobia, of the sexual exploitation of children or nonconsenting adults, etc. it was already in this partly transcendental, partly empirical – partly a priori, partly historical – sense that Jean Nabert used the term ‘value’ in his *Elements for an Ethic*.” (Ricoeur 1992: 289-90 n83)

individual consciousness and the situations which are already qualified as ethical situations.”(Ricoeur 1978b: 183)

Furthermore, the problem of values essentially has to do with our act of evaluation. “In a ‘to be worth-more (*un ‘valoir-mieux*),’” says Ricoeur, “there is value.”(Ricoeur 1978b: 183) In the evaluation of a given situation, Ricoeur stresses the importance of the notion of decision. Ricoeur’s account of decision rests on Aristotle’s analysis of *proairesis*, or preferential choice. (Ricoeur 1992: 90-95) Like Aristotle, who considers human action in terms of choices based on preferences, Ricoeur speaks instead of “preferential choice.” (Ricoeur 2000: 23)³ Here Ricoeur notes the dialectical aspect of value. Since evaluation is fundamentally interpretive, the ‘worth-more’ must be experienced with its accompanying ‘the worth-less,’ and in this sense evaluation is essentially bivalent.

In order for the act of evaluation to be a value-giving act, however, it is necessary that every evaluation should involve aspects that transcend its subjective condition. This is why we need *norms*, and not simply subjective values. Since value is always directed toward its objectification, the status of value must be normative. The normative status of values is obtained by eliminating the subjective, arbitrary aspects of each parochial interest. In other words, “value is experienced as a norm by the being who is split or divided between something preferable which is already objectified and a desire which closes over his subjectivity.”(Ricoeur 1978b: 184) Here moral choice requires that we

³ This ‘ethical and moral determination of action’ is already found in his phenomenological analysis of freedom. Ricoeur argues that the notion of ‘project’ differs from that of a prediction in two essential features. First, it is “the intended event.” Secondly, more important, it calls for a reflective self that presupposes agency. Thus Ricoeur claims, “The intended event...an action to be performed not by someone other than the one who anticipates the action, but by the one, by deciding, commits himself to doing it.”(Ricoeur 1975: 185)

employ an idea of impartiality and apply moral tests of impartiality and universalizability. This constitutes a deontological moment of our ethical life.

Ricoeur believes that these two kinds of standpoint complement rather than exclude one another. Thus, he claims, the crucial problem is to find the appropriate relation between the teleological and deontological moments of our ethical life. As mentioned in the introduction, Ricoeur's thesis is that the deontological point of view is subordinate to the teleological point of view in both its grounding and its application. (Ricoeur 2002: 287) In other words, Ricoeur wants to show that the teleological roots of human life are more basic than the deontological aspects.

This leads us to Ricoeur's claim that ethical discussion is, in an important sense, interminable⁴: there is no final resting place, no final knowledge of the good life. According to Aristotle, the proper objective of ethics is the discovery and articulation of goods that we can actually achieve. For example, one might finally achieve the respected position, sufficient wealth, the necessary virtue, the friends and contemplation celebrated in the *Nicomachean Ethics*. Like Aristotle, Ricoeur takes the practical aim of ethics seriously, and aims to investigate the fundamental basis for the 'good life' in praxis."(Ricoeur 1992: 172) He nonetheless insists that the content of the good life is interminable, because of the nebulousness of the "ideas and dreams of achievements with regard to which a life is held to be more or less fulfilled or unfulfilled."(Ricoeur 1992: 179) In other words, Ricoeur says that the 'good life' as such is not satisfied by the lived achievement of conditions within a finite social order alone. The idea of the good life serves to justify unfulfilled but desirable human ends. In this sense, the good life is "that in view of which" all these actions are directed, actions which were nevertheless said to

have their ends in themselves. “This finality within finality...does not destroy the self-sufficiency of practices as long as their end has been posited and continues to be so.” (Ricoeur 1992: 179) Human ends can never be completely and finally fulfilled, so they serve as a kind of “horizon or limiting idea” (Ricoeur 1992: 179) toward which we strive but which we never achieve. In the concrete ethical situation where practical persons search for wise judgments, the idea of the good life “maintains a tension... between the closed and the open within the global structure of praxis. What we are summoned to think here is the idea of a higher finality which would never to be internal to human action.”(Ricoeur 1992: 179)

Ricoeur takes the epistemological status of the good life as a limiting concept. From the hermeneutical or interpretive point of view, the idea of the good life lies beyond our concept of it. It is neither reducible to a set of particular ideas nor to a set of material goods. It is in the “unending work of interpretation applied to action and to oneself that we pursue the search for adequation between what seems to us to be best with regard to our life as a whole and the preferential choices that govern our practices.”(Ricoeur 1992: 179) As he puts it, “between our aim of a ‘good life’ and our particular choices a sort of hermeneutical circle is traced by virtue of the back and the forth motion between the idea of the ‘good life’ and the most important decisions of our existence (career, loves, leisure, etc).” (Ricoeur 1992: 179)

⁴ I owe the term ‘interminability’ to Muldoon (Muldoon 2002: 85)

Ethics and the Human Subject

Ricoeur's ethics is distinguished by his particular concern for the human subject. By our 'subjective' nature, Ricoeur refers to the reflective or existential side of our ethical and moral capability: "there is a 'subject' who puts himself under the rule of the norm." (Ricoeur 2002: 286)

In a provocative paper titled "The Human Being as the Subject Matter of Philosophy," (Ricoeur 1988b) Ricoeur insists that any inquiry into human agency must address three distinctive but fragmentary levels of human action: the linguistic, the practical and the ethical. Here Ricoeur uses the term 'action' in a broad sense of 'doing,' not restricted to the common sense notion of action. Ricoeur's sense of this term extends to the more general sense of *praxis* as used by Aristotle. For Ricoeur, human action or *praxis* contains four distinct dimensions. Human action encompasses:

...saying inasmuch as it is doing, ordinary action inasmuch as it is intervention into the course of things, narration inasmuch as it is narrative reassembling of a life stretched out in time, and, finally, the capacity to impute to oneself or others the responsibility for acting. (Ricoeur 1994: 248)

To put Ricoeur's point more simply, a fundamental form of 'acting' is "to speak, do, recount, submit to imputation." (Ricoeur 1996a: 448) Ricoeur's asks whether there is a unity in these different modes of human action, and on what grounds these different modes can be reconciled in agency. He concludes that action is always tenuous and inherently fragmentary. Because of the 'fragmentary character' of each mode of human action, Ricoeur argues that what is to be sought is at most "analogical unity." (Ricoeur 1992: 19/ 303) He expresses this as follows:

The unity that the concern with human action confers to these studies as a whole is not the unity that an ultimate foundation would confer to a series of derivative disciplines. It is rather a merely analogical unity between the multiple uses of the term 'acting,' which, ...received its polysemy from the variety and contingency of the questions that activate the analyses leading back to the reflection of the self. (Ricoeur 1992: 19-20)⁵

In the possibility of the unity of human action and its link to the conception of justice, the “ethical and moral determination of action” (Ricoeur 1992: 18) is of enormous importance. The question here is this: on what grounds can human action be conceived as an ethical and moral object?

According to Ricoeur, theories of human action have mostly been reductionist. Reductionists tend to equate human action with naturally occurring events attributable to nonpersonal entities or forces. But reducing actions to events leaves no room for the question whether human agency requires special treatment. This approach, Ricoeur argues, is unacceptable because its adherents fail to grasp a fundamental difference between ascription and imputation. Ascribing an action to its cause is distinguished from imputing it to the agent as praiseworthy or blameworthy. Or, as Lalande puts it, the concept of imputability is focused on “the relation of the act to the agent, abstracting, on one hand from moral value and, on the other hand, from the rewards, punishments, profits or damages that may ensue.”(Ricoeur 1992: 292) As illustrated below, the concept of imputation means several different things: first, to impute actions to human subjects is to suppose that actions fall under rules; second, it is to suppose that agents are responsible

⁵ Ricoeur argues that the analogical unity of human action can be “attested” by the dialectic between power as act and its actualization. And this dialectic can be accounted for in terms of the dialectic relation between the same and the other. For detailed discussion about the dialectic between the same and the other, see the tenth study of *Oneself as Another*. See also Ricoeur 1992: 20-21.

for the fit between these rules and the actions they perform. (Ricoeur 1992: 106-107/292-293)

Ricoeur finds contemporary analytic treatment of action and agency to be fruitful, but incomplete. He accepts Strawson's view that human agents can be distinguished from mere physical and mental events. Hence, the human agent is to be seen as what Strawson calls a "basic particular."⁶ Ricoeur also accepts Davidson's view that the main difference between actions and events lies in purposiveness of human action, that it has a purpose that becomes the basis for an internal principle of movement. This internal structure of action, which links an action to its agent, will elucidate the notion of 'voluntary action,' which plays a crucial role in ethics and political philosophy. A theory of action must account for the capacity to change the course in the world and make up its own mind.

For Ricoeur, human agency involves two orders of causality. The "human being is as it is precisely because it belongs both to the domain of causation and to that of motivation." (Ricoeur 1991b: 135) Ricoeur illustrates the point by reference to desire and its relevance to choice. Desire is both "a force that compels or moves one and a reason for action," (Ricoeur 1991b: 134) a reason that makes an action intelligible and meaningful. As Dauenhauer puts it, "desires thus reveal that an agent inhabits both the order of nature, in which desire impels, and the order of meaning or culture, in which

⁶ Peter Strawson, *Individuals: An Essay in Descriptive Metaphysics* (Garden city, N.Y.: Anchor Books, 1963). Cf. Ricoeur 1992: the fourth studies and Ricoeur 2000: 20-21. The notion of human agency is particularly important in ethics and politics. The constitution of contemporary political thought is based on the moral conception of persons. For example, Rawls's political liberalism is founded on the moral conception of persons and Mill's notion of individuality plays key roles in his political thought. (*On liberty*, chapter 3)

⁶ According to Ricoeur, this is Donald Davidson's accomplishment in *Essays on Actions and Events* (Oxford: Clarendon Press, 1980) For Ricoeur's account, see Ricoeur 1992: the fourth studies and Ricoeur 2000: 22-23.

actions make sense, both to the agent and to others who come to know of it.”

(Dauenhauer 1998: 112-3)

Initiative and the Ethical Project

To understand human agency properly, we need to examine these two kinds of causality and to consider whether they can be reconciled. Ricoeur says that this has to do with what is involved in an exercise of one’s capacity to initiate something. Focusing primarily on the “projective character of human life,”⁷ overlooked in contemporary disputes about human action, he calls attention to the importance of the practical ethical project. For Ricoeur, the ethical project presupposes our capacity to initiate action and to see our actions as able to bring about changes in the world. Ricoeur asks:

How can a project change the world? What must be the nature of the world, on the one hand, if human beings are to be able to introduce changes into it? What must be the nature of action, on the other hand, if it is to be read in terms of change in the world? (EU, 135)

These questions are particularly concerned with a broader concept “initiative.”

Granting that initiative is a purposive response to a situation, Ricoeur analyzes the idea of initiative into four distinct phases⁸:

⁷This implication is already suggested in his discussion of freedom. Ricoeur argues that the social and political dimension of freedom is concerned with the possibility of universal norms in human society. And he goes to argue that this is ultimately founded on “the relation between one will and another will in conflicts, in cooperation, in contract, etc., the problem of norms that give a rational character to human action; action within an institutional framework, e.g., action performed within a technological context where it acquires the sense of work; within an economic or social context where desire becomes human need as it relates to work and to money, or within a political context where an individual is confronted within various forms of organized political power with a given constitutional framework.” (Ricoeur 1975: 194)

⁸ In this sense, action presupposes deliberation, because “action means having to choose, hence having to state preference, hence having to exclude some things in favor of others.” (Ricoeur 1987b: 40) According

“first, I *can* (potentiality, power, ability); second, I *act* (my being is my doing); third, I *intervene* (I inscribe my at within the course of the world: the present and the instant coincide); fourth, I keep my promises (I continue to act, I preserve, I *endure*).”(Initiative 217)

In accounting for the notion of initiative, Ricoeur argues that its third phase, intervention, is of crucial importance. In analyzing ‘intervention,’ Ricoeur asks: “What must be the nature of the world if human beings are able to introduce changes into it?” For Ricoeur the answer to this question implies several things. First, it presupposes both that there is an established course and that human action interferes with that course. Second, understanding intervention requires us to introduce an idea of causation different from Hume’s. We need the idea that can allow for genuine human initiative. Third, action is always purposive. As he puts it, “acting is always doing something so that something else happens in the world. On the other hand, there is no action without the relation between knowing how to do something (being able to do something) and that which the latter brings about.”(Ricoeur 1991b: 137/ Ricoeur 1992: 109-11) The last point is particularly important, because action is not only ascribable to the agent as ‘the one who intervenes,’ but is also imputable to him or her as ‘the one whose purpose motivates it.’

Ricoeur’s second question is even more crucial: “what must be the nature of action if it is to be read in terms of change in the world?” Ricoeur’s answer is associated with his account of the metaphysics of time. For Ricoeur, the notion of intervention can be explained by appeal to what one may call “present time,” which must be analyzed into two distinct standpoints. The first standpoint, which may be called the “cosmological

to Ricoeur, this is a lesson from Aristotle, who distinguishes human capacity to act from the internal principle of movement. Hence, human action that “depends on us” is characterized by “the preferential

present time,” considers the present time as the “now” point. Here the present time stands for a transitory point, which is moved from the previous “now point” to “now points to come.” For that reason, the cosmological present time is the sequence of undifferentiated nows in which all changes occur. The second standpoint directs our attention to the relationship between “before” and “after.” The present time, when seen from this perspective, is that which connects the past to the future. For that reason, the present is the moment in which we imagine and remember. It is from this perspective, which allows us to compare different times, that we may judge that one moment is more important than others. Ricoeur calls this present time as lived or phenomenological present time.

An account of initiative presupposes both kinds of time. To harmonize them, he introduces another kind of time, “calendar time,” which indicates date moments, which assigns moments of live time to moments of cosmological time and vice versa. Ricoeur defines calendar time as that which “cosmologizes lived time and harmonizes cosmic time, and does this by making a noteworthy present coincide with an anonymous instant in the axial moment of the calendar.” (Ricoeur 1991b: 214)⁹

choice.” (Ricoeur 2000: 23)

⁹ To insert calendar time to human action leads us to recognition of historical time. Like calendar time, historical time fills the gap between our experiences of live time and cosmic time. But it is important to note that the historical present inscribed in calendar time is the time of beginnings, of initiatives, which genuinely inaugurate new sequences and arrangements of things. Thus Ricoeur argues that there will be human time aided by the historical time and its narrative appropriation. He says, “time becomes human to the extent that it is articulated through a narrative mode, and narrative attains its full meaning when it becomes a condition of temporal existence.” (Ricoeur 1988a1: 52) Ricoeur argues that the study of history calls for a complex mediation between lived time and cosmic time.

Freedom and the Effort to Be

Now we are in a position to consider the three remaining dimensions of initiative. In this interest, we should note two things: First, the notion of initiative presupposes that of a being who continues to preserve action. Thus even though initiative accounts for the way in which we commit ourselves in the world, it is not transitory. It constitutes a course of actions for which we become responsible. The concept of responsibility will be revisited in the last section of this chapter. The second thing to notice is that initiative is connected with recognition of the agent's power to act. In this sense, initiative is a kind of "primitive datum." For Ricoeur, we recognize initiative as a primitive datum in two fundamental stages. We can discern

a disjunctive stage, at the end of which we recognize the necessarily antagonistic character of the original causality of the agent in relation to the other modes of causality; and a conjunctive stage, at the end of which we recognize the necessity to coordinate in a synergistic way the original causality of the agent with the other forms of causality. (Ricoeur 1992: 102)

At the disjunctive stage, this 'primitive datum' involves the existential side of the human subject – freedom of choice-- as a kind of "first truth." But it is important to see that this truth of human freedom "cannot be verified like a fact, nor deduced like a conclusion." Its essential characteristic is to "posit itself in reflection." (Ricoeur 1978b: 43)

In characterizing human freedom, however, Ricoeur acknowledges that there are two features that call for special attention. First, we must recognize the reflective nature of freedom. Freedom is not simply unreflective movement, since its motivation must be reflectively connected to the perspective of the agent. Freedom is a "bios which ...

expressed itself in the degree of tension and consistency which permeates a course of existence.” (Ricoeur 1974a: 40) Equally important, human freedom is not constituted by “single acts taken separately from one another.” Our conception of ourselves as free requires that we understand our choices as coherently embedded in a “durable way of life.” The focus of freedom is upon how to “habituate freedom, to bring it about that freedom, directing itself, makes of itself a nature under the influence of what it has already become and achieved.”(Ricoeur 1974a: 40-41) In this way, human freedom requires a combination of the actual with the potential. Thus Ricoeur asserts that both the potential and the actual are grounded in Spinoza’s notion of *conatus*, which is defined as that by which “each being endeavors to persist in its own being.” It is “nothing but the actual essence of the thing itself.”(Ricoeur 1992: 316)

For Ricoeur, human freedom is essentially “our effort to exist and of desire to be.”(Ricoeur 1978b: 46)¹⁰ But he intends to show that the original existential situation from which we engage in philosophical reflection on freedom is the status of “forgetfulness.” He writes:

I am lost... among the objects of the world, separated from the center of my existence... [and] that I do not first possess what I am. ... That is why reflection is a task... the task of making my concrete experience equal to the positing ‘I am.’(Ricoeur 1978b: 45/ Ricoeur 1974b: 329)

¹⁰ To grasp this effort is a task of reflexive philosophy. Following Jean Nabert, Ricoeur understands reflexive philosophy as “the most radical philosophical problems to those that concern the possibility of *self-understanding* as the subject of the operations of knowing, willing, evaluating.” Thus “reflexion is that act of turning back upon itself by which a subject grasps, in a moment of intellectual clarity and moral responsibility, the unifying principle of the operations among which it is dispersed and forgets itself as subject.”(Ricoeur 1991b: 12)

Embodiment and Attestation

The recognition of the power to act and the status of forgetfulness are important at the conjunctive stage. At this stage, three issues become salient: First of all, the status of forgetfulness leads Ricoeur to adopt a hermeneutic methodology. The underlying assumption of the hermeneutic approach is that our original effort to be and to exist is not entirely self-transparent. In order to gain transparency, says Ricoeur, we need to take a long detour through “the works which bear witness to that effort and desire.”(Ricoeur 1971: 46) Even if everyone has equal initial capacity, different people’s capacities are differently actualized. Why should this be so? Ricoeur’s answer is that the same capacity may be actualized differently in different contexts. Ricoeur refers to this actualized freedom as ‘the work.’ Diversity results from mediation of the work when the capacity is actualized: “Freedom can only attest to itself in the works where it objectifies itself.”(Ricoeur 1978b: 176)¹¹

Second, the distinction between the capacity and its actualization reveals the specific nature of our ethical situation. If human freedom is understood as the actualization of capacities, then our ethical situation must be constituted by the process by which human capacities actualize themselves. As Ricoeur puts it, our ethical situation is defined as “the movement of actualization ... [the] proof-testing of the being-able-to-

¹¹ This means that human action’s meaning is closely bound up with its reception of others. As Ricoeur points out, “the way the work has of taking its meaning, its very existence as work, only from the other underscores the extraordinary precariousness of the relation between the work and the author, the mediation of the other being so thoroughly constitutive of its meaning.” (Ricoeur 1992: 156) Ricoeur says that this observation is one of Hegel’s great achievements. Further, Ricoeur continues to pursue this objective side of freedom by his hermeneutic concern. According to him, human action can be regarded as texts, whose various meanings can be interpreted in many ways. See Paul Ricoeur, “The Model of the Text: Meaningful Action Considered as a Text,” in Ricoeur 1991b: 144-167.

do something in effective actions which bear witness to it. ... [and] the movement between naked and blind belief in primordial 'I can' and the real history where I attest to this 'I can.'"(Ricoeur 1978b: 177) This dynamic understanding may help account for why we need ethics, morality, legality, and politics in human affairs. But it is important to note that our ethical pursuit does not begin from nothing, but from a certain context which is "already qualified as *ethical* situation."(Ricoeur 1978b: 183, emphasis added)

Third and finally, this conceptual context leads to substantially richer understanding of the structure of freedom. It reveals the embodied nature of freedom, which tells us that freedom is ultimately relational.¹² In other words, the effectuation of human freedom is possible through appeal to its relation to nature and others. Clearly thinking of Aristotle, who distinguishes between potency and its realization, Ricoeur writes that freedom as the realization of a capacity is to be separated from freedom as potency. Freedom as potency merely refers to the latent capacity. But Ricoeur points to a certain conaturality that still exists between the human being and the natural order. He says:

Man retains a community of existence and of meaning with nature. He retains it as long as rational life seems to him to accomplish a *telos* which fulfills the appetite he finds in living things and the potency which tends in everything to action, to entelechy. One can even say that there is a human nature co-ordinate with nature, both characterized by inclination toward a perfected existence. (Ricoeur 1974a: 26)

According to Ricoeur, despite the fact that human beings possess an appetite in common with all living things, human beings are different from other living beings in that they possess a desire for perfection or completion. Aristotle emphasizes the human

¹² The relational aspect of freedom is already implied in Kant's notion of "interests of reason" and Heidegger's path-breaking notion of "concern (*Sorge*)."

exercise of rational deliberation and choice in the pursuit of ends. This power, which is constitutive of human freedom, gives rise to all the works of culture and civilization.

Ricoeur's hermeneutic approach to the self is an attempt to appropriate human agency through the medium of language. As he puts it,

The appropriation of my desire to exist is impossible by the short path of consciousness; only the long path of interpretation of signs is open. Such is my working hypothesis in philosophy. I call it *concrete reflection*, that is, *the cogito mediated by the entire universe of signs*. (Ricoeur 1974b: 264-5)

Appropriation is the activity whereby the reader of a text expands his or her world by understanding the meaning of the text. In other words, appropriation becomes the object of self-knowledge by seeking the meaning that is applicable to the situation of the reader.¹³ Ricoeur says:

What would we know of love and hate, of moral feelings and, in general, of all that we call the *self*, if these had not been brought to language and articulated by literature? Thus what seems most contrary to subjectivity, and what structural analysis discloses as the texture of the text, is the very *medium* within which we can understand ourselves. (Ricoeur 1991b: 87)

In this sense, human self-knowledge is acquired through the mediation of human creations, the interpretation of ideas, institutions and cultural forms.¹⁴ But human self-knowledge is not a matter of scientific description, but that of practical knowledge, which is epistemologically fragile.

¹³ The relationship between appropriation and self-knowledge is evident in Ricoeur's account of appropriation: "By 'appropriation,' I understand this: that the interpretation of a text culminates in the self-interpretation of a subject who thenceforth understands himself better, understands himself differently, or simply begins to understand himself. This culmination of the understanding of a text in self-understanding is characteristic of the kind of reflective philosophy, which, ... I have called 'concrete reflection.' Here hermeneutics and reflective philosophy are correlative and reciprocal ... In short, in hermeneutical reflection – or in reflective hermeneutics – the constitution of the *self* is contemporaneous with the constitution of *meaning*. (Ricoeur 1991b: 118-9)

¹⁴ This constitutes a way for hermeneutic turn. Hermeneutics begins when we not only interpret our *belonging* to a historical transmitted by tradition, but also interrupt the relation of belonging in order to understand it better. (Ricoeur 1981: 117)

In *Oneself as Another*, Ricoeur asks whether the pursuit of self has its practical grounds. Because intentional actions are not merely internal events, but reveal themselves in the doing, they call not for descriptive knowledge but for practical knowledge. Practical knowledge, claims Ricoeur, poses its own unique problem. Practical knowledge is not judged in the ordinary sense of truth, according to which ‘truth’ refers to the adequacy of the description. It is rather understood in terms of “a specific mode of belief and confidence attached to the manifestations of selfhood,” (Ricoeur 1996a: 455) which Ricoeur calls *attestation*. (Ricoeur 1992: 21-23)¹⁵

More specifically, ‘attestation’ refers to “the sort of belief and trust which attaches itself to the affirmation of the self as an acting and suffering being. (Ricoeur 1992: 21-22)¹⁶ This practical truth is particularly important in the ethical and moral determination of human action. In the ethical determination, the self exists independently, but it is passively woven through its communication with the otherness of other people. It involves many forms of otherness: the otherness of one who addresses him or her self to me; the otherness of the agent with whom I struggle and cooperate; the otherness of other’s histories within which I am enmeshed; the otherness of connected

¹⁵ Ricoeur’s notion of *attestation* is a way of defining a new type of *certitude*. Attestation as “the password” for *Oneself as Another*, phenomenologically speaking, is a “kind of belief,” which is “less demanding than the certainty belonging to the ultimate foundation.” (Ricoeur 1992: 289/ 21) Ricoeur takes ‘belief’ to be credence rather than opinion. When it applies to the hermeneutics of selfhood, attestation thus is a confidence in the self, “conscience, in the sense of an internal forum,” which is “barely discernible from conviction ... as the final instance of practical wisdom.” He continues to say, “Conscience is nothing other than the attestation by which a self affects itself. ... Conscience appears as the inner assurance that, in some particular circumstance, sweeps away doubt, hesitation, the suspicion of inauthenticity, hypocrisy, self-complacency, and self-deception, and authorizes the acting and suffering human being to say: here I stand.” (Ricoeur, 1996a: 454)

¹⁶ This practical truth can be discerned in the following moments of mediation: first, it can be seen in the pathway that arrives at the self through reflection by way of detour through analysis. Second, it is discovered in the pathway that expresses selfhood by way of its contrast with sameness. And finally, it is in the pathway that unfolds a self by way of its dialectical with the other. (Ricoeur 1992: 297)

responsibilities at the heart of assigning imputation. For that reason, the very act of moral imputation has its source outside of me.

The notion of attestation is crucial for Ricoeur's conception of the political agent.

As he writes:

The bond between action and its agent is not a fact that one could observe. It is a power that an agent thinks itself capable of exercising with complete confidence. This *attestation* will appear ... as a cornerstone in the reconstruction of the notion of a political subject. The notion of narrative identity ... seems to me to constitute the indispensable bond between the identity of a speaking subject and that of an ethico-legal subject.¹⁷

Thus it would be erroneous to suppose human agency could be endowed with absolute rights before entering into society:

[M]any philosophies of natural law presuppose a subject, completely and already fully endowed with rights before entering into society. It results that this subject's participation in community life is in principle contingent and revocable, and that the individual ... is correct in expecting from the state the protection of rights constituted outside of him or her, without bearing any intrinsic obligation to participate in the burdens related to perfecting the social bond. This hypothesis of a subject of law, constituted prior to any societal bond, can be refuted only by striking at its roots. (Ricoeur 1992: 181)

Ethics and Justice

For Ricoeur, the mediation of others is essential to the actualization of freedom. Every value resulting from our ethical situation presupposes a plurality of persons and their capacity for communication. Through communication, each free individual pursues his or her rationality. As a consequence, the communicative situation of human beings may be characterized as cooperative, competitive, and even conflictual. Here Ricoeur's

¹⁷ This citation is from Dauenhauer 1998: 111. See also Paul Ricoeur, "Morale, éthique et politique," in *Pouvoirs, Revue française d'études constitutionnelle et politiques*, 1993, p.7

emphasis is upon the limitation of human freedom which springs from conflict. In a response to Sartre and others, Ricoeur writes:

In the first positing of freedom by itself, the limit was constituted by the self's very inadequation to itself. Here it proceeds from the opposition of one freedom to another freedom, from the confrontation of several spheres of action and of actualization. Limit now signifies conflict. And it is very much a question of something other than the lack resulting from the fact that every moral agent actualizes himself through acts which are inadequate to his existence...The actualization of my freedom through your freedom and of your freedom through my freedom has a specific history which is the history of slavery, of inequality, and of war.(Ricoeur 1978b: 179).

For Ricoeur, the negativities of human action, introduced by “the primordial evil of the murder of freedom,” call for special attention. (Ricoeur 1978b: 179)¹⁸ But Ricoeur never doubts that the initial situation of ethics is ultimately associated with “the mutuality of freedom” or “the dialogical position of freedom.”(Ricoeur 1978b: 190) Thus the human effort to eliminate the primordial evil in human interaction can be possible only when we assume a “norm of reciprocity,” (Ricoeur 1992: 219) which presupposes an initially equal situation of human interaction. But his stress here is upon our pre-ethical concern rather than its obligating norm. Ricoeur states:

The whole of ethics...is born from this redoubled task to make of the other person come to pass as similar to my own. The other person is like me (*mon semblable*)! Like me, though other – other, though like me. In this sense, the problem of recognizing freedom in the second person is the central phenomenon of ethics. (Ricoeur 1978b: 178-79)

We must consider the relationship between the norm of mutuality and our ethical concern. As Ricoeur points out, the ultimate goal of moral obligation in mutuality is to

¹⁸ “The murder of freedom” is further elaborated by Ricoeur’s technical notion of ‘violence,’ which simply means “the diminishment or the destruction of the power-to-do of others.”(Ricoeur 1992: 220) Ricoeur grants that violence inherent in human interaction is radically connected with the problem of evil. Following Kant, he takes the phenomena of evil as a philosophical problematic as well as a religious one.

restore the affirmative aspect of ethical concern that is rooted in the reciprocity or mutuality of human interaction. The point is that obligation in the second person makes sense only if we restore the affirmation of freedom in the second person. Thus moral obligation simply refers to the statement “Let your freedom exist!”(Ricoeur 1978b: 179)

In the second person, the problem of freedom is essentially associated with notions of equality and justice. But Ricoeur argues that their application is inherently ambivalent. On one hand, they lead us to consider our reciprocal concern for the good. On the other, they take the formality of reciprocal concern until it culminates in a juridical relation where the negative aspect of obligation is put in the form of positive law. (Ricoeur 1992: 228)

It is essential to see the fundamental difference between equality and justice. Like Rawls, Ricoeur considers the idea of justice to encompass the institutionalization of both freedom and equality. In other words, the difference between interpersonal relations and institutional mediation is that the former can be obtained by taking the latter in the form of the “neuter or neutral terms of values, norms, and the laws.”(Ricoeur 1978b: 179) This means that institutional mediation requires a certain form of standard, obtained by an impartial point of view, or, an ‘impersonal point of view.’ (Thomas Nagel) This is why the third person point of view is of special importance in discussions of justice, and why the juridical concept of justice predominates in an overall account of justice.

Ricoeur expressly states that justice is embedded in our effort to extend reciprocal concern to the institutional level:

Justice...is not an essence which I read in some atemporal heaven, but the institutional instrument by means of which several freedoms may coexist. If I

Just like Kant’s doctrine of radical evil, Ricoeur regards the evil as a possibility to “the regeneration of freedom, that is, restoring to freedom the control over it of the good principle.”(Ricoeur 1992: 216)

want you to be free, justice, we could say, is the schema of actions to be done to make institutionally possible the community and communication of freedom. In still other terms, the desire for an analogue of freedom in another freedom receives support from a group of institutionalized actions whose meaning is justice. Justice therefore ultimately means “that you may be free.” (Ricoeur 1978b: 183)

Ricoeur never denies the necessity of universally valid social norms.

Negativities of human interaction lead to the necessity of morality and the rule of justice.

Thus the ideal of the rule of justice becomes a major virtue of social institutions.

However, he tries to show that the essential meanings of these senses of justice, which become a basis for the rule of justice, are ultimately dependent upon our ethical concern of reciprocity. As I noted in the preceding chapter, this can be used to generate a critique of proceduralism. But it also brings out two crucial aspects of Ricoeur’s own conception of justice.

First, foundationalist theories of justice must be abandoned. For foundationalism fails to recognize the unscientific feature of practical matters. Can universal norms be obtained in terms of an infallible and constructive generality? According to Ricoeur, it is impossible to translate all practical matters into scientific or theoretical discourse. While human practicality is fragile and fallible, one possible solution to this problem is open admission of its incompleteness, and admission that all human actions are subject to critical evaluation. Ricoeur wants to further show that the only way to unify our practical lives is to accept the multiple perspectives of ethical situation and seek a unity through a conjunction of these diverse perspectives. For that reason, what can be validated in these perspectives is the critical employment of practical reason.¹⁹

¹⁹ This understanding of practical reason may be sharply contrasted with Habermas’s employment of practical reason. While Habermas seem to underscore the moral aspect of practical reason whose features

Secondly, the repressive strategy, which is hidden in the proceduralist solution, should be made explicit. The repressive strategy has this in common with other forms of ethical formalism. Ethical formalism often gives priority to an impartial, impersonal, and universal point of view, which is in sharp contrast with partial, personal, and particular point of view. Or, as is in Kant's case, the *a priori* approach is preferred to an empirical approach. But the underlying assumption is highly problematic because it is repressive. It is repressive insofar as the universal point of view is to be understood to stem from radical elimination of the emotional and evaluative aspects of life. These are the aspects Kant condemns as empirical and pathological in his account of the categorical imperative. Ricoeur takes on the more demanding task to reconcile the *a priori* and the empirical approaches. In order to do this, he argues for a dynamic account of ethical action.²⁰

are irreducible to instrumental rationality, Ricoeur draws more attention to critical employment of reason. The fundamental reason for focusing upon critical use of reason lies in Ricoeur's conviction that "nothing is more disastrous theoretically, or more dangerously politically, than [the] claim to knowledge in the area of ethics and politics." (Ricoeur 1991b: 205) For Ricoeur the critical employment of practical reason can be called upon in two interrelated ways. On the one hand, it is actually reinforced by an 'ideology critique,' which is found within Habermas's earlier interest in a possibility of "systematically misleading distortion." Since political problems stem from a fundamental gap between the ideality of a political constitution and the reality of an empirical state, Ricoeur argues that the critical function of practical reason is inevitable. The critical function is thus to "*unmask* the hidden mechanism of distortion through which the legitimate objectification of the common bond becomes an intolerable alienation." (Ricoeur 1991b: 206) This ideology critique is the place where "practical reason can *be transformed from knowledge into critique*." (Ricoeur 1991b: 207) On the other hand, the critical function of practical reason is also more positively employed. Focusing upon the positive role of utopia, namely, "the integrative function" of ideology in relation to the social bond, Ricoeur observes that it is one of the most important function of ideology to justify the political fact of domination or authority by finding out the "hidden relation between *work, power, and language*." This leads him to considering practical reason as practical reason. Hence, he concludes that "practical reason is never without practical wisdom, but that practical wisdom, institutions of alienation, can be never be without a certain madness on the part of the sage, since the values that govern the social bond have themselves become insane." (Ricoeur 1991b: 207)

²⁰ Ricoeur's critique of ethical formalism is basically linked to his claim that Kant overestimates one aspect of practical reason. His doubts can be explained in two ways. The first doubt is cast upon an essential connection between practical reason and morality. Kant's approach, Ricoeur claims, is one-sided, because in deriving the "necessity of moralizing the concept of practical reason... Kant hypostatized one single aspect of our practical experience, namely, the fact of moral obligation, conceived of the constraint of the imperative" (Ricoeur 1991b: 198). The second doubt is upon the "idea that reason by itself is practical, that is to say, governs a reason without regard to desire" (Ricoeur 1991b: 198). The question here is whether

As I shall illustrate, Ricoeur's own position results from his recognition of a fundamental gap between the ethical origin of justice and the rule of justice. The relation between the idea of justice embedded in our ethical concern and the rule of justice is initially disproportionate. The only way to balance this unstable equilibrium for Ricoeur is through the possibility of practical mediation. We may note two things about this practical mediation between the ethical origin of justice and the rule of law: First, it is important to see, from the outset, that the practical mediation between theory and practice is always fragile. Second, the practical mediation requires important ideas such as "recognition, solidarity, and mutual indebtedness." (Ricoeur 1995a: 324)²¹

In sum, we have examined one of Ricoeur's most important strategies for dealing with the problem of justice. He aims to show that justice is a practical ideal, in spite of the fact that it is necessarily fragile.

Responsibility and the Human Agent

Ricoeur argues that we must develop an appropriate concept of responsibility because of its importance for normative political thought. Ricoeur analyzes this concept, which has historical roots that stretch to semantics of the verb "to impute." As I have

practical rationality can be scientifically dealt with. As is already well known, Kant's position is to set the principle of universality as the supreme principle of practical rationality. "By elevating the rule of universalization to the rank of a supreme principle," Ricoeur claims, "Kant sets out on the path of the most dangerous of all ideas, one that will predominate from Fichte to Marx, to a type of scientificity, comparable to the knowledge and the science required in the theoretical order." (Ricoeur 1991b: 199). According to Ricoeur, this is unacceptable, because ethical action is influenced by emotional and evaluative elements. On these bases, Ricoeur elaborates two main theses about ethics: (a) ethics is not a matter of scientific enterprise; (b) practical wisdom is of epistemological privilege, occupying a dynamic role from fairness to the theorization of moral norms and vice versa.

²¹ The same argument is found in his discussion on the importance of mutual indebtedness proposed by Emmanuel Levinas. (Ricoeur 1992: 202)

argued, the concept of responsibility is ultimately associated with a way in which we commit ourselves to the world and the people who inhabit in it. The notion of initiative is crucial here: If initiative is the inauguration of a new course of things for which we become responsible, these acts must be imputed to us. (Ricoeur 1991b: 214-7) But imputation is not merely ascription of an action or identification of its cause. We also impute the action to its agent as praiseworthy or blameworthy. Hence, imputation designates an agent's capacity to choose and to be responsible for choices.²² In Ricoeur's analysis, the present-day concept of responsibility based on imputation has served as a foundation for the moral and juridical conception of responsibility. In Ricoeur's analysis, however, this present-day concept of responsibility no longer functions. We must therefore construct an alternative.

Let me first draw attention to the juridical concept of responsibility. The legal concept of responsibility concentrates on the notion of fault. The basic idea is that persons are responsible for harms or damages that are their fault. In other words, legal responsibility puts weight to two important claims: (1) What an agent is responsible for is the faulty action that he or she deliberately chose and performed; (2) Wrongful actions lead to an obligation to compensate for the damage or harm done. But Ricoeur observes that there is a strong tendency to detach legal responsibility from fault. According to this tendency, it is sometimes allowed that persons are responsible for the harms or damages that are not their fault. Such a conception of responsibility is too broad. If we instead focus on the victims of damages or harms, we will be led to include within the notion of

²² According to Ricoeur, the term 'responsibility' is a complex notion because it "unites both meanings: "counting on" and "being accountable for." It unites them, adding to the idea of a *response* to the question "Where are you?" asked by another who needs me. This response is the following: "Here I am!" a response that is a statement of self-constancy." (Ricoeur 1992: 165)

responsibility companion notions of “solidarity, security, and risk.”(Ricoeur 2000: 25)

The underlying assumption is that if one of us suffers grave harm which is not his or her own fault, others of us are responsible for the victim. This idea of responsibility comes from solidarity and, in this sense, there is collective legal responsibility to compensate for social harms.

Despite its usefulness, however, Ricoeur claims that this tendency has its own danger. This view seems to allow that we are responsible for damages that may have come about by fate or chance. But it is crucial, in Ricoeur’s view, to distinguish between those who suffer because of a decision that someone made and acted upon, and those who suffer because of some other reason. But the notion of imputation excludes fatalism and chance. The notion of legal responsibility based on decision, on the other hand, is necessarily bound up to the notion of human capability. For that reason, ‘imputation’ refers to the human capacity to initiate, which is closer to Kant’s notion of “relative beginning.”²³ Where there is no such capacity, there could be no genuine responsibility.

A similar tendency is also found in the present-day concept of moral responsibility. According to a dominant contemporary tendency, the concept of responsibility applies to our dealing with everything that is vulnerable to our will. This new idea of moral responsibility is motivated in part by the fear of ecological disaster.²⁴

²³ The Kantian notion of a “relative beginning” is in sharp contrast with Kant’s notion of “the absolute spontaneity of an action,” which is the “ground of its imputability.” Kant identifies this as “the real stumbling block” for moral theory. (Kant, *Critique of Pure Reason*, A 448/B 476) On the other hand, what is looking for is that “as a series occurring in the world can have only a relatively first beginning, being always preceded in the world by other state of things.”(A 450/ B478) An emphasis here is a plurality of agents and a multiplicity of beginnings of actions.

²⁴ On Ricoeur’s reading, this new concept of responsibility can be found in Hans Jonas’s *The Imperative of Responsibility*. Granting that today’s ecological danger might have serious effects on the environment, Jonas proposes a new “categorical imperative” that makes one to refrain from them. The imperative is: “Act so that the effects of your action are compatible with the permanence of genuine human life”; or expressed negatively: “Act so that the effects of your action are not destructive of the future possibility of

According to Hans Jonas, this idea of responsibility is the foundation for the claim that we are responsible for ensuring that the conditions necessary for human life continue to be available. Hence our responsibility extends beyond the horizon of foreseeable consequences of action already taken, as far as in space and time as our powers project consequences. It extends our responsibility to distant descendants who will never be able to affect us. On Ricoeur's reading, this new idea of responsibility reflects a well-considered fear that takes into account all possible damages and destruction that our deeds may cause. Nevertheless, this idea of responsibility also shows a fundamental limitation of the standard idea of responsibility. First, the scope of responsibility and imputation is not limited to what one had already done or what could be imputed to him or her as praiseworthy or blameworthy. Its scope extends to what one could do now and in the future. Second, the new idea of responsibility is not subject to the strictly reciprocal relation between an action and its damages. Its characteristic is that our responsibility extends beyond the possibility of reciprocity.

In order to deal with this transformative conception of responsibility, Ricoeur proposes that we need a third way of understanding responsibility. But before exploring this third way, it is well to consider what Ricoeur's view shares in common with others. First of all, Ricoeur is in substantial agreement with Levinas that moral injunctions come from the fact that we inhabit the world with other persons. Thus, the first ethical move is to pledge oneself to these others. The other person is the object of my care simply by virtue of existing. The reason it makes sense to hold me legally responsible for damages

such life"; or simply: "do not compromise the conditions for an indefinite continuation of humanity on earth"; or, again turned positive: "In your present choices, include the future wholeness of Man among the objects of your will." *The Imperative of Responsibility* (Chicago and London: University of Chicago Press, 1984): 11. Dauenhauer 1998: 152

the other suffers is that this other is somehow consigned to my care. In other words, “imputation as such is already a dialogical act, either between two people or between a community and the individual, or a kind of internalized dialogue according to the notion of the soul in Plato, which is in dialogue with itself.”(Ricoeur 2002: 286) Moral responsibility is restricted to “the other *of whom I am in charge* for whom I am responsible.” This means, he comments, “this responsibility no longer comes down to a judgment bearing on the relationship between the author of an action and its effects in the world. It extends to the relations between the agent and the patient (or receiver) of an action.”²⁵ (Ricoeur 2000: 28)

In addition, Ricoeur agrees that there is something right about contemporary debates on the scope of responsibility. He accepts that the notion of responsibility ought to be extended to include more than persons. Our responsibility and solicitude should be extended to cover the protection of whatever is perishable that is in our care. This means that the enlargement of the scope and power for human intervention into the processes of nature is inevitable. As Ricoeur puts it, this “entails the enlargement of responsibility itself in the precise sense of imputability. It is in this respect that the whole of nature can be said to be submitted to our care.”(Ricoeur 1991a: 286)²⁶

²⁵ This is already implied in Ricoeur’s treatment of social action. He says: “The theory of action is extended from acting to suffering beings. The addition is so essential that it governs a large part of the reflections on power as it is exerted by someone on someone, as well as the reflections on violence as the destruction by someone else of a subject’s capacity to act; by the same token, it leads to the threshold of the idea of justice, as the rule aiming at the equality of the patients and agents of action. In fact, every action has its agents and its patients.” (Ricoeur 1992: 157)

²⁶ “L’élargissement de la sphère d’intervention humaine entraine celui de la responsabilité elle-meme au sens précis d’imputabilité. C’est sous cette condition que la nature tout entière peut etre dite remise à notre garde.”

Nevertheless, Ricoeur warns that there is a difficulty in the attempt to extend the scope of responsibility not only in space but also in time.²⁷ The problem is that this aspect of the notion of responsibility is beyond our ability fully to grasp as something that applies to us. It is a global responsibility that would seem to be undifferentiatedly everyone's. This multiplicity of bearers of an undifferentiated global responsibility makes it practically impossible for any one of us to accept it as our own.

Ricoeur's solution to this problem is to refuse to posit a polar opposition between imputation, which is closely bound up with decisions that I make and act upon, and the legal socialization of risks. He suggests that these two notions overlap and reinforce each other. Just as long temporal gaps between harmful acts and their harmful effects make the socialization of risks more sensible than strict reparations, so too are wrongdoings that are not legally covered but are still imputable to us who do harm.²⁸

The socialization of risks is extremely important to the concept of responsibility. It awakens us to "an entrusted responsibility" which would otherwise be forgotten.

Ricoeur says:

[A] capability must be awakened in order to become real and actual; and it is in the midst of others that we become effectively responsible. Inversely, as soon as the other relies on or trusts in me, what he or she expects is precisely that I shall keep my word and behave as an agent, the author of my own acts. Ultimately, the questions at stake concern mutual recognition – a recognition through which the

²⁷ Generally speaking, we may raise the question. "How far is the agent supposed to be responsible for its action?" Or, to put it differently, "how far does the chain of harmful effects of our acts extend that we can take as still implied in the principle, the beginning, the *initium* for which a subject is held to be author?" (Ricoeur 2000: 29/ Ricoeur 1992: 106) This is more problematic when we suppose that there are some worldly processes an agent has not affected in his or her entanglement with them. Is the agent responsible for it? Or is he or she responsible for everything that is the outcome of his or her initiative?

²⁸ Ricoeur's answer is clearly limited to the scope of human capability. As he says, our responsibility should extend 'as far as our powers do in space and time.' (Ricoeur 2000: 29) In other words, "our responsibility for harm done extends as far as does our capacity to do harm." (Ricoeur 2000: 30) Thus, "the subject of responsibility is...the same one as the subject who has the power to generate harm, that is, indivisibly individual persons and systems in whose functioning individual acts intervene in a sort of infinitesimal and 'homeopathic' way." (Ricoeur 2000: 31)

other ceases to be alien and is treated as my peer according to a fundamental human fellowship? (Ricoeur 1995c: 17)

This “entrusted responsibility” is important since it shows us the possible scope of our responsibility and imputation. Ricoeur puts the point as follows:

The image of custody, or burden which one takes upon oneself, should not render us inattentive to the other component emphasized by the expression ‘entrusted to our care’ – the fragile as ‘someone’ who relies on us, expects our assistance and care, and trusts that we shall fulfill our obligation. This bond of trust is fundamental. As intimately related to the request, the injunction, or the imperative, it is important that we encounter trust before suspicion. The result, accordingly, is that in the feeling of responsibility we *feel* that we are *rendered* responsible for, and by, someone. (Ricoeur 1995c: 16)

However, to make our action responsible action is equivalent to choosing concretely between one alternative in which we give predominance to the short-range view of a responsibility that is restricted to the foreseeable and controlled effects of an action, and another in which we consider the long-range view of a temporally unbounded responsibility. This means that the concept of responsibility calls for prudence in the Greek sense of *phronesis*. (Ricoeur 2000: 34) Ricoeur claims:

Responsibility, interiorized in a feeling of responsibility, therefore bears an element of passivity or, if one prefers, of a receptivity that is not devoid of bewilderment and anguish and that refers to a horizon of meaning, to something like a kingdom of ends in connection with which, as Kant saw, man recognizes himself as both instituting and instituted. There comes a moment of reflection where the distinction between exteriority and interiority, transcendence and immanence, autonomy and heteronomy, is blotted out. (Ricoeur 1991a: 293)²⁹

²⁹ “La responsabilité, intériorisée en sentiment de responsabilité, comporte alors un élément de passivité ou, si l’on préfère, de réceptivité, non dénué de vertige et d’angoisse, qui renvoie à un horizon de sens, à quelque chose comme un règne des fins, par rapport auquel, comme Kant l’avait compris, l’homme se reconnaît à la fois instituant et institué. Il vient un moment de la réflexion où s’efface la distinction entre extériorité et intériorité, transcendance et immanence, autonomie et hétéronomie.”

Ricoeur's solution is important in many respects. It is especially useful since it serves to expand the scope of collective responsibility. Consider first historical responsibility, focusing on a historical time that predecessor and successor may share. For Ricoeur historical responsibility resides between 'the space of experience' and 'the horizon of expectation.'³⁰ The space of experience is the past as remembered present. It is the ensemble of individual and social past events and occurrences. It becomes a clue for decision. On the other hand, the horizon of expectation is the unfolding of projects that one can now hope. It is the future made present.

More importantly, Ricoeur's emphasis is upon the mutual dependence and asymmetrical relationship between the space of experience and the horizon of expectation. The best way to find the meaning of human action is to understand the historical present as a dialectical tension between the space of experience and the horizon of expectation. What needs to be emphasized is that historical responsibility stems from the possibility that we ourselves are making history. Even though each of us is indeed affected by history that is not essentially our own product, and by the pictured futures that our society presents, it is nevertheless possible to talk about historical responsibility through an appeal to a dialectical tension between the space of experience and the horizon of expectation. We do make history in the course of action. Ricoeur writes:

If one admits that there is no history that is not constituted by the experiences and expectations of those who act and suffer, one thereby implies that the tension between the horizon of expectation and the space of experience must be preserved if there is still to be history at all. (Ricoeur 1991b: 220-21)

This understanding has a definite advantage in explaining the possibility of progressive political intervention. Any theory that fails to make room for political

³⁰ This is Reinhart Koselleck's distinction. See Ricoeur 1991b: 218

intervention should, in Ricoeur's view, be discarded, because it cannot provide any meaningful account of justice that is considered as an attempt to eliminate the injustice rooted in real society. The purpose of political intervention, whether good or bad, is practical innovation and intervention. But the appropriatedness of political action may be determined by its timeliness. In other words, in appropriating an action, we must determine the end point where the responsibility of an agent is a "matter of decision." (Ricoeur 1992: 107)

But the justness of political action clearly rests on the proper balance between the space of experience and the horizon of expectation. This accounts for the fundamental limitation of political action in a historical present. The fundamental limitation is apparent in two extreme cases. One extreme case is unrealistic utopian expectation that makes excessive hope about the future. The other is a narrower understanding of the past, according to which political action follows from unchangeable fact. We must be vigilant about unrealistic dreams in political action. We may hope that our political expectations will be within our capabilities. This makes it possible for our action to become the object of responsible commitments. Our responsible commitments, Ricoeur argues, constitute our hopes for all of humanity. We can similarly account for the extreme fate of the past: the past is not just unchangeable fact. According to Ricoeur, the effectiveness of the past depends on considering it as subject to multiple different interpretations. The interpretations of the past result not only from the actual past, but also from its potential. Thus we need to take the past as a "living tradition." (Ricoeur 1991b: 222).

For Ricoeur, political responsibility is complex, because it involves a number of important ideas such as imputability, solidarity, and social risk. As will be considered in more detail, this means that political justice lies in the establishment of “the just measure” and “just distance” between them. It is equally important to see that this allows for the importance of prudential decision in a concrete situation. Taking up Aristotle’s notion of *phronesis*, Ricoeur claims that the search for justice is ultimately the search for an “ethics of the mean.”(Ricoeur 2000: 34-35)

Concluding Remarks

Ricoeur’s ethical view may be summarized as an attempt to overcome a narrower account of the rule of justice. As a modern idea, the rule of justice has been understood as a juridical concept, a concept related to the law and basic legal rights. In this sense, the common assumption is that the concept of right or justice can serve as the highest moral standard to justify positive laws, social institutions, and human interaction. By arguing that this juridical or moral concept of justice has its ethical roots, however, Ricoeur tries to show that the notion of justice is broader and encompasses all human actions. This means that the concept of justice for Ricoeur is not strictly juridical but also designates our ethical concerns about other people and the world. In short, the notion of justice embodies a desire for the good which human beings may accomplish in their life. This is not to say, of course, that the moral or juridical concept of justice plays no role at all. Ricoeur clearly sees that the moral or juridical notion of justice plays a pivotal role in the articulation of principles or norms for social and political institutions. Nevertheless, it is

important to realize that the moral or juridical notion of justice has its own limitations in social institutions. According to Ricoeur, to overcome these limitations we must retrace our ultimate ethical concerns about other people and the world. This is difficult, for it requires of wise judgment. But it is an essential part of the concept of justice.

CHAPTER 4

THE DYNAMICS OF JUSTICE¹

The purpose of this chapter is to explain Ricoeur's dynamic conception of justice. Ricoeur provides us with a break-through that promises to bridge the gap between fact and value. As was argued in the previous chapter, one of the most important theses in his discussion of justice is that of the primacy of the ethics over the moral and the legal. In other words, any systematic legalization ultimately stems from ethical concerns that are required to pass the test of universality. Further, Ricoeur's conception of justice preserves a crucial role for democracy. One crucial function of political society is to distribute social goods. But regardless of the historical and cultural determination of social goods, argues Ricoeur, there is an even more serious problem embedded in our political process. According to Ricoeur, it is a "tragedy" of political life that there is a plurality of universal values, not all of which can be fully realized in harmony with one another. This tragedy provides an opportunity for the exercise of practical wisdom.

My concern in this chapter is basically to explain Ricoeur's conception of justice in detail, but not to assess its validity. In my undertaking, I try to keep three main questions in mind: First, from where does the idea of justice originate? Second, on what ground does the idea of justice relate to notions of necessity and universality? And third, why does the idea of justice require the exercise of practical wisdom? In searching for

¹ I owe my interpretation to Dauenhauer's excellent book. (Dauenhauer 1998)

answers to these questions, we are led to three different conceptions of the just. The answer to the first question will lead us to consider the just as the good, while the answer to the second will focus on the just as the legal. Finally we are led to the just in the political domain, understood as equity or the equitable, as suggested in Aristotle's *Nicomachean Ethics V*.

In *the Just*, Ricoeur writes the following:

The meaning of justice, which conserves its rootedness in the wish for a good life and finds its most ascetic rational formulation in procedural formalism, does not attain concrete plentitude except at the stage of the application of the norm in the exercise of judgment in some situation. (Ricoeur 2000: xxii).

In this passage, there are three distinct, but interrelated phases in the concept of justice: the teleological moment, the deontological moment, and the phronetic moment. In what follows, I shall explain how these phases are connected with one other. As I shall show, Ricoeur claims that the grand conception of justice must maintain the proper place among these different moments.²

I. From the Good to the Just

For Ricoeur justice in its most general sense is rooted in our ethical project, the search for a good life. This ethical project, Ricoeur insists, can be specified by a “teleologically ordered sequence,” which constitutes a “teleological moment.” (Ricoeur 1996a: 456) The teleological moment is composed of three distinctive, but closely

² In his recent works, Ricoeur gives a different account. There Ricoeur more clearly ties together the teleological and the deontological and reduces the priority of the teleological. But it would be correct to say that Ricoeur's overall position is not substantially changed. (Ricoeur 2001: 55-68/ Ricoeur 2002) Here I shall try to focus on the “chronological” account, which is found in *Oneself as Another* and *The Just*.

interrelated elements. The notion of justice, which is closely tied to the goal of ethics, is to be identified with the “ethical intention,” to (i) aim at the ‘good life’ (ii) with and for others, (iii) in just institutions. (Ricoeur 1992: 172) Each of these three elements will be examined in the subsections below.

The Good Life

Ricoeur begins his conception of justice by underscoring its roots in the notions of desire and life. The following passage explicitly makes the point:

Justice... is an integral part of the wish to live well. In other words, the wish to live in just institutions arises from the same level of morality as do the desire for personal fulfillment and the reciprocity of friendship. The just is first an object of desire, of a lack, of a wish. It begins as a wish before it is an imperative. Here is the mark of a rootedness in life. (Ricoeur 2000: xv)

For Ricoeur, the ethical root of the just lies in life and the Aristotelian notion of the ‘good life.’³ On Aristotle’s view, goodness is a “good for us.”(Ricoeur 1992: 172) Ricoeur takes the good to be “the ultimate end of our action,” that which can be attained by human existence.⁴ (Ricoeur 1992: 172) In other words, the good for Ricoeur is not a momentary possession, but something we perpetually strive for. For that reason, the good is closely bound to the ideal of human self-knowledge. The conception of the good, which is the ethical root of justice, includes self-interpretation of action, judgment, and living.

³ Ricoeur’s notion of teleology is concerned with the Aristotelian notion of the good life rather than the utilitarian account of the good.

⁴ Ricoeur identifies the ideal of the ‘good life’ as the ‘finality within finality.’(Ricoeur 1992: 179)

The ethical root of justice at the level of the good life is grasped in two distinct dimensions. Following Alasdair MacIntyre, Ricoeur traces this idea back to its objective side, which extends from a “life plan” that makes possible the integration of singular action to a “narrative unity of life” governed by the intrinsic “standard of excellence.” What he intends to imply is the importance of the Aristotelian teleological argument. As Ricoeur says, “the action of configuration that we are calling life plan stems, then, from our moving back and forth between far-off ideals, which have to be made more precise, and the weighing of the advantages and disadvantages of the choice of a given life plan on the level of practice.” (Ricoeur 1992: 177) ⁵

The ethical root of justice has its subjective dimension as well. At the deepest level, the ethical root of justice is recognition of self-esteem as the capacity to act or initiate. Initiative is experienced as one’s own capacity to act, to do things, to change the world. To recognize self-esteem as initiative is to identify self-esteem with the “reflective moment of praxis.” Self-esteem in this sense is categorical because it is unique, unsubstitutable, and irrevocable. In this sense self-esteem is an end in itself. The unique nature of human existence stems from the fact that we can conceive ourselves responsible deliberators, accountable to our own judgments: “I am that being who can evaluate his actions and, in assessing the goals of some of them to be good, is capable of evaluating himself and of judging himself to be good.” (Ricoeur 1992: 181)

In sum, Ricoeur argues for the primacy of evaluation and estimation in human life. The importance of this is twofold: On one hand, evaluating actions is an essential step for developing a system of ends. When it applies to actions that are basically

⁵ Ricoeur owes this interpretation to the analysis of *phronesis* Gadamer offered in his *Truth and Method*. (Ricoeur 1992: 177 n.8)

connected to social practices, evaluation is the search for ‘standards of excellence’ proper to “social practices whose constitutive rules are established socially.” (Ricoeur 1992: 176) On the other hand, evaluation reveals our moral responsibility by marking ourselves as the author of our actions. It also involves the significance of the exercise of judgment or decision in human affairs. On this level, “the search for adequation between our life ideal and our decisions” is crucial both to self-knowledge and to the pursuit of justice. It is an unending task.⁶

Living “with and for others:” Reciprocity and Solicitude

The substantial ethical ground of justice, according to Ricoeur, stems from the second component of the ethical aim, to live well “with and for others.” For Ricoeur, the substantial meaning of justice applies where the “mediating role of others” is inserted into self esteem, which relates the capacity to its realization.⁷ In inserting the notion of the other into self-esteem, Ricoeur makes an explicit hypothesis about the relation between self-esteem and the other:

⁶ According to Ricoeur, an unending task of self-knowledge is explained by the unending activity of interpretation. “An unending work of interpretation,” Ricoeur writes, “applied to action and to oneself we pursue the search for adequation between what seems to us to best with regard to our life as a whole and the preferential choices that governs our practices... By the same token, our concept of the self is greatly enriched by this relationship between interpretation of the text of action and self-interpretation. On the ethical plane, self-interpretation becomes self-esteem. In return, self-esteem follows the fate of interpretation. Like the latter, it provokes controversy, dispute, rivalry – in short, the conflict of interpretations – in the exercises of practical judgment.” (Ricoeur 1992: 179-80)

⁷ This is perhaps one of the most important assumptions in Ricoeur’s political thought, which warns against the dominant assumptions of modernity. Ricoeur rejects the claim that there is a pre-social or autonomous human existence outside community bond. For Ricoeur, humanity must be cultivated in social contexts. In opposition to the contractarian doctrines, which presuppose natural rights, Ricoeur says, “this hypothesis of a subject of law, constituted prior to any societal bond, can be refuted only by striking its roots. Now the root is the failure to recognize the *mediating* role of others between capacities and realization.” (Ricoeur 1992: 181)

My thesis is that solicitude is not something added on to self-esteem from outside but that it unfolds the dialogical dimension of self-esteem, which up to now has been passed over in silence. By unfolding... I mean, of course, a break in life and in discourse that creates the conditions for a second-order continuity, such that self-esteem and solicitude cannot be experienced or reflected upon on without the other. (Ricoeur 1992: 180)

By this hypothesis, Ricoeur takes solicitude as the self-reflective moment of self-esteem. He argues that solicitude can be elucidated only in terms of the internal relation between self-esteem and the other, created by a “second-order continuity.” (Ricoeur 1992: 180) This second-order continuity or internal relation can be indicated by an “inclusive notion of solicitude.” (Ricoeur 1992: 188) First of all, an intrinsic quality unfolding “the dialogical dimension of self-esteem” is formed by reciprocity or mutuality, which Ricoeur considers to be the hallmark of Aristotelian friendship.

According to Ricoeur, Aristotle’s notion of friendship involves a genuinely mutual character between self-love and self-transgression.⁸ Asking “whether the happy man or woman will need friends or not,” (Aristotle: 1169b3) Ricoeur understands Aristotle’s theory as an attempt to embed the other in the self. As Aristotle insists, the “friend is ‘another self.’” (Aristotle: 1166a32) For Ricoeur, Aristotle’s notion of friendship thus makes sense on two conditions. First, genuine friendship, which is based not only on feeling but also on judgment and choice, involves a moral requirement of

⁸ Ricoeur’s employment of Aristotle is confined to the “mutual character” of friendship. He says that what is taken from Aristotle’s notion of friendship is an “ethics of reciprocity”:

From Aristotle, I should like to retain only the ethics of reciprocity, of sharing, of living together. This theme of intimacy... holds in suspension the two opposing interpretations... it finds its best source of legitimation in the idea that self-esteem is the primordial reflexive moment of the aim of the good life. To self-esteem, friendship makes a contribution without taking anything away. *What it adds is the idea of reciprocity in the exchange between human beings who each esteem themselves.* As for the corollary of reciprocity, namely equality, it places friendship on the path of justice, where the life together shared by a few people gives way to the distribution of shares in a plurality on the scale of a historical, political community (Ricoeur 1992: 187-88, emphasis added)

mutual esteem.⁹ Second, friendship involves an internal relation between self-esteem and esteem for the other. As Ricoeur states, “to self-esteem, understood as a reflexive moment of the wish for ‘good life,’ solicitude adds essentially the dimension of *lack*, the fact that we *need* friends; as a reaction to the effect of solicitude on self-esteem, the self perceives itself as another among others. This is the sense of Aristotle’s ‘each other’ (*allelous*), which makes friendship *mutual*.”¹⁰ (OAA 192) In this way, the other in solicitude is the “you,” we discover in “face-to-face encounters.”(OAA 194)¹¹

For Ricoeur, the idea of mutuality or reciprocity is of special importance. It represents a transition between a solitary virtue and the virtue of justice, a virtue of human plurality belonging to the political domain. Yet there is a crucial difference between a solitary virtue and a political virtue. Ricoeur writes:

Friendship is not justice, to the extent that the latter governs institutions and the former interpersonal relationships. This is why justice encompasses many citizens, whereas friendship tolerates only a small number of partners. Moreover,

⁹ Aristotle says that the other is loved not only “for his or her sake,” as “the being as he or she is,” but also for my own good in genuine friendship. Asking “whether the happy man will need friends or not,” (Aristotle: 1169b3) Aristotle argues that friends are necessary because they can provide what one is incapable of procuring by oneself. (Aristotle: 1169b 6-7) For that reason, Aristotle tends to take the friends as “the greatest of external goods.” (Aristotle: 1169b10) See also Ricoeur 1992: 185.

¹⁰ Ricoeur argues that the internal connection between self-esteem and the other is deeply shaped by Aristotle’s metaphysical assumption. Focusing exclusively on the internal relation between *autos* and *heauton*, Aristotle claims that friendship is a sort of activity. It should be thus experienced as lack with respect to the complete act. On Aristotle’s account, Ricoeur contends, true self-love designates the complete act (*entelekheia*) of the incomplete actualization (*energeia*) of a power. In this way, the whole process depends on the reflexive relation between “*autos* and *heauton*.” Three crucial passages confirm it. First, Ricoeur mentions Aristotle’s use of the reflexive pronoun, which is directed against mutuality based on external goods: “Now those who love each other their utility do not love each other for themselves [*kath’ hautous*].” (Aristotle: 1156a10-12/ Ricoeur 1992: 183) Two other uses of the reflexive pronoun are found in Aristotle’s remarks about self-love: “Perhaps not *all* the greatest goods [will he wish his friend]; for it is for himself [*hautō*] most of all that each man wishes what is good.” (Aristotle: 1159a11-12/ Ricoeur 1992: 184); “Reason in each of its possessors chooses what is best for itself [*heauto*].” (Aristotle: 1169a18/ Ricoeur 1992: 185)

¹¹ Gadamer makes the same point: “Encounters in the mirror of the friend are...not experienced as a demand, but rather as a fulfillment. What one encounters there is encountered not as a duty or a command; it is a living counterpart. Because this other, this counterpart, is not one’s own mirror image, but rather the *friend*, all powers come into play of increasing trust and devotion to the ‘better self’ that the other is for oneself, and that is something more than good resolutions and inward stirrings of conscience.”(Gadamer 1999: 139)

in justice equality is essentially proportional equality, taking into account the inequality of contributions, while friendship exists only between those of equal rank. In this sense, equality is presupposed by friendship, whereas in the cities it remains an aim to be attained. This is why friendship alone can aim at the familiarity of a shared life.” (Ricoeur 1992: 184)

From Aristotle we learn the important lesson that we need to live together in solicitude, and that friendship imposes a moral requirement of reciprocity. In other words, an ultimate sense of justice is already embedded in the interpersonal relation of friendship,¹² and reciprocity between friends, if friendship is genuine, is of a distinct kind because each self is unique, unsubstitutable and irrevocable.

The unsubstitutable character of reciprocity calls for a moral demand: my recognition of the equal right of the other to exist.¹³ Ricoeur’s inclusive notion of solicitude, like friendship, emerges as an interchange between self and other, or more precisely, as “the midpoint of a spectrum” between “*giving* and *receiving*.” (Ricoeur 1992: 188) The interchange is itself extremely important but quite problematic. For it involves a controversial notion of equality. Following Aristotle, Ricoeur distinguishes between absolute and proportional equality. Absolute equality establishes a hypothetical balance between giving and receiving. But the emphasis is upon its hypothetical character. As Ricoeur says, “giving and receiving are equal, hypothetically.” (Ricoeur 1992: 188) On the other hand, proportional equality is fragile and unbalanced. Proportional equality is not something that exists but a task to be achieved. For that reason, what is sought is “equality among inequalities.” Since proportional equality

¹² This is not, of course, to say that there is an identity of aim between friendship and justice. As Ricoeur clearly points out, the aim of friendship is to live ‘equals among friends’ together, whereas the aim of justice is just distribution of the rights and burdens, which already presupposes partial inequality.

¹³ This notion of mutuality can be further developed in culturally different circumstances. As Ricoeur points out, it is important to “see reciprocity imposing itself already on the ethical plane, which reciprocity,

involves at least two persons, this form of equality can be obtained only in terms of “the midpoint of a spectrum, in which the end points are marked by inverse disparities between giving and receiving.”(Ricoeur 1992: 188) More realistically, proportional equality is that which compensates for initial imbalance which might have a cultural or political cause. Like Aristotelian friendship between unequals, it is clear that some inequalities are determined by cultural or political circumstances.

For Ricoeur the relation between the self and the other should be dialectical. He believes that the fundamental gap between self and other is to be filled by supposing a dialectical complementarity between them. This means that there would be no contradiction in moving the self toward the other or moving the other toward the self. Such movements do not annihilate one another “to the extent that one unfolds in the gnoseological dimension of sense, the other in the ethical dimension of injunction. The assignment of responsibility, the second dimension, refers to the power of self designation, transferred, in accordance with the first dimension, to every third person assumed to be capable of saying ‘I.’” (Ricoeur 1992: 340-41)

Thus Ricoeur introduces a powerful notion borrowed from both Aristotle and from the contemporary French philosopher Gabriel Marcel.(Marcel 1964) He calls it the “benevolent spontaneity” of solicitude. (Ricoeur 1992: 190) This notion is extremely important because it stands up “on an equal footing with the summons to responsibility...to act in accordance with justice.”(Ricoeur 1992: 190) Thus this giving and receiving relation is not the hypothetical equality of Aristotelian friendship, but the

on the plane of morality, when violence occurs, will be required by the Golden Rule and the categorical imperative of respect.”(Ricoeur 1992: 183, translation modified)

equality that exists among unequals, one of whom is compensated for the dissymmetry. Here his focal concern is for the possibility that our cultural values can be transcended.

Ricoeur redirects our attention to moral implications of Aristotle's discussion of friendship. Like Aristotle, Ricoeur takes reciprocity or mutuality as fundamental moral concepts. He believes that there would be no ethical or political problem if we did not take into account the principle of interpersonal mutuality.

According to Ricoeur, the normativity of reciprocity is inextricably bound with the problem of violence and evil. For Ricoeur, we should acknowledge that there is a fundamental limitation in Aristotle's account of mutuality in friendship. According to Ricoeur, Aristotle fails to recognize that there is another morally significant dissymmetry between suffering and pleasure. Aristotle defines suffering in opposition to enjoyment, but Ricoeur argues that "sharing the pain of suffering is not symmetrically opposite to sharing pleasure."(Ricoeur 1992: 191)

This objection leads Ricoeur to a philosophical reflection concerning the moral implication of suffering and its corresponding term 'violence.' For Ricoeur suffering has moral implications for human interaction because it involves the possibility of the loss of self-respect. The fact of human suffering impresses upon us the necessity of moral obligation, since suffering is not to be defined "solely by physical pain, nor by mental pain, but the reduction, even the destruction, of the capacity for acting, of being-able-to-act, experienced as a violation of self-integrity."(Ricoeur 1992: 190) Ricoeur uses the term "violence" to refer to the phenomenon of 'the destruction of the capacity for acting.' In this sense, he says, "morality replies to violence."(Ricoeur 1992: 221)

Ricoeur also stresses moral feeling. For Ricoeur moral feeling is the basis for moral indignation which arouses our sense of injustice. This happens because “it is indeed feelings that are revealed in the self by the other’s suffering, as well as by the moral injunction coming from the other, feeling spontaneously directed toward others.”(Ricoeur 1992: 191-92)¹⁴ Here Ricoeur emphasizes that felt moral experience is prior to moral injunction or principle. For “[I]nitiative, precisely in terms of being-able-to-act, seems to belong exclusively the self who *gives* his sympathy, his compassion, these terms being taken in the strong sense of the wish to share someone else’s pain.”(Ricoeur 1992: 190) As I shall discuss later, we should direct more attention to moral indignation, because “justice is opposed not just to violence per se, or even concealed violence or all the subtle forms just alluded to, but to that simulation of justice constituted by vengeance, the act of procuring justice by oneself.”(Ricoeur 2000: 130-31) In other words, Ricoeur tries to seek in solicitude the “intimate union between the ethical aim of solicitude and the affective flesh of feeling.”(Ricoeur 1992: 192)

In his overall discussion of solicitude, Ricoeur attempts to show that our ethical concern to live together is even more important than obedience to law. Ricoeur speaks of this as a “wager:”

Our wager is that it is possible to dig down under the level of obligation and to discover an ethical sense not so completely buried under the norm that it cannot be invoked when these norms themselves are silent, in the case of undecidable matters of conscience. This is why it is so important to us to give solicitude a more fundamental status than obedience to duty. Its status is that *benevolent spontaneity*, intimately related to self-esteem within the framework of the aim of

¹⁴ In that context, Ricoeur introduces a notion of sympathy and its role in solicitude. He says, “In true sympathy, the self, whose power of acting is at the start greater than that of its other, finds itself affected by all that the suffering other offers to it in return. For from the suffering other there comes a giving that is no longer drawn from the power of acting and existing but precisely from weakness itself. This is perhaps the supreme test of solicitude, when unequal power finds compensation in an authentic reciprocity in exchange, which, in the hour of agony, finds refuge in the shared whisper of voices or the feeble embrace of clasped hands.”(Ricoeur 1992: 191)

the “good” life. On the basis of this benevolent spontaneity, receiving is on an equal footing with the summons to responsibility. (Ricoeur 1992: 190)

This passage helps to indicate that the sense of justice is ultimately to be found within the limits of ethics. (Ricoeur 1992: 190) On this basis Ricoeur concludes:

Where the initiative comes from the loving self, friendship appears as a midpoint where the self and the other share equally the same wish to live together. While equality is presupposed in friendship, in the case of the injunction coming from the other, equality is reestablished only through the recognition by the self of the superiority of the other’s authority, in the case of sympathy that comes from the self and extends to the other, equality is reestablished only through the shared admission of fragility and finally, of mortality.”(Ricoeur 1992: 192)

Just Institutions

Ricoeur’s defense for the ethical roots of justice is expressed in the third component of the ethical intention, the notion that we aim to seek the good life in common with others “in just institutions.” Our ethical project to live well is not confined to face-to-face relations, but calls for institutional mediations made in a public domain governed by a conception of justice. In other words, the category of justice is basically an ethical value that is specifically relevant to political institutions. He asserts:

Justice ...is not an essence which I read in some atemporal heaven, but the institutional instrument by means of which several freedoms may coexist. Therefore, it is a mediation of coexistence. If I want you to be free, justice, we could say, is the schema of actions to be done to make institutionally possible the community and communication of freedom. In still other terms, the desire for an analogue of freedom in another freedom receives support from a group of institutionalized actions whose meaning is justice. Justice therefore ultimately means “that you may be free.”(Ricoeur 1978b: 182-83)

We may remark on several important points. First, Ricoeur believes that institutional mediation contains “ethical features” whose meaning emerges from

interpersonal relations but which cannot be reduced to them. More specifically, the notion of equality plays a pivotal role both in the application of justice to political institutions, and also in the deployment of the ethical content of the sense of justice. Second, institutional mediation contains a different notion of the other which is not the very notion of the other in interpersonal relations, that is, the “you.” Since political institutions presuppose a plurality of human persons and the possibility of collective action, “the other” in institutional mediation is “that of ‘each’: to each, his or her rights.” (Ricoeur 1992: 194) Third, the idea of justice in institutional mediation, because of its presupposition of a plurality of human persons, calls for the standpoint of the citizen that is somehow different from that of the moral person. For that reason alone, institutional mediation is indispensable to transference from the standpoint of the capable person to that of the citizen. Institutional mediation is necessary to actualize the capacity that is presumed in the standpoint of the capable individual. Ricoeur writes:

Without institutional mediation, individuals are only the initial draft of human persons. Their belonging to a political body is necessary to their flourishing as human beings, and in this sense, this mediation cannot be revoked. On the contrary, the citizens who issue from this institutional mediation can only wish that every human being should, like them, enjoy such political mediation, which when added to the *necessary* conditions stemming from a philosophical anthropology becomes a sufficient condition for the transition from the capable human being to the real citizen. (Ricoeur 2000: 10/ cf. Ricoeur 1987b: 37)

In Ricoeur’s view, the relation between individuals and institutions is not optional. Only with institutional mediation can individuals become free citizens. Hence, he concludes, our allegiance to this society is neither conditional nor optional. It is “an obligation.”(Ricoeur 1992: 254-5)

In elaborating the notion of an institution, Ricoeur attempts to show that the notion of justice is ultimately based on the ethical roots of our desire to live well. By ‘institution,’ he understands “the structure of *living together* as this belongs to a historical community.”(Ricoeur 1992: 194) What is intuitively clear is the priority of ethical aims over principles or rules. “What fundamentally characterizes the idea of institution,” says he, “is the bond of common mores and not that of constraining rules.”(Ricoeur 1992: 194)

For Ricoeur the idea of justice in institutions is a kind of midpoint between solicitude and the externality of legal constraints. In other words, the sense of justice, found in culturally, religiously, and historically different traditions, supports the more general idea of justice, but is not exhausted by external constraints of legality.¹⁵ Further, he argues that the sense of justice arises from that of injustice. For it is the complaint of what is unjust that usually gives rise to reflection about what is just.¹⁶(Ricoeur 1992: 198/ Ricoeur 1991c: 356)

¹⁵ Here Ricoeur argues that there is a possible twofold way to develop the notion of justice. He says, “the just, it seems to me, faces in two directions: toward the *good*, with respect to which it marks the extension of interpersonal relationships to institutions; and toward the *legal*, the judicial system conferring upon the law coherence and the right of constraints.”(Ricoeur 1992: 197) Ricoeur’s point is that the ethical sense of justice is prior to its legal formulation. For more detailed discussion, see his “Le juste entre le légal et le bon,” in Ricoeur 1991a: 176-195

¹⁶ For example, Ricoeur writes: “Sense of justice and of injustice, ... for what we are first aware of is injustice: ‘unjust! What injustice!’ we cry. And indeed it is in the mode of complaint that we penetrate the field of the just and the unjust. And even on the plane of justice as institution, before courts of justice, we continue to behave as ‘plaintiffs’ and ‘to lodge a complaint against someone.’ The sense of injustice is not simply more poignant but more perspicacious than the sense of justice, for justice more often is lacking and injustice prevails.”(Ricoeur 1992: 198) This is also reflection of Ricoeur’s own experience of injustice: “[T]wo earlier events has already played a decisive role, albeit on the periphery of politics; the death sentence given to Sacco and Vanzetti in the United State in 1927, which aroused my profound indignation, and then the Seznec affairs. So early on I experienced a sort of physical revulsion that made me extremely sensitive to certain singular injustices which I later came to think were symptoms of more general phenomena. It was this kind of indignation that was in a certain way moralized, intellectualized by doctrine.”(Ricoeur 1998: 12/ cf. 15)

Most importantly, the reason justice is considered to be an ethical category is that the institution is “a system for dividing or distributing rights and duties, money and property, responsibilities and powers, and, in brief, benefits and burdens. It is this *distributive* character – in the broad sense of the word – that poses a *problem of justice*.”(Ricoeur 1991c: 356)¹⁷ This distributive nature of institutions, which cannot reduce to any form of interpersonal relations, is the specific nature of our social life.¹⁸ Since the political realm includes a plurality of persons and their interaction, and since there is room for a plurality of heterogeneous goods in the political realm, the proper distribution of shares among members of a community is always problematic. As Aristotle points out, the political realm is “not formed by two physicians, but by a physician and a farmer, and, in general, by *people who are different and unequal*. *But they must be equalized; hence everything that enters into an exchange must somehow be comparable*.”(Aristotle: 1133a16-18, my emphasis)

To cope with the proper distribution of shares, Ricoeur argues that it is important to distinguish ‘proportional’ from ‘arithmetic equality.’ Ricoeur takes Rawls’s theory of justice as a good case where arithmetic equality alone cannot resolve the specific nature of distribution presupposed by political institutions.¹⁹ Political justice calls for a complicated form of equality because it involves distribution, and because of the different sorts of goods that individuals contribute to society. Because of the very function of

¹⁷ A similar definition of institution is found in Ricoeur (1992: 200): “The institution as regulation of the distribution of roles, hence as a system, is indeed something more and something other than the individuals who plays these roles. In other words, the relation is not reduced to the terms of the relation. But at the same time, a relation does not constitute a supplementary entity. An institution considered as a rule if distribution exists only to the extent that individuals take part in.” See also Ricoeur 1992: 180-83/ 188-90/ 194/ 197.

¹⁸ According to Ricoeur, political society consists of two distinct images, “the image of a society that is not only characterized by a will to live together, aligning for cooperation, but also by rules of distributions – the distributed parts making each citizen a share, in the literal sense of the word.”(Ricoeur 1991a: 180)

distribution, “justice is still a virtue on the path toward the good life and ...the sense of the unjust precedes by its clarity the arguments of jurists and politicians.”(Ricoeur 1991c: 357)

For this reason, Ricoeur argues that it would be wrong to understand political justice solely in terms of arithmetic equality. In fact no society has simply implemented an ideal of arithmetic equality. Such a society is a utopian ideal. (Ricoeur 1998: 100) The only alternative is to apply proportional equality more carefully to social and political institutions. But this also generates huge, perhaps insurmountable, problems. Because of this, finding just social arrangement is a most difficult task. Acknowledging the importance of distributive justice in modern democratic society, Ricoeur asks:

Do we not observe on the juridico-political level that the true problems of justice are not those of equal distribution but those posed by inegalitarian distribution? And the question finally amounts to determining what are the least unjust inequalities. Inegalitarian distributions are the daily bread of the governing of institutions of all sorts. This is the problem I find again today in Rawls and in various theories of justice. (Ricoeur 1998: 39- 40)

Ricoeur’s attempt to restore ethical roots of political justice can be understood as his entry into the contemporary debate between liberalism and communitarianism.

Ricoeur argues that there is a middle path between these two approaches. He is skeptical of the individualistic liberal, who assumes a free and autonomous a-social individual. Nevertheless he insists that this view is partly correct to the extent that obligations to the community require an individual’s consent. On the contrary, Ricoeur claims that the communitarian is partly correct in saying that the actualization of the individual’s freedom calls for his or her orientation in a community that must antedate them. But they

¹⁹ Ricoeur 1992: 200-201.

would be wrong to say that there are some irrevocable obligations that are culturally and politically determined. That form of communitarianism falls into relativism.

By calling more attention to the term *recognition*,²⁰ Ricoeur argues that there can be a more reasonable account of the relation between individuals and institutions. He writes:

Recognition is a structure of the self reflecting on the movement that carries self-esteem toward solicitude and solicitude toward justice. Recognition introduces the dyad and plurality in the very constitution of the self. Reciprocity in friendship and proportional equality in justice, when they are reflected in self-consciousness, make self-esteem a figure of recognition. (Ricoeur 1992: 296)

In recognition, the values of others' autonomy and equality emerge as crucial to political institutions. Once the notion of equality is constructed, it is always related to life in institutions just as solicitude is related to interpersonal relations. He says:

Friendship... gives the self as its vis-à-vis an other who has a face, in strong sense that Emmanuel Levinas has taught us to recognize it. Justice conceived as equality gives the self an other who is an "each" [*un chacun*]. In this way, the sense of justice takes nothing away from solicitude. Rather justice presupposes it inasmuch as solicitude regards persons as unsubstitutable for one another. Conversely, justice adds to friendship inasmuch as the field of applicability of equality is the city, the historical community ruled by the State, and, ideally, all of humanity. (Ricoeur 1992: 202/ Ricoeur 1991a: 182 n1)

In this process, we must sometimes adopt the third-person perspective. This is the perspective of 'each,' as in "to each his or her own share." But for Ricoeur this 'each' is

²⁰ Ricoeur's critique of contemporary political and moral debates is found in his claim that there would be no room for the tragic dimension of human action. Ricoeur expresses his thesis as follows: "My thesis is here that there would be no room for a tragedy of action unless the universalist claim and the contextualist claim had to be maintained each in a place yet to be determined, and unless the practical mediation capable of surmounting the antinomy were entrusted to the practical wisdom of moral judgment in situation." (Ricoeur 1992: 274) This leads Ricoeur to emphasize the importance of moral judgment in a concrete situation, which is critically taken from Aristotle's notion of *phronesis*, practical wisdom. With respect to this issue, I shall draw more attention in the next sections.

not the impersonal 'one.' Rather, it is the participant in a system of distribution. It is here that the problem of justice appears.

II. Law and the Search for a Moral Point of View

Despite his claim that justice is a fundamentally ethical value, Ricoeur emphasizes the importance of the deontological point of view. In other words, Kant's test of universality must be passed in order for ethical values to serve as standards for social norms. This constitutes the deontological moment of our moral experiences, which gives meaning to our moral language. (Ricoeur 2000: xii)

Ricoeur aims to reconcile Aristotle's teleological ethics with the Kantian deontology to show an internal relationship between them. He offers three interrelated strategies to illustrate this relationship. First, he considers whether and how the good life can be linked to moral obligation in a way that does not make any dialogical reference to obligation. (Ricoeur 1992: 204-218) Then he shows how solicitude is linked to the dialogical aspect of obligation. (Ricoeur 1992: 218-227) Finally, he seeks a link between the sense of justice and the rule of justice. Thus he attempts to show how the ethical sense of justice embedded in mutuality can be transferred to the rule of justice as represented by social and political institutions. (Ricoeur 1992: 227-239) To understand these arguments, we will need to consider them separately.

The Good Life and Obligation

Ricoeur's moral theory is largely based on his examination of Kant. Kant recommends a procedure by which our empirical inclinations can be "purified" by subjecting them to a test of universality. For Ricoeur there are four distinct moments of deontology in Kant's philosophy which must be separated from its teleology (Ricoeur 1992: 210): (a) good will, which is defined as "good without qualification"; (b) the criterion of universalization; (c) legislation by form alone, and finally (d) the notion of autonomy. For Ricoeur, these four moments are not only closely interrelated but also progressively developed through the logic of exclusion in the opposition between autonomy and heteronomy.

On Ricoeur's reading, Kantian morality specifies from the outset a specific good. Kant specifies it as that which is "good without qualification." The nature of a specific good emerges as the will employed in an unqualifiedly good way. In this sense, the Kantian will has a role akin to that of Aristotelian practical reason inasmuch as it involves the exercise of rationality.

Kant's unique contribution to contemporary moral theory is his account of the essential link between will and obligation. The Kantian strategy, says Ricoeur, is to obtain the imperative form of obligation by imposing constraints on our empirical inclinations. Thus the finite nature of our empirical inclinations can be eliminated by moral constraints, which command us not to act on the basis of these inclinations.

According to Ricoeur, the Kantian strategy is one of "purification." This means that the Kantian notion of constraint is focused on the notion of a practical reason

understood as self-legislating or autonomous and not on empirical inclination. Hence, as Ricoeur points out:

The style of a morality of obligation can...be characterized by the progressive strategy of placing at a distance, of purifying, of excluding, at the end of which the will that is good without qualification will equal the self-legislating will, in accordance with the supreme principle of autonomy. (Ricoeur 1992: 207)

The final deontological moment in Kant's moral theory is the principle of autonomy. To explicate the principle of autonomy we must proceed through four stages.²¹ First, we set aside all the empirical inclinations, since they are plural and too unstable to serve as the foundation of stable judgments. Then we subject the will to a formal test to determine whether our subjective maxim can pass the test of universality. Only maxims that pass this test considered obligatory or permissible. There is nothing comparable to this formal aspect of Kantian morality in traditional teleological moral theory. Third, all hypothetical obligations, even if they pass the test of universalization, must be eliminated as we seek the categorical imperative. The categorical imperative must satisfy the strictest criterion of universalization. Only after this "purification" process can we regard our maxims as appropriate and moral, possible rules for universal legislation. The final state of Kantian morality is the discovery of the principle of autonomy, which we achieve by rejecting all forms of heteronomy. As Ricoeur says, "we

²¹ An explanation of four subsequent stages calls for a possible reconciliation among Kant's three formulations of the categorical imperative. Ricoeur's interpretation is based on Kant's statement in the *Groundwork*. According to Kant, "a progression may be said to take place through the categories of *unity* of the form of the will (its universality); of the *multiplicity* of its matter (its objects, that is, its ends); and of the *totality* or completeness of its system of ends." (Kant 1990: 4.436) Kant's point is that each formula "by itself contains a combination of the other two," even though "there is nevertheless a difference between them, which, however, is subjectively rather than objectively practical: that is to say, its purpose is to bring an Idea of reason nearer to intuition (in accordance with a certain analogy) and so nearer to feeling." (Kant 1990: 4.436) As I shall show in the next section, however, Ricoeur tries to argue that there is a qualitative difference between the first and second formulation of the categorical imperatives. In the second formula,

have not left the vocabulary of the imperative, but we have in a sense sublimated it; when autonomy substitutes for obedience to another obedience to oneself, obedience has lost all character of dependence and submission. True obedience...is autonomy.” (Ricoeur 1992: 210) Since autonomy is determined by nothing but itself, one should ultimately discard all legislators but oneself.

But Kantian autonomous choice is not without difficulties. It is simply an assumption that Kantian autonomy does not depend on anything outside the will for its exercise. Ricoeur argues that it would be a mistake to ignore the role played by “the other” in Kant’s discussion of autonomy. By “the other,” Ricoeur refers not only to other people, but also to any external force that acts on the will. On Ricoeur’s reading, there are two cases for including the other in the Kantian notion of autonomy: autonomy makes sense only if a certain *receptivity* is presupposed. The first case where the other plays a role is in Kant’s distinction between the empirical character of inclination and the a priori condition of respect for reason. The very distinction between the empirical and the a priori already presupposes a role for *passivity* in the principle of autonomy. Another case is suggested in the very capacity for choice on which Kantian autonomy is based. Choice making capacity, according to Ricoeur, must contain within itself not only a predisposition to determine itself in accordance with law, but also a propensity to determine itself *against* the law. This is what Kant calls a propensity for evil. The penchant for evil, which is a *radical* aspect of our capacity for choice, is “always already present in every opportunity to choose.” (Ricoeur 1992: 218)

there is something that cannot be grasped by formalism alone. The reason is that there contains the plural perspective of person, which is the basis for a political community.

Ricoeur concludes that human freedom is *not* absolutely unconditional. The exercise of freedom rather depends on something else within itself. What makes sense of human freedom is our capacity to resist radical evil. According to Ricoeur, it is necessary for our project aiming at the good life, to pass through the test of universality. In other words, whatever ideal one holds as one's conception of the good life, one must submit one's ideal to the test of universality, because there is the penchant for evil that must be avoided. Thus Ricoeur modifies the Kantian formula. He suggests the following test of universality: "Act solely in accordance with the maxim by which you can wish at the same time that what *ought not to be*, namely evil, will indeed *not exist*." (Ricoeur 1992: 218)

Solicitude and obligation

According to Ricoeur, we must investigate the notion of justice through the linkage between solicitude and obligation. His argument is twofold: first, he attempts to show that the ethical perspective of solicitude is essentially connected to moral perspective of the norm of respect. Second, he seeks to show that the moral perspective of respect springs from the dialogical structure of the ethical perspective of solicitude. Thus Ricoeur's thesis can be put as follows: "Just as solicitude is not an external addition to self-esteem, so the respect owed to persons does not constitute a heterogeneous moral principle in relation to the autonomy of the self but *develops its implicit structure* on the plane of obligation, of rules." (Ricoeur 1992: 218)

The internal relation between solicitude and the norm of respect is underscored by the rule of reciprocity. Ricoeur claims that ‘reciprocity’ gets its meaning from the initial dissymmetry in all action. This dissymmetry is explained by the relation between the agent of an action and its “patient,” the person who suffers, or on whom the action is performed. This dissymmetry constitutes an inequality of interaction, which extends from improper persuasion to murder. More importantly, unbalanced interaction is inherently latent in any attempt by one person to exert power over another.

For Ricoeur, there is “violence” in this dissymmetry. By ‘violence,’ Ricoeur understands the destruction of another’s initiative. Violence, in other words, is “the diminishment or destruction of the power-to-do of others.” (Ricoeur 1992: 220) In this sense, morality is an effort to restore human initiative that has been destroyed by violence. At its core, “Morality replies to violence.” (Ricoeur 1992: 221)

It is worth considering Ricoeur’s comments on this point at length. The following four quotations include some of the most important arguments Ricoeur makes in explicating his view that morality is essentially a response to violence:

The moral problem...grafted onto the recognition of this essential dissymmetry between the one who acts and the one who undergoes, culminating in the violence of the powerful agent. Being affected by a course of narrated events is the organizing principle governing an entire series of roles of sufferers, depending on whether the action exerts an influence or whether its effort is to make matters better or worse, to protect or to frustrate. (Ricoeur 1992: 145)

My claim is that it is violence that the progress of *victimization* generated by violence, which invites us to add a deontological dimension to the teleological dimension of ethics. The latter gives way to an ethics of virtue, the former to an ethics of obligation which I see summarized in the second formulation of the categorical imperative... I insist that it is not desire but violence that compels us to give to morality the character of obligation, either in the negative form of prohibition – “You shall not kill” – or in the positive form of commandment – “You shall treat the patient of your action as an agent like yourself.” (Ricoeur 1988b: 214)

After the predicate “good,” arising at the teleological level, comes reference to the predicate *obligatory*, on the deontological level. This is the level of the norm, of duty, of interdiction. Just as moral philosophy cannot do without some reference to the good, to the wish for a good life, except at the price of ignoring the rootedness of moral philosophy in life, in desire, in what is lacking, and in what we wish for, so the transition from the wish to the imperative, from desire to interdiction appears to be inevitable. Why? For the fundamental reason that action implies a capacity to do something that gets carried out on the interactive plane as the *power* exercised by an agent *on* another agent who is the recipient of this power. This *power over* others offers the permanent occasion for violence in all its forms: from the lie, where only the instrument of language seems to be misused, to the imposition of suffering, culminating in the imposition of a violent death and in the horrible practice of torture, where the will to humiliate exceeds that of merely imposing suffering. In short, it is owing to the *wrong* that one person inflicts on another that the moral judgment given an action has to add the predicate of the *obligatory* to that of the *good*, usually the negative figure of what is prohibited. (Ricoeur 2000: xvi–xvii).

The principle of morality says more, to the extent that it lays the stress not only on the conflictual side of interaction but on the asymmetry between what someone *does* and what is *done to* someone else. In this sense, the formula of obligation does not bring side by side two agents, but an agent and a patient of action.... This point is overlooked in the philosophic tradition of the natural law where the other appears first as someone who may interfere with *my* rights. This other is potentially an aggressor rather than a victim... This initial symmetry between the sender and the receiver of action is perhaps the most important presupposition of the principle of morality at the anthropological level, a presupposition generated by the principle itself and projected on to the field of practice. There is justice... because people are ‘put down’ by the initiative of other agents. Justice is the rule which equalize agent and patient in the process of interaction. This presupposition is expressed in the formulation of John Rawls’s second principle of justice, if it is only implicit in the formulation of his first principle... The equality and reciprocity that the moral rule establishes redresses the presumed inequality and asymmetry implied in the treatment of the other as a means, that is in the use of power, the abuse of which the moral rule forbids, whether this means physical violence, psychological persuasion, intimidation, blackmail, exploitation, manipulation. (Ricoeur 1987a: 108)

For Ricoeur, “it is the irruption of violence in human relations, ... that requires the passage from the teleological style of ethics to the deontological one of morality, or, in other words, from Aristotle to Kant.” (Ricoeur 1996a: 456) Since solicitude

presupposes an interpersonal relationship that is inherently dissymmetrical, a moral point of view is required to reduce or, eliminate the violence that must arise within it. In this sense, morality is a human effort to eliminate or reduce the unavoidable violence generated in the course of human interaction. Underlying all moral demands is a presumption of equality, which in turn presupposes reciprocity or mutuality. For this reason, Ricoeur says: “solicitude, as the mutual exchange of self-esteem, is affirmative through and through. This affirmation, which can well be said to be original, is the hidden soul of the prohibition. It is what, ultimately, arms our indignation, that is our rejection of *indignities* inflicted on others.” (Ricoeur 1992: 221)

From this perspective, human dignity points to the human relationship that reaches for interpersonal symmetry. According to Ricoeur, the Golden Rule, the injunction to “Do unto others as we would have them do unto us,” can be regarded as an effort to restore such symmetrical relations. The Golden Rule serves as a transitional formula between the feeling of solicitude and the obligations generated by Kant’s second categorical imperative. Yet Ricoeur also emphasizes that the Golden Rule, which can be given a positive formulation in the imperative to “love our neighbor as ourselves,” is already directed toward the transition from self-respect to respect for the other and for the law. These two objects of respect correspond to two different aspects of the sense of justice: On one hand, we are directed toward the ethical aim of reciprocal concern according to which one regards the other as oneself and the others’ interests as one’s own. But we are also directed toward an impartial third-person viewpoint which is the source of our formal understanding of justice. From the viewpoint of justice, these two

aspects of reciprocity are two sides of one coin. (Ricoeur 1990: 392-397/ Ricoeur 1995: 293-302)

From the sense of justice to the rule of justice

We have seen that it was Ricoeur's main thesis that the ethical sense of justice is rooted in the attitude of solicitude. Thus Ricoeur argued that the sense of injustice, owing to many different forms of inequalities in human interaction, is more common than the sense of justice. Ricoeur argues not only for the importance of the moral experience of unfairness in the real world, but also argues that feeling plays a pivotal role in moral experience and in the development of our sense of justice. These feelings, which Kant would dismiss as mere 'affection,' play an important role, according to Ricoeur, in the search for justice. Moral experience should progressively develop from feelings into the form of moral and legal obligation.

While justice may leave us placid, Ricoeur emphasizes that injustice calls itself to our attention through the feeling of indignation. We typically experience a sense of indignation at injustice before we have any clear understanding what justice would fully require. In this sense, our sense of injustice has a kind of priority over our sense of justice. Ricoeur repeatedly says:

I deliberately speak of the unjust before the just – just as Plato and Aristotle do so often, and so intentionally. Was not our first entry into the region of lawfulness marked by the cry: "that's not fair"? This is a cry of *indignation*, one whose perspicacity is sometimes confusing when measured against the yardstick of our adult hesitations when summoned to pronounce in positive terms upon the justice or fairness of something. Indignation, in the face of injustice, comes far in advance of what John Rawls calls "considered convictions," whose clash no theory of justice can deny or refuse to consider. (Ricoeur 2000: x)

What do we get indignant about, in the case of shares, exchanges, retributions, if not the *wrong* that human beings inflict upon one another on the occasion of the *power-over* one will exercise in the encounter with another will? (Ricoeur 2000: xvii)

The idea of justice is better named *sense* of justice on the fundamental level...Sense of justice and of injustice...for what we are first aware of is injustice: "Unjust! What injustice!" we cry...The sense of injustice is not simply more poignant but more perspicacious than the sense of justice, for justice more often is lacking and injustice prevails. And people have a clearer vision of what is missing in human relations than of the right way to organize them. (Ricoeur 1992: 198)²²

Later Ricoeur draws attention to the institutionalization of the sense of justice, which may grow from our sense of injustice and gradually develop to the point where we finally articulate universal moral norms. Here we return to Rawls's procedural conception of justice: on Ricoeur's reading, Rawls seeks to secure a political foundation for justice by setting up a procedural device through which we discover the foundational principles of a good society. Rawlsian just institutions are founded on deontological obligations that possess deep teleological roots. Ricoeur fully accepts the possibility that principles of justice might be rationalized in terms of a Rawlsian choice in the original position behind the veil of ignorance. Such a rationalization reflects an appropriate Kantian notion of persons as free and autonomous.

Consider once again Rawls's pure procedural conception of justice. Rawls claims that pure procedural justice is based on the priority of the just over the good. By setting up the initial situation of the "original position" where free and equal persons agree about the fundamental arrangement of social institutions, Rawls attempts to avoid teleological conceptions of justice that are influenced by personal and cultural bias or

²² According to Ricoeur, motives for such indignation are "disproportionate retributions, betrayed promises, [and] unequal shares." (Ricoeur 2000: xi)

prejudice. In order to satisfy the conditions of fairness, Rawls assumes parties who are 'mutually disinterested.' Thus the priority of the 'original position' can be held in contrast with the perspective of the real world.²³

While he is sympathetic with Rawls's view, Ricoeur argues that this project fails in several respects. Pure proceduralism is insufficient to deal with the problem of distribution. Inasmuch as the task of social and political institutions is to seek a just distribution, it is not easy to see how Rawls can deal with the insurmountable task of distributive justice when the things to be distributed are heterogeneous, and when different people may lay claim to very different and perhaps incomparable shares. According to Ricoeur, the main failure of Rawls's project lies in its inability to deal with the heterogeneous character of distributive goods.

Still, Ricoeur considers Rawls's theory of justice to be one of the most important attempts to rationalize our sense of justice. The difference principle is a plausible guide for balancing unequal distributive shares in a political community. And the difference principle, according to Ricoeur, is rooted in the experience of the violation of the solicitude that we ought to have for others by reason of our will to live together, a will that is often forgotten. (Ricoeur 1992: 238-39) Commenting on the 'maximin' rule, Ricoeur writes the following:

For my part, I will say that it is our preunderstanding of the unjust and the just that assures the deontological intention of the self-proclaimed autonomous argument, including the maximin rule. Detached from the context of the Golden Rule, the maximin rule would remain a purely prudential argument characteristic of every exchange relation. The deontological intention, and even the historical dimension, of our sense of justice are not simply intuitive; they result from a long *Bildung* stemming from the Jewish and Christian as well as from the Greek and

²³Rawls tries to fill the gap between the ideal perspective of the original position and that of the real world by employing such notions as 'reflective equilibrium' and 'overlapping consensus.' Nevertheless, he takes the priority of the perspective of the original position in his theory of justice.

the Roman traditions. Separated from this cultural history, the maximin rule would lose its ethical characterization. (Ricoeur 2000: 56)

Ricoeur shares with Rawls the view that our concrete ethical intentions are inherently multiple and may conflict. They are also subject to distortion from contact with our passions or prejudices. Like Kant and Rawls, Ricoeur recognizes that it is necessary to avoid these prejudice and in this sense to purify our internal moral experiences. The institutional expression of our ethical projects, which express our will to live together under just institutions, must be purified in order to be genuinely just. And just as Rawls insists, purification calls for formalized procedural principles that serve as the basis for the rule of justice

Ricoeur's conception of justice, however, underscores the significance of a critical attitude toward our ordinary moral experience, including our cultural background. According to the principle of universality, the critical process can be seen as actual commitment to history. For example, consider the Golden Rule itself that may be understood as an effort to develop the sense of justice, which initially sprang from indignation in response to unequal reciprocal exchange or violent treatment of others. The history of Western civilization, or indeed any other civilization, can be read as a long-term effort to develop and to institutionalize an evolving sense of justice. While our sensibilities and institutions may improve over time, the process is never complete.

The fundamental problem with contractualist conceptions of justice is the unbridgeable gap between the simplicity of the ideal theory and the complexity of the real world. For example, Rawls's theory of ideal distribution suffers from its failure to account for the complexity and heterogeneity of social goods that are to be justly

distributed. For Ricoeur, a reasonable starting point for deliberation about justice is criticism of the complex forms of inequality we see in contemporary society. With the help of the test of universality, the sense of justice inherent in the sense of injustice must emerge, eventually to become part of the rule of law. This does not mean that formal models like Rawls's are ultimately useless as we endeavor to rid our political practices of bias. But formalized procedural justice alone cannot complete the business of specifying the contents of law. It must be supplemented by critical reflection on the features of the distributive goods and on the historical contexts in which the distribution process is to take place.

Rawls implies that the project of justice can (eventually) be finished. According to Rawls, the principles of justice should match our considered convictions in reflective equilibrium. The political conception of justice should be the subject of a possible overlapping consensus among adherents of widely diverse comprehensive doctrines. But according to Ricoeur, the implementation or "actualization" of a conception of justice faces its own problems, quite distinct from the problems involved in justifying those principles. In the course of applying the principles of justice to the real world, we encounter the specificity of political phenomena and must be sensitive to historical and cultural context. Focusing on the difference between justification and actualization, Ricoeur expresses the following concern:

[T]he conflicts that give weight to the contextualist theses are encountered along the path of actualization rather than along that of justification. It is important to be clear about this difference of site so as to not to confuse the arguments that stress the historical character of choice to be made along the second path with the skeptical arguments that are addressed to the foundational enterprise. (Ricoeur 1992: 283-84)

If the attempt to seek principles of justice in just institutions is genuinely valuable, then we should go on to implement these principles in the real world. But this process of implementation is different from the formalized process by which such principles are constructed or abstractly purified. Implementation or “actualization” is yet another distinct stage in the progressive development of a conception of justice. This topic will be addressed in the following sections.

III. From the Just to the Good

One of the most crucial moments in Ricoeur’s contribution to contemporary moral and political philosophy, is what he identifies the “phronetic moment, a moment involving “*phronesis*,” the term used by Aristotle to refer to practical wisdom. *Phronesis* is necessary for the dialectical reconciliation of ethics and morality. It is this dialectical process that culminates in moral judgments in a concrete situation. In *Oneself as Another*, Ricoeur expresses his own thesis as follows:

My wager is that the dialectic of ethics and morality...develops and resolves itself in moral judgments in situation...[I]n the conflicts to which morality gives rise, only a recourse to the ethical ground against which morality stands out can give rise to the wisdom of judgment in situation. From tragic *phronesis* to practical phronesis: this will be the maxim that can shelter moral conviction from the ruinous alternatives of univocity or arbitrariness. (Ricoeur 1992: 249)

Ricoeur argues that we must have “recourse from the norm to the aim, when the norm leads to conflicts for which there is no other resolution than *practical wisdom* which refers to that which, in the ethical aim, is most attentive to the singularity of situations.” (Ricoeur 1991c: 353)

While Ricoeur takes morality to involve individual practical deliberation, we must also recall that he regards moral norms to be relevant to political institutions. He argues that no moral rule can be justified unless it is shown to be universally valid. It is the same with social norms, which must be universally valid if they are to be instantiated in political institutions. But since the implementation of universal moral norms to concrete social circumstance depends on historically bound social contingencies, it is possible that universal moral norms may clash with each other or with community values.

In concrete contexts, the exercise of moral judgment can lead to a “tragedy of action,” as discussed in Chapter 2. The “tragedy of action” consists in the fact that not all values can be simultaneously fulfilled in a political community.²⁴ Since there is a plurality of universal norms, not all universal norms can be actualized even if they are genuine moral norms. This means that no merely theoretical solution can resolve conflict where values and norms clash. The only option is a practical one, that is, we must make tragic decisions among competing values, and some will lose out.²⁵ What we need in this situation is *practical wisdom*, or *phronesis*, critically guiding our deliberation and choice. (Ricoeur 1992: 241–54/ Ricoeur 1996a: 458)

The emphasis here is on the “critical” dimension of practical wisdom. The reason employment of *phronesis* must be critical is that critical *phronesis* is not the same as “naïve” *phronesis* that seeks the best means to the end in question. What Ricoeur

²⁴ See Berlin 1991: 13 and Rawls 1996: 197.

²⁵ What is missing in contemporary dispute about justice, according to Ricoeur, is this tragic dimension of human action. Consider contemporary dispute between the universalist claim and the contextualist or communitarian claim concerning justice. Ricoeur argues that “There would be no room for a tragedy of action unless the universalist claim and the contextualist claim had to be maintained each in a place yet to be determined, and unless the practical mediation capable of surmounting the antinomy were entrusted to the practical wisdom of moral judgment in situation.” (Ricoeur 1992: 274)

identifies as *critical phronesis* is that which seeks wise judgments when universal moral norms clash with one another.

This critical *phronesis*, however, calls for a return to our initial ethical aim. We should recall that genuine moral conflict can be solved only by appeal to wise decisions in concrete situation. This means that the solution at which we arrive in cases of conflict will be inherently fragile. According to Ricoeur, moral judgments can be made under conditions of uncertainty and in the face of serious conflict. Here the just refers to “a unique decision,” which is based on “one’s heart of hearts.” (Ricoeur 2000: xxi) Hence, “the search for justice ends with a *heartfelt conviction*.” (Ricoeur 2000: xxi) An appeal to a heartfelt conviction leads him to argue that there is another name that fits to the idea of justice at this phase. Drawing the Aristotle, Ricoeur calls it the “equitable.” Once again, it is appropriate to quote Ricoeur at length. The following three quotations elucidate his notion of the ‘equitable’ and its relationship to the “tragic” aspect of public choice:

Aristotle concludes, “And this is the nature of the equitable, a correction of law, where it is defective owing to its universality.” When we reread these lines today, we tend to think that public debate and the decision making that results from it constitute the only agency qualified to “correct the omission” that today we call the “legitimation crisis.” Equity, we shall conclude, is another name for the *sense* of justice, when the latter traverses the hardships and conflicts resulting from the applications of the *rule* of justice. (Ricoeur 1992: 262)

On the teleological plane of the wish to live well, the just is that aspect of the *good* relative to something other. On the deontological plane of obligation, the just is identified with the *legal*. It remains to give a name to the just on the plane of practical reason, the one where judgment occurs in a situation. I propose that the just then is no longer either the good or the legal, but the *equitable*. The equitable is the figure that clothes the idea of the just in situations of incertitude and of conflict or, to put it a better way, in the ordinary – or extraordinary – realm of the tragic dimension of action. (Ricoeur 2000: xxiv)

As for the “place” where the junction between examination and charging or discharging takes place, this is no longer moral judgment considered from the angle of its claim to universality, but rather moral judgment in some concrete situation. Indeed, it is at the level of practical wisdom, when the wish for a “good” life invests itself in the tragic dimension of action [*le tragique de l'action*], beyond the commandments and the general maxims of morality, that conscience gets combined with moral imputation properly speaking. It is also at this level that justice turns into equity. Taken on the abstract moral plane, obedience to the rule of justice demands, on the one hand, that similar cases be treated similarly, and on the other, that everyone receives his or her due from what can be unevenly divided. It is in light of concrete situations, and of what we can rightly designate as “cases of conscience,” that equity pronounces what here and now is just. “As Aristotle says...Such is the nature of the equitable: it is a corrective to the law, where the law lacks the ability to pass judgment because of its generality.”...[I]nward conviction and real equity toward others thus constitute the privileged “places” of the actual junction between the descriptive dimension of conscience and the prescriptive dimension of moral imputation. (Ricoeur 1996a: 458)

In what follows, I shall try to illustrate Ricoeur’s account of the exercise of practical wisdom in a concrete situation. My aim is to show how and why each moment of the triadic structure of the ethical project may inevitably generate conflict that allow us to make room for the tragic dimension of human action.

Institutions and Conflict

Political conflict arises in two different ways. *Distributive* conflict arises in the function of political institutions, while another kind of conflict, what Ricoeur calls the “Paradox of politics,” arises in the legitimation of such institutions.

Conflict over the public distribution of social burdens and benefits is inevitable because of the irreducible diversity and heterogeneity of social goods to be distributed. Ricoeur makes this point as follows:

The possibility of conflict seemed to us to be already inscribed in the equivocal structure of the idea of just distribution. Does it aim at separating out the interests of mutually disinterested individuals or at reinforcing the bond of cooperation? The expression 'share' and 'sharing' appeared to us to betray this equivocality already on the level of language. (Ricoeur 1992: 250)

Recall again Ricoeur's argument for the claim that Rawls's principles of distributive justice are inadequate: the theory of primary social goods is too thin to cope appropriately with the problem of distribution. And as Ricoeur points out, "a genuinely conflictual situation appears when, digging under the pure rule of procedure, one unearths the diversity among the goods that are distributed which the formulation of the two principles of justice tends to obliterate." (Ricoeur 1992: 251) Rawls gives inadequate attention to the heterogeneity of the primary goods, and overlooks the "historically and culturally determined character of the estimation of these goods." (Ricoeur 1992: 251) For Ricoeur, the historical and cultural determination of social goods is politically important, because "a political philosophy constructed entirely around the theme of the heterogeneity of social goods is poorly armed to pose the problem of the self-constitution of the political body along with the connected problem of its self-limitation." (Ricoeur 2000: 89-90)

For Ricoeur the theoretical problem of distribution is very familiar: given that there are several distinct domains of goods, and that different distributive criteria apply to each, how can any political society hope to distribute these goods in a way that is ideally just? (Ricoeur 2000: 77) If what we are seeking is a distinctive set of criteria that allows for the diversity of social goods, then the theoretical question is how we can leave room for "the new possibilities for regrouping the political community and its justice." (Ricoeur 2000: 77)

And this theoretical question has practical implications as well.²⁶ Ricoeur applies it to the significance of European unification, and asks how we can establish trans-national institutions to which traditional nation-states should concede their political authority and jurisdiction. If we hope appropriately to address the problem of distribution, argues Ricoeur, we need to pay a special attention to what he calls “juridical pluralism.” Juridical pluralism is the framework that allows for “infrastate differentiation of generative instances of right.” (Ricoeur 2000: 76) In his discussion of this issue, Ricoeur’s pays special attention to the works of Michael Walzer and Luc Boltanski and Laurent Thévenot.

According to Ricoeur, all of these theorists adopt a similar strategy, in spite of differences in their objectives. They all emphasize social conflict that would be generated by “the competition among [the] spheres of justice and by the threat of one being tramped by another.” (Ricoeur 1992: 252) For Walzer social conflict comes from the clash between “symbolic systems,” while for Boltanski and Thévenot the sources of conflict are deeper, and involve principles of justification.

Walzer recommends a ‘complex equality’ which he hopes will be sensitive to cultural diversity and to the different valuations people impose on goods. Each social good is supposed to have its own internal logic, and the value people place on these

²⁶ According to Ricoeur, the political organization of the future of Europe calls for such a possibility. As he says, “The problem is familiar enough. Taken as a whole it is a matter of combining ‘identity’ and ‘alterity’ at numerous levels that will need to be distinguished. What we most desperately lack are models of integration between these two poles.” Relying heavily on the theory of narrative identity, Ricoeur concludes that “[a] new ethos is born of the understanding applied to the complex interwinning of new stories which structure and configure the crossroads between memories. It is a matter there of a genuine task, of a genuine labour, in which we could identify the *Anerkennung* of German Idealism, that is, ‘recognition’ considered in its narrative dimension.” (Ricoeur 1995b: 7) The practical solution depends on its theoretical problem, that is, the possibility to dialectically integrate between the same and the other. With respect to this issue, Ricoeur tries to offer a possible, not definite, account in his tenth studies of *Oneself as Another*.

goods will be culturally contingent. Similarly, Boltanski and Thénovot note the diversity of social goods, each connected with its own sort of good. Like Walzer, they try to uncover the meaning of the irreducible complexity of the claims and demands made by different persons and groups in contemporary democratic society.

Nevertheless, it is important to see that there is an explicit difference between their objectives. Walzer seeks an egalitarian society that is free from domination. He hopes to find a way to insure that social goods are not used as means of domination. Since Walzer's solution is focused on the differentiation of the spheres of justice rather than on their integration in a society, Ricoeur takes the Walzerian project to be an "abolitionist project." On the other hand, Boltanski and Thénovot aim to overcome social discord—quite a different aim from Walzer's. Admitting that there are conflicts among the members of a society, they ask how we can "justify agreement and manage disagreement without succumbing to violence?"(Ricoeur 2000: 81) Their concern is for the multiplicity of principles for the justification of claims that are employed in pleading and fending off criticism.

For Ricoeur, however, there are problems both approaches. Walzer's important contributions, argues Ricoeur, lies in his recognition of the unique status of political power. While Walzer is also concerned with such concepts as sovereignty, authority, and the decision making, Ricoeur argues that he should be read as emphasizing the role played by power in the political domain in comparison with other spheres. As Ricoeur understands Walzer's view, the peculiar role of the political domain is to *demarcate the border between different spheres in a just way*. We should seek to keep the appropriate distance between spheres. And we must concentrate on the nature of political power:

The most important peril for our societies comes from the coalition between property as power over things and political power as exercised over human beings. (Ricoeur 2000: 81)

But how are we to determine what political power can and cannot rightly do?

Walzer's answer focuses on the "question of who governs." (Ricoeur 2000: 80) Referring to the metaphor of the captain of the ship in Plato's *Republic* (488a-489a), Walzer seeks a democratic criterion, according to which it is the responsibility of the passengers to determine the risks. Thus the question of who governs, as Ricoeur reads this view, entirely depends on the conjunction of wills. (Ricoeur 2000: 81)

However, Ricoeur claims that the Walzerian project fails to recognize the paradoxical nature of the political domain. He would have us ask, "Is the political domain really akin to other spheres of social goods? Is there no specific phenomenon of political power?" Insofar as the political domain is the sphere of distributive justice, its role is not only to insure its own border, but also to separate the other spheres from one another. If this is true, then the political domain must limit itself in a certain way.

The problem with the Walzerian project, argues Ricoeur, is to explain how multiple spheres can be unified in a political community. It is Walzer's strength that identifies an internal logic in the process of evaluating social goods. But this internal logic entails the possibility for distortion when a good belonging to one sphere is treated as though it belongs to another. According to Ricoeur, Walzer never raises the deepest questions: questions concerning of the foundation of body politic, the ultimate sources of law, and the problem of political obligation.

The project of Boltanski and Thévenot has some advantage over Walzer's since they are only concerned to show the *possibility* of social harmony. Where Walzer

discusses “spheres” of justice, Boltanski and Thévenot divide aspects of justice into different “cities,” each of which contains its own standards.²⁷ They hope to describe the achievement of social harmony in an overarching “civic city” in which commercial, domestic, industrial, religious and other normative standards are harmoniously combined. But their view is weak for some of the same reasons that make it similar to Walzer’s: Like Walzer, they are unable to explain how their meta-city can unify different standards that apply in different underlying ‘spheres.’ Questioning how politics can be kept within its proper boundaries, Ricoeur writes:

The analysis of the civic city leads to the same perplexities as does that [of the Walzerian] sphere of political power. Is the civic city...a city like all others? Is its paradox not that it also envelops all the other cities? (Ricoeur 2000: 86)

According to Ricoeur, Boltanski and Thévenot cannot account for the paradoxical nature of political society, which depends on the possibility of agreement in the face of conflict. Thus the unity of political power can be attained only at the cost of discord among spheres or cities. The implication is simple: social conflict cannot be overcome by the internal logic proper to city or sphere. The only path toward the resolution of deep social conflict is compromise.

For Ricoeur the strategy of compromise is the beginning of a tragic vision of action. Its form is inherently paradoxical. On one hand, the way to compromise is fundamentally violent because there can be no independent external principle that allows us to criticize the standards of justification relevant in a particular city or sphere. On the other hand, compromises follow their own principle, a principle that is crucial to the very constitution of political society: violence is to be avoided. This paradox must impress

²⁷ They include (1) the inspired city, (2) the city of opinion, (3) the market city, (4) the domestic city, (5)

upon us the fragility of political action. When we are following the crucial principle of compromise, it seems inevitable that “the principle intended by a compromise remains fragile as long as it cannot be referred back to a form of common good constitutive of a city.”(Ricoeur 2000: 92) Thus Boltanski and Thévenot’s approach reveals the paradoxical nature of politics. It says:

If some higher common good is affected by the compromise, as a general figure of interaction, it is just as indeterminate as the bond set up by the compromise is fragile. Outside the utopia of Eden there is only the possibility of dealing with disagreement in terms of compromises always threatened by turning into a compromising of principles, on a slippery slope that recalls the perverse effect denounced by Walzer under the heading of conversion. (Ricoeur 2000: 92)

After a careful reading of these works, Ricoeur concludes that our political theories must address the status of political society and the role of the state. The state as the main source of rights has its own paradoxical nature: while each right has its own meaning, its own proper function, the separate rights that comprise the juridical sphere are different from the totality of that sphere. Just as Rousseau’s general will combines the wills of different individuals into an independent whole, the individual rights must be combined into a juridical sphere that represents, but is independent of the individual component rights. Political wholes have their own logic, not reducible to the logic of their components. Reflection on the relationship between political wholes and their parts leads us to a new form of the political paradox. Ricoeur writes:

Just as we shall have to deal with a complex situation, stemming from the intertwining of several agencies of juridicity at the level of the state and the superstate, so too we shall more and more have to deal with a symmetrical situation issuing from the intertwining of several sources of juridicity at the infrastate level. (Ricoeur 2000: 93)

The political paradox consists in a fundamental gap between our desire to live together and the domination that must always result from the imposition of the political domain. Neither power-in-common nor domination can be eliminated from political life.

For Ricoeur a theory of political justice must address the tension between ‘power in common’ and ‘domination,’ and it does this through democracy. For Ricoeur the notion of the political refers to “the set of organized practices relating to the distribution of political power, better termed domination.” (Ricoeur 1992: 257) This means that the political contains not only the vertical relation between the governing and the governed but also the horizontal relation between free and equal persons. (Ricoeur 1992: 257) If the gap between power-in-common and domination is ineliminable from the political domain, then political justice must simply strike a balance between them. The aim of democratic rule is to insure that domination is under the control of power-in-common. (Ricoeur 1992: 257) From Ricoeur’s point of view, however, this democratic task is endless. Political authority, which constitutes the very structure of the political, has its own justification from anterior mythical foundations. Emphasizing that political authority cannot be reduced to the notion of autonomy, Ricoeur writes:

Before the moral law, there is always a moral law, just as before Caesar, there is always another Caesar; before the Mosaic law, there are Mesopotamian laws, and before these are yet another and so on. Here we find a sort of always-already-present, which causes any effort to discover a dated beginning to fail as it encounters the perspective of the origin. It is as though there were a dialectic of the origin and the beginning: the beginning should be able to be dated in a chronology, but the origin always slips away, at the same time as it surges up in the present under the enigma of the always-already-there. (Ricoeur 1998: 100)

One lesson to be gained from reflection on the political paradox is that institutional mediation and responsibility are inherently fragile. No political institution is

free from the structure of domination which calls for the use of violence. Where institutions are legitimate, such violence may not be harmful. But Ricoeur emphasizes that politics has a propensity to corruption. Politics always threatens to undercut the will to live together whence power comes. Hence political power is inherently fragile and calls for vigilant and responsible action.

To have responsible action we need to recognize conflictual situations that emerge from contemporary political practices. Ricoeur enumerates three possible areas of conflict in political practice, stemming from problems of deliberation, of polysemy concerning the end of good government, and of legitimacy.

The first area of conflict is derives from the nature of political deliberation. We exercise political deliberation whenever we try to determine “an order of priority among the competing demands of [the] spheres of justice” or “the priorities ...among primary goods,”(Ricoeur 1992: 257). For Ricoeur, however, political deliberation is significant for several reasons. First, objects of political deliberation are multiple and always subject to change, and decisions regarding them are always open to criticism. Second, perhaps most importantly, political deliberation applies to particular decisions. It aims at wise judgment in a particular context. For that reason, political deliberation is akin to practical wisdom. And practical wisdom is not limited to personal decisions, but extends to collective decisions as well. Ricoeur writes:

Practical wisdom is not a personal matter; it is, one might say, a *phronesis* of the many. It is public, like the debate itself...Equity thus shows itself to be another name for the sense of justice, when the sense of justice has passed through the conflicts generated by the application of the rule of justice itself. (Ricoeur 1991a: 270)²⁸

²⁸ “Cette sagesse pratique n’est plus une affaire personnelle: c’est, si l’on peut dire, une *phronesis* à plusieurs, publique, comme le débat lui-même. ... L’équité s’avère ainsi être un autre nom du sens de la justice, quand celui-ci a traversé les conflits suscités par l’application même de la règle de justice.”

Conflict is inherent to democratic rule in contemporary society, and democratic rule is workable only on the supposition of inherent conflict among citizens. Democratic conflict resolution proceeds by open and negotiable rules of arbitration. (Ricoeur 1992: 258) This means that democratic rule cannot be based on a ‘science of praxis,’ which seeks to found the practical order on a system of knowledge. (Ricoeur 1991b: 199) Despite its attractiveness, Ricoeur claims, “nothing is more disastrous theoretically, or more dangerous politically, than the claim to knowledge in the areas of ethics and politics.”(Ricoeur 1991b: 205)

One attractive feature of democracy is that it provides a method for coming to political decisions even in the face of ineradicable conflict. As Ricoeur puts it, “political discussion is without conclusion, although it is not without decision.”(Ricoeur 1992: 258) Sometimes political debate can only be brought to a close by the exercise of practical wisdom.

The second source of conflict is the polysemy of the term “the ends of good government.’ These ends are typically described in terms of ‘security,’ ‘prosperity,’ ‘liberty,’ ‘equality,’ ‘solidarity,’ and so on. But since these terms have so many different meanings, they are subject to controversy, and questions about the ends of good government can never be finally settled. This leads us to the “tragic” situation of political life. As Ricoeur points out, “the irreducible plurality of the ends of ‘good’ government implies that the historical realization of one set of values can be obtained only at the

Ricoeur also argues (Ricoeur 1992: 258) that *phronesis* “has its equivalent the judgment in situation, which, ... in Western democracies, proceeds from free elections. ... In this judgment in situation, which the advanced democracies identify essentially with majority vote, the sole equivalent of *euboulia* – good deliberation – ... is the enlightened judgment one can expect from public debate.”

expense of another set; in short, this implies that one cannot serve all values at once.”(Ricoeur 1992: 259)

Even the legitimacy of democracy itself is a possible area of conflict. Democracy is an attempt to justify domination in terms of the will to live together. Ricoeur’s discussion sheds new light on the legitimacy of democracy. Following Claude Lefort, Ricoeur makes two crucial assertions about democracy. First, the appeal of democracy is partly explained by the significance of the symbols it invokes—those of equality, liberty, and autonomy. It is our ongoing democratic discussion that gives these symbols their meaning. Second, perhaps most importantly, radical democracy is characterized by a “fundamental indeterminacy as to the basis of power, law, and knowledge, and so to the basis of relations between *self* and *other*, at every level of social life.”(Ricoeur 1992: 260) In radically democratic institutions, all social rules are in principle open for democratic debate. In such a case, political institutions are “indeterminate” in the sense that they may be called into question and put to vote.

Ricoeur regards this radical conception of democracy as excessive: democracy does not immediately imply that everything is possible. The restrictive character of democracy is contained in the symbols it invokes. Inasmuch as democracy is concerned with the formative symbolism of society, it is important to attend to the reasons why the members of society want to live together in the first place. These reasons constitute the general desire to live together. Although it is de-contextualized, Ricoeur argues that Rawls’s original position is an attempt to provide a reason for us to live together.

For Ricoeur the only way to escape from conflict at the institutional level is to reconcile universality with historical contingency. But this necessarily raises the problem

of how it is possible for universality to be applied in a historically contingent situation. For Ricoeur this process culminates when universality is internalized by individual members of society. Further, justice calls on each of us to examine his or her cultural roots. It requires a creative dialectical compromise between tradition and innovation. These creative processes are not limited to one set of traditions. Ricoeur dares to recommend that all the different cultural traditions around the world should be reinterpreted and subject to ongoing internal and external critical examination.

Respect and Conflict

It is often pointed out that the first and second formulations of the Categorical Imperative may conflict with one another. Kant argues that the second formulation is a continuation of the first, and that the progress from one form to another is seamless. Ricoeur does not deny that the search for a principle of autonomy will be a continuous process. But he claims that there is potential conflict. The second formulation says, “treat humanity whether in your own person or that of another always as an end in itself and never simply as a means.” Ricoeur says that this formulation contains a new idea—that of human plurality. Unlike the first formulation of the categorical imperative, which stresses the universality of rules, Kant’s second formulation insists upon the uniqueness of each person and directs our attention to interpersonal relations. Thus the Kantian idea of respect is split: it involves both respect for law and respect for persons.²⁹ For Ricoeur

²⁹Respect for persons in Ricoeur’s account can be passed by the test of universalization. Like the Golden Rule, the notion of humanity, introduced in the second formula, presupposes the dissymmetry between agent and patient. (Ricoeur 1992: 223) For that reason, respect for persons becomes a moral norm for interpersonal relations.

potential conflict between respect for law and respect for individuals is not easily reconciled. But is this a genuine conflict in Kant's theory?

To answer this question, we need to take into account how conflict arises in Kant's theory. Ricoeur's interpretation begins with a review of the Hegelian objection that Kant's ethical theory is empty formalism. (Ricoeur 1992: 263-64) But such an objection, claims Ricoeur, is misleading. It is based on a misunderstanding about the role of the maxim in Kant's theory. To surpass this objection, we note two things: First, there must be multiple maxims in order for the rule of universalization to make sense. Without a multiplicity of maxims, it would be absurd to speak of the test of universalization. Second, it is quite possible that multiple maxims might successfully pass the test of universality. Ricoeur asserts that in such situations there is simply a plurality of duties which results from the plurality of maxims. Since the rule of universalization is general and applies to a diversity of situations, while a maxim is specific and concerns a problem in everyday moral experience, there are multiple maxims. Because we have many moral obligations claiming our attention, it is possible that individuals of good will may respond differently to distinctive situations.

For Ricoeur the role of maxims in Kant's moral theory is twofold. (Ricoeur 1992: 263) First, maxims are to be subsumed under a rule. Second, a maxim is itself a rule that applies to a concrete situation. The potential for conflict arises from the application of a general rule to a concrete situation. The reason is relatively simple: the sole criterion for subsuming a maxim under a rule is the absence of contradiction internal to the maxim itself (discovered in the universality test). But in application, particular circumstances must be included in the maxim as subject to the test of universality.

To see the point clearly, I follow Ricoeur to concentrate on Kant's own example of a false promise. (Ricoeur 1992; 264-5) In Kant's view, making a promise is essentially a self-consistent principle that has its own internal integrity. As a principle of one's own integrity, a false promise is unacceptable because in adopting the rule permitting false promises I allow an exception for my own advantage. This, argues Kant, is self-contradictory: my rule of action will destroy itself. The test for applying a moral rule in a particular situation is somewhat different. In such a context, as I consider the morality of a given course of action, I must focus on the wrong I might do to others. This is not simply a move from action through maxims to their criterion and the test of universality. Kant's second categorical imperative is crucial for the application of universal rules: if I make a false promise, I in effect treat you as a means to preserve my own self-consistency. Here there is potential conflict between respect for the law and respect for persons. In such situations, it may be difficult to come to a decision. But such conflicts are inevitable.

According to Ricoeur, keeping one's promise is not simply to be understood as a matter of self-integrity. Keeping a promise is also a matter of reciprocity, and involves a principle of fidelity. Ricoeur emphasizes the dyadic structure of promises, the relation between promiser and promisee. Here the Golden Rule of reciprocity comes to play: Judged by the rule of reciprocity, the obligation to keep one's promise presupposes a plurality of persons. More importantly, effective promising requires a witness. The witness may be an institution that sanctions the commitment. The institutions based on a legally binding contract are possible because their signifying meaning can be derived

from the dyadic structure of fidelity. Because of its interpersonality, the principle of fidelity becomes a rule of justice. (Ricoeur 1992: 266)

Ricoeur argues that it would be easy to ignore the dyadic structure of the promise. For example, we may ignore the person other than the promise-maker and the distinctive situation in which he lives. But to do so is to overlook one's commitment to be faithful to others. According to Ricoeur, the dyadic structure of the promise as a principle of fidelity is best expressed in Marcel's notion of availability or disposability (*disponibilité*). (Ricoeur 1992: 268) By 'availability' Ricoeur understands a willingness to respond to the expectation of someone else. Thus Marcel claims, "all commitment is a response." (Ricoeur 1992: 267-8) In other words, when I make a promise to you and you accept it, this means that you in effect say that you expect me to do something that is good for you and I in effect reply that you can count on me to do it. This makes it easy to understand why Kant says that false promise is not really a promise at all.³⁰

If fidelity consists in my response to the expectation of someone who reasonably believes that she can count on me, the justification of these expectations will depend on how I apply the rule to 'keep promises' to particular circumstances. But it is quite possible that there are circumstances when, for the sake of the one who counts on me, I ought not to keep the promise in question. As Ricoeur argues, these cases show that

³⁰Kant says that "the universality of a law which says that anyone who believes himself to be in need could promise what he pleased with the intention of not fulfilling it would make the promise itself and the end to be accomplished by it impossible; no one would believe what was promised to him but would only laugh at any such assertion as vain pretense." (Kant 1990: 6. 422) But we should recall that the Marcellian notion of availability is to be distinguished from the Kantian principle of autonomy. The Kantian principle of autonomy underscores the formal aspect of the notion of universal legislation, while the Marcellian notion of availability is "creative fidelity," "beyond legislation as well as beyond autonomy and management." (Marcel 1964: 160) As Muldoon points out, it is important that "the other is already present in the surging forth of existence. In any affirmation of my own existence, the existence of the other is affirmed." (Muldoon 2002: 17)

“practical wisdom consists in inventing conduct that will best satisfy the exception that solicitude requires, by breaking the rule to the smallest extent possible.”(Ricoeur 1992: 269)

For Ricoeur, *phronesis* is always required when we try to fit universal rules to the exigencies of concrete cases. We may note three features of the exercise of practical wisdom in such cases (Ricoeur 1992: 269-72): First, *phronesis* must be pursued without violating the principle of respect for persons. Second, *phronesis* is no mere compromise, but a reconciliation of opposed claims that is itself superior to them. In this sense, *phronesis* is akin to the ‘just mean’ in Aristotle’s sense. Finally, *phronesis* aims to eliminate arbitrariness as far as this is possible. And in the exercise of *phronesis*, we should pay careful attention to the advice and example of those who are competent and wise.

In sum, practical wisdom applies where respect for the law and respect for persons seem to be in conflict. In such cases, practical wisdom requires that we direct our attention to the ethical intention of solicitude, where each person should be respected in his or her uniqueness. But when we listen to the voice of solicitude, we are not simply bowing to our subjective feelings. For solicitude itself must involve critical reflection and respect for others. (Ricoeur 1992: 273)

Autonomy and Conflict

On Ricoeur’s reading, Kant offers two closely related but distinct notions of autonomy. One of these notions, which appears mostly in Kant’s moral writings, is

moral. In the *Critique of Practical Reason*, Kant attempts to demonstrate that the notion of autonomy is rooted in the a priori connection between freedom and law. Hence, freedom is *ratio essendi* of law, while law is *ratio cognoscendi* of freedom. In Kant's moral view, freedom and law are "reciprocal concepts." (Kant 1990: 4. 450) Kant's strict formalism supports this essential connection with the aid of the universalizability test. The other notion of autonomy is political. In "What is Enlightenment?," Kant employs an ideal of autonomy, according to which autonomy simply implies that one is regarded as a full, adult citizen. Ricoeur argues that this political sense of autonomy is more militant, asserting that we need to "have the courage to use your own reason," "*sapere aude.*" (Kant 1990: 7. 35)

From the beginning, Ricoeur argues that the notion of autonomy is not self-sufficient, since it is closely bound to the companion notion of heteronomy. For Ricoeur, the notion of autonomy is internally and externally dependent upon others. The "external dependency" of autonomy can be accounted for in terms of the fundamental gap between the moral conception and the political conception of autonomy. The moral conception is 'egoistic,' in that it is concerned with the discovery of moral law for oneself. But the political conception is essentially public, and the exercise of this form of autonomy involves public dialogue. Kant argues that to be morally autonomous is to be free from inappropriate self-interest. This is one way in which Kant understands universalizability. But Ricoeur argues that the political notion of autonomy becomes problematic when it is applied to the plurality of persons at the institutional level. In this context, autonomy cannot consist simply in the possibility of non-contradiction in one's maxims. Political autonomy will be fragile and impure, since we cannot entirely free ourselves from the

influence of others as we make political judgments. In other words, a “predialogical status of the autonomous self” (Ricoeur 1992: 274) is empty at the outset. This political idea of autonomy can be obtained by combining the rule of justice on the institutional plane with the rule of reciprocity on the interpersonal level. It is thus quite different in its application from the moral notion, and involves only a negative sense of liberty.

In the search for an account of political autonomy, there are “three aporetic ‘places’” that are encountered, and which account for the internal dependency of autonomy. For Kant, autonomy is the principle of morality, attested to by a “fact of reason.” But Ricoeur contends that even affirming this principle of morality will leave room for being affected by ‘the other.’ First, the expression of the ‘fact of reason’ presupposes a certain ‘receptiveness.’ Ricoeur is skeptical about the possibility of self-positing law without any affection, and even Kant believes that affect is required, at some level, as a motive. Second, Ricoeur argues that ‘the other’ is necessary for the introduction of this motive, but affective motives are themselves subject to moral evaluation. This affection is a cause of the fragility or impurity of human action. And on Ricoeur’s reading of Kant, this affective motivation has an intrinsic “propensity to evil.” The affection that Kant calls reverence, an attitude of intense respect for law, provides a motive that contingently prompts us to follow our capacity to act from duty. (Ricoeur 1992: 275) But because its motivational effect is merely contingent, this affection of respect includes within itself our capacity for radical evil. Our capacity for autonomy is inextricably bound to our capacity for radical evil.

Since political autonomy depends on otherness, its achievement must be accomplished with others in a political domain. Unlike a moral idea of autonomy, the

political idea cannot be a fact. The notion of autonomy as a political ideal requires that we seek a middle ground between two axes. One axis highlights “each person’s uniqueness, irreplaceability, and self-esteem for his or her capacities to do.” The other axis stresses the particular historical community that exists independently of the person’s will. The task of autonomy is the dialectical reconciliation of these two axes. Ricoeur writes:

The identity of each person, and therefore his or her autonomy, can be worked out between these two poles. The entire task of education is to conduct an interminable negotiation between the request of uniqueness and a social pressure that always threatens to reconstitute the conditions of what the Enlightenment calls the state of minority. (Ricoeur 2001: 96)³¹

According to Ricoeur, we cannot cope with the ethical roots of justice if we restrict ourselves to juridical notions of justice. It is for this reason that practical wisdom is required in the political domain. Ricoeur insists that the external notion of right and the moral notion of autonomy can be understood to be complementary if we see them in the context of Kant’s entire philosophical system. The reason for urging that autonomy is an achievement, not a fact, is that it leaves room for a constructive element in the application of universal moral norms to particular cases.³²

The need for the right decision in specific circumstances leads Ricoeur to emphasize the significance of practical wisdom in reflective judgment. Insofar as there is

³¹ “L’identité de chacun, et donc son autonomie, se construit entre ces deux poles. C’est toute la tache de l’éducation de conduire une interminable négociation entre la requête de singularité et une pression sociale toujours susceptible de reconstituer les conditions de ce que la philosophie de Lumières a appelé état de minorité.” What Ricoeur calls the “state of minority” is the “state of tutelage,” which is “man’s inability to make use of his understanding without direction from another.” (Kant 1990: 7. 35)

³² Despite the fact that there is a coherent legal system, Ricoeur underscores the role of decisions performed by the judge in the application of new cases. As in Dworkin’s case, the role of the judge is not only to preserve some coherent sets of rules but also interpret and give critical assessments them in what he identifies as the “hard cases.” Therefore, Ricoeur argues that the role of the judge is akin to that of wise judgment in specific circumstances.

a plurality of rules that are universally valid, their application to specific circumstance will always be difficult to judge. Thus the search for right decisions resembles judgment of the particulars that have unique characteristics.³³ The aim to achieve right decisions in relevant circumstances would remain as a kind of moral conviction. But it is important to see that this kind of conviction is by no means arbitrary, for it is rooted in self-esteem based on group membership, solicitude, and senses of justice. This sense of the ethical is not fully captured by universal moral norms. It is thus the unfulfilled aim of ethics.

In reflective equilibrium, Rawls seeks the ethical roots of justice and universal norms, a balance between theory and judgment, between universalism and particularism. But Ricoeur urges that there is a danger that is to be avoided in this process. The danger is uncritical acceptance of convention that can easily fall into relativism. The only way to avoid such relativism, argues Ricoeur, is critically to examine our ethical aims and choose those that are best.

Ricoeur aims to reconcile universalism and particularism through his conception of “argumentation.” Ricoeur’s conception of argumentation integrates a contextualism that respects particular convention, practices, and ways of life inspired by historical traditions, and a universalism which subjects contextual norms to the test of universality.³⁴ The validity of conventions depends on critical reflection, which transforms mere conventions into “well-considered convictions.” This is a “subtle

³³ The call for right decisions in the application to specific circumstances is named by Ricoeur as “specific spheres of applied ethics.” Ricoeur mentions four spheres of applied ethics which the idea of practical wisdom plays crucial roles: “the political field, ... the field of historical judgment, the field of judiciary judgment, the field of medical judgment.” (Ricoeur 2002: 288) See also Ricoeur’s “De la morale à l’éthique et aux éthiques,” in his 2001: 55-68

³⁴ For Ricoeur, argumentation critically operates within convictions. A critical examination of convictions and of traditions cannot be weighed by some ‘external’ point of view. The function of argumentation is not to eliminate convictions but rather to bring them to the level of considered convictions in reflective

dialectic between *argumentation* and *conviction*, which has no theoretical outcome but only the practical outcome of the arbitration of moral judgment in situation.” (Ricoeur 1992: 287/ Ricoeur 1996a: 458) In still another way, this must involve an unending interplay between critical attitudes and the deontological quest. For the interplay between deontology and teleology will go on until it “finds its highest – and most fragile – expression in *the reflective equilibrium between the ethics of argumentation and convictions*.” (Ricoeur 1992: 289/ Ricoeur 2000: 175)

Concluding Remarks

Ricoeur’s conception of justice is one of the most serious efforts to overcome the controversy between universalist and contextualist conceptions of moral norms.

Ricoeur’s solution begins with the distinction between teleological and deontological strategies. Ricoeur offers a way to reconcile these two approaches without losing what is distinctive in each. He argues that the idea of the just plays different roles at different levels of discussion. In the teleological moment, the just is equivalent to the good, the ethical desire to live together under just institutions. In the deontological moment, the just refers to the moral or the legal. And finally the notion of the just designates the equitable in the phronetic situation that arises in the context of public political discussion.

Ricoeur summarizes his own argument as follows:

These three chapters have a twofold structure: vertical and horizontal...each of these levels is constituted by three terms: the same, the other who possesses a face, and the other who is a third party, the subject of justice. My problem is to transport this triad from one level to the next. And to begin with, to constitute it

equilibrium Rawls talks about. Argumentation already involves the interpretations and evaluations of the multiple heterogeneous good at stake in the practices of all sorts.

on the first level, by saying that ethical life is the wish for personal accomplishment with and for others, through the virtue of friendship and, in relation to a third party, through the virtue of justice. This leads me to say that justice is already a structuring component on the lowest level. It seems to me important to stress this initial characterization of the just as a figure of the good; it is the good with and for another, for another who does not have a face but who is the *socius* that I encounter in institutions; it is the other of institutions and not the other of interpersonal relations. On the second level, I pursue the fate of this triad, reformulated in terms of self-respect, respect for the other and of all the normative forms of justice through procedural structures. The third level arises out of the encounter with tragic situations. This is where I confront all the perplexities: the self without the support of sameness is confronted with the question: How can one decipher one's own life in situation of uncertainty, of conflict or of risk? The strongest aspect, in my opinion, is that relating to what becomes of justice when the language of law has to be spoken in a singular situation. I am pursuing today an investigation into the just and justice that takes into account this twofold grid of the problematic of oneness, of the proximate and the distant, horizontal and vertical axes. (Ricoeur 1998: 92-93)

In a more general sense, Ricoeur sees that the idea of justice plays an important role in our effort to mediate the dialectic between critique and conviction. Emphasizing that this is practical mediation, Ricoeur says "there are no other paths, in effect, for carrying out our interest in emancipation than by incarnating it within cultural acquisitions. Freedom only posits itself by transvaluating what has already been evaluated." (Ricoeur 1974a: 269) In order for this practical mediation to be effective, argues Ricoeur, the idea of justice must be applied in its broadest sense. Following Max Weber, Ricoeur considers that the idea of justice lies at the middle between two different forms of ethic: an ethic of responsibility and ethic of conviction. The effort to reconcile these leads Ricoeur to emphasize the significance of moral judgment in specific circumstances. It is a significant contribution to contemporary moral problems we now face. As we see today, the biggest threat to our contemporary world is not the absence of universal moral norms, but the difficulty we have in trying to apply these norms to our

historically specific circumstances. According to Ricoeur, what we need now is not only universalistic assertions, but also a new critical interpretation of our unique situation.

CHAPTER 5

POLITICAL JUSTICE, HISTORY, AND NON-VIOLENCE

This chapter will explain Ricoeur's account of political justice by focusing on characteristics that are unique to the political domain and which define its character. In recent years, Ricoeur has the relationship between politics and law. Ricoeur argues that law cannot be reduced either to the moral or to the political. But he also argues that the legal sphere depends on the political sphere: there is no law without a State. Law is the institution that governs the justifiable exercise of state coercion, or, in Ricoeur's words, state 'violence.' The exercise of violence by the state is a persistent theme in Ricoeur's thought.¹ According to Ricoeur, by clarifying what is specific about the political domain we can shed new light on the concept of justice and the conception of sovereignty invoked by philosophers writing in the contractualist tradition. This will help us to understand the nature of political violence.

Ricoeur has argued that the political domain is paradoxical. In "The Political Paradox," (Ricoeur 1965: 247-270) he claims that the structure of the political domain consists of two heterogeneous axes, one "horizontal," the other "vertical." The horizontal axis is constituted by the public relationships that enable people to live together in a community. In the horizontal axis, mutual agreement is required where political power is to be exercised. Thus, the ideal in its modern form is constitutional rule within which free and equal individuals can agree about the basic structure of their social institutions.

Within the vertical axis, mutually accepted rules for the exercise of power are implemented. This involves relations of command and obedience, by which governments exert physical force on citizens. Where political force is justifiable, this is a relationship of authoritative sovereignty and obligatory obedience. But in real-world politics, the exercise of political power is often irrational.

There is an “imbalance” between the vertical and horizontal dimensions of the political domain. This imbalance strikes at the heart of the idea of political authority or domination. Since the command-obey relation is internal to the political domain, Ricoeur argues that there is always a potential for abuse—that is, political power may be used in a way that is not responsive to what has been agreed upon in the horizontal plane. Ricoeur seeks a “humanist” ground for political authority, which he explains as follows:

The need for connecting system and subjectivity in some new ways is discernible not only in the philosophy of language... but also in *practical philosophy*. It is true that there is no apparent relation between these two fields of theoretical investigation; but to bring them in relation is precisely what we are entitled to expect from any comprehensive examination of the theoretical ground or the foundation of humanism. If anti-humanism is true, there is also no theoretical basis on which the legal subject can oppose the abuse of political authority. However, the concepts of ‘rule of law’ ... require that the notion of a legal entity, possessing rights, be interpreted in a rationally consistent manner. Such postulates as “Government is necessary, - A citizen in a constitutional State has rights against his government as well as duties towards it; - These rights are protected by law, and law depends on law-courts” cry out to be linked with a conception of the citizen which itself entails a subjective, personal foundation for ethical and political thought. If we relegate them to the sphere of ideology, and cut ideology off from science, we are admitting that the whole edifice of the rights of man is arbitrary and un-‘founded.’ (Ricoeur 1978b: 369)

Ricoeur’s humanist foundation for political justice, like his overall conception of justice, is based on his philosophical anthropology of human capability. He says:

¹ For instance, see “State and Violence,” in Ricoeur 1965: 234-246

I mean the problem of human capability, capability as the cornerstone of philosophical anthropology, or, to put it in more simple terms belongs to ordinary language, the realm expressed by the verb *I can*....The advantage of starting with this model verb *I can* is to be able link it to a plurality of verbs implying some kind of actualization, a variety of potentialities or capabilities...It can be read in terms of four verbs, which the “*I can*” modifies: *I can speak*, *I can do things*, *I can tell a story* and *I can be imputed*, an action can be imputed to me as its true author. (Ricoeur 2002: 280)

In what follows, I investigate this humanist foundation for political justice. But my aim is not simply to elaborate Ricoeur’s theory of political justice, but also to explain his appropriation of Hannah Arendt’s theory of political power and authority. My discussion in this chapter will proceed in three stages: First, I explain Arendt’s account of power and political authority, paying special regard to Arendt’s distinction between political power and violence, her characterization of the problem of political authority, and her “aestheticization” of the political. In the second part, I explain Ricoeur’s response to Arendt, focusing on the “moral point of view” from which Ricoeur develops a role for political justice. In the final section, I explicate Ricoeur’s account of non-violence, which plays a pivotal role in his conception of justice.

I. Arendt and the Aestheticization of the Political

Arendt’s understanding of politics is deeply influenced by her acquaintance with the Ancient Greek political tradition. In a discussion of political equality, she highlights the Greek notion of *isonomy* closely related to the later Roman notion of *civitas*. *Isonomy* refers to “a form of political organization in which citizens live together under conditions of no-rule, without a division between rulers and ruled.”(Arendt 1963: 22) According to

Arendt, the notion of *isonomy* informs us of one of crucial political features of the Greek tradition:

The equality of the Greek polis, its *isonomy*, was an attribute of the polis and not of men, who received their equality by virtue of citizenship, not by virtue of birth. Neither equality nor freedom was understood as a quality inherent in human nature. They were both not *phusei*, given by nature and growing out by themselves; they were *nomos*, that is, conventional and artificial, the products of human effort and qualities of the man-made world. (Arendt 1963: 23)

What is crucial to this tradition is the constitution of collective will or a common world, which serves as a firm basis for the body politic. For Arendt, a body politic can be established by mutual consent among free persons. It is for that reason that the constitution of the body politic is based not on obligatory rules but on allegiance that binds people together.² As she puts it, “it is the people’s support that lends power to the institutions of a country that brought the laws into existence to begin with.” (Arendt 1970: 41)

Arendt’s effort to provide a normative foundation for the body politic runs parallel to her attempt to give an anthropological basis for human political life. She believes that the political life of human being lies in human capability itself. But to understand her political anthropology, we must connect it to her account of political power and its contrast with political violence. Arendt takes ‘power’ to refer to the human capacity to act in concert. (Arendt 1993: 44) She regards power, so understood, as the very condition for the constitution of a body politic. The political domain rests on a possibility of people’s coexistence in a community, which distinguishes humans from

² For example, Arendt distinguishes the mutual consent from mere agreement between a people and its ruler. As she clearly points out, the mutual consent must be reciprocal and equal: “The mutual consent by which people bind themselves together in order to form a community is based on reciprocity and presupposes equality.” (Arendt 1963: 169)

animals. She believes that human beings can realize their humanity only in the political space.

For Arendt power springs from self-empowerment. Political action, not productive labor or creative work, is what is crucial to the human enterprise. But human speech and action come into being in a public space in which power plays a crucial role. As she says, “power springs up between men when they act together... Power is what keeps the public realm, the potential space of appearance between acting and speaking men, in existence.” (Arendt 1958: 200)

Political action constitutes a political community, which realizes its ultimate purpose in this essential human activity. Political power generates collective capabilities. What makes humans great is just this political character of collective human action. And on Arendt’s view, practical political action is more important than theoretical inquiry:

What makes man a political being is his faculty of action; it enables him to get together with his peers, to act in concert, and to reach out for goals and enterprises that would never enter his mind, let alone the desires of his heart, had he not been given this gift – to embark on something new. Philosophically speaking, to act is the human answer to the condition of natality... To act and to begin are not the same, but they are closely interconnected. (Arendt 1970: 82)

The significance of political action lies in the constitution of collective capabilities. But the Arendtian notion of power differs from mere potentiality, that is, strength. Power exists between persons, whereas strength exists in persons. This reveals the anthropological foundation for political power: first, power presupposes a plurality of distinct human individuals rather than simply an undifferentiated multiplicity. Second, power is constituted by what Arendt calls a “web of human relations.” In other words, it presents interaction and intersubjectivity with regard to these distinct individuals. Third,

the political domain is the place where opinions clash. The clash of political opinion is not measured by standards of knowledge or truth, but by better-informed, better-grounded belief. But these features of power lead to the fragility of political power. Political power exists as long as people understand one another words, and are able coordinate with one another to achieve mutually recognized ends.

Nevertheless, Arendtian power, based on mutual agreement among free persons, is productive for all participants in a political community. Reciprocal political interaction is mutually beneficial. In his discussion of Arendtian power, Gerhard Goehler points out that “power engages with counterpower in a way which leads not to a reduction, but rather to an increase in power for both sides. The power of (group) A is strengthened through the power of (group) B and vice versa. The increases in power on both sides of the relationship are mutually dependent on one another, and both are equally necessary.”(Goehler 2000: 45)

Power and Violence

It has been argued that political power is violence. But the conflation of power and violence derives from an understanding of power as a relation of command and obedience. Arendt claims, “Behind the apparent confusion [of power with violence] lies a firm conviction that the most crucial political issue is, and always has been, the question of Who rules Whom? Only after one eliminates this disastrous reduction of public affairs to the business of dominion will the original data concerning human affairs appear or rather reappear in their authentic diversity.”(Arendt 1969: 24)

According to Arendt, power is radically different from violence. Power is not mere exercise of physical force, not simply an instrument toward the attainment of external ends, it is rather an end in itself, constitutive of the essential human good of political action. Violence is entirely different: violence is simply the exercise of physical force and coercion. Unlike political power, violence has no intrinsic value.

Arendt contrasts power with strength, force, and violence. ‘Strength’ refers to mere potentiality. Like an old notion of potency, strength means “the property inherent in an object or person and belongs to its character, which may prove itself in relation to other things or persons, but is essentially independent of them.” (Arendt 1970: 44) It is the individual’s ability or capacity to act. ‘Force,’ on the other hand, is a physiological notion. It refers to “the energy released by physical or social movements.” (Arendt 1970: 45) By contrast, ‘violence’ is purely instrumental, entirely dependent on the antecedent notions of force and strength, which serve to magnify it. Violence is “close to strength, since the implements of violence, like all other tools, are designed and used for the purpose of multiplying natural strength until, in the last stage of their development, they can substitute for it.” (Arendt 1970: 46)

‘Power’ as used by Arendt, refers to the constitution of collective capabilities in the political sphere. It includes the possibility that the involved political actors are peers on equal footing, where no one is understood to control anyone else. Arendt defines power as follows:

Power corresponds to the human ability not just to act but to act in concert. Power is never the property of an individual; it belongs to a group and remains in existence only as long as the group keeps together. When we say of somebody that he is ‘in power’ we actually refer to his being empowered by a certain number of people to act in their name. The moment the group, from which the

power originated to begin with (*potestas in populo*, without a people or group there is no power), disappears, 'his power' also vanishes. (Arendt 1970: 44)³

Considered in this context, the major difference between power and violence is twofold: first, "power always stands in need of numbers, whereas violence up to a point can manage without them because it relies on implements." (Arendt 1970: 42) Second, power calls for legitimacy, while violence requires justification. As she writes:

Power needs no justification, being inherent in the very existence of political communities; what it does need is legitimacy...Power springs up whenever people get together and act in concert, but it derives its legitimacy from the initial getting together rather than from any action that then may follow. Legitimacy, when challenged, bases itself on an appeal to the past, while justification relates to an end that lies in the future. Violence can be justifiable, but it never will be legitimate. (Arendt 1970: 52)

Despite their difference, Arendt argues that power and violence are interdependent, and essentially opposed to one another. When power is waning, only then does violence becomes an attractive option:

Power and violence are opposite; where one rules absolutely, the other is absent. Violence appears where power is in jeopardy, but left to its own course it ends in power's disappearance. This implies that it is not correct to think of the opposite of violence as nonviolence; to speak of nonviolent power is already redundant. Violence can destroy power; it is ultimately incapable of creating it. (Arendt 1970: 56)

The fact that power and violence are interdependent leads some people to conflate them. Even though it is true that "[l]oss of power becomes a temptation to substitute violence for power," (Arendt 1970: 56) Arendt contends that such substitution is impossible.

³ This definition of power is in sharp contrast with strength, which refers to an individual's ability. She writes: "Strength unequivocally designates something in the singular, an individual entity; it is the property

Arendt aims to explain the basis for political power without appealing to an initial social contract. Arendtian power is an end itself, legitimized by our political action. The aim of politics is not to oppress people, but to create a common world by speech and deed. This is done through the creation of political institutions.⁴ As Iris Young points out,

Power consists in collective action. Power is the ability of person jointly to constitute the manner of living together, the way they organize their rules of institutions through reciprocal self-understanding of what the rules are and how they foster cooperation. Thus power relies not on bodies and instruments that exert force but primarily on speech – the interpretation of meaning, the articulation of new ideas, the dynamics of persuasion, the linking of understanding and action. Power establishes and maintains institutions, that is, regulated and settled means of cooperation to bring about collective ends. It has its basis and continuance in the consent and support of those who abide by, live according to, and interpret rules and institutions to bring about new collective ends. (Young 2002: 91)

This institutional mediation, however, must be legitimized by the participants' own actions in the political realm. In this sense, the Arendtian notion of power aims at guaranteeing political freedom as far as possible. The establishment of institutional mediation should be non-violent. If political power is to be based on the mutual consent among free individuals, its constitution must be free of violence.

Arendt argues that the main political problem arises from the very conditions of shared human life:

[T]o live in a political realm with neither authority nor the concomitant awareness that the source of authority transcends power and those who are in power, means to be confronted anew, without the religious trust in a sacred beginning and without the protection of traditional and therefore self-evident standards of

inherent in an object or person and belongs to its character, which may prove itself in relation to other things or persons, but is essentially independent of them.”(Arendt 1970: 44)

⁴ A number of commentators emphasize the importance of such institutional mediation in the political domain. As will be discussed later, such institutional mediation places its focus on an establishment of a constitution. For more detailed discussion on this issue, see Waldron 2000: 201-219.

behavior, by the elementary problems of human living-together. (Arendt 1993: 141)

Arendt aims to explain how it is possible for human beings to live together. But she is searching for a new beginning, a self-referential foundation for the body politic.

According to Arendt, the West suffered from a moral and intellectual crisis in the twentieth century, involving the growth of meaninglessness and loss of common sense. In her diagnosis, this crisis is the result of the “ruin of our categories of thought and standards of judgment.”(Arendt 1953: 388) The absence of judgment, furthermore, is due to loss of understanding because understanding is “so closely related to and interrelated with judging that one must describe it ... as the subsumption of something particular under a universal rule.”(Arendt 1953: 383)

To overcome this crisis, we must rediscover a common world, “into which we all fit and where we can live together because we possess one sense which controls and adjusts all strictly particular sense data to those of all others.”(Arendt 1953: 387) This restoration of a common world is possible through rediscovery of human capacity for initiative. Insofar as “political action...is essentially always the beginning of something new,” the political domain is made by the fact that “man has not only the capacity of beginning, but is this beginning itself.” (Arendt 1953: 390) She concludes:

In the light of these reflections, our endeavoring to understand something which has ruined our categories of thought and our standards of judgment appears less frightening. Even though we have lost yardsticks by which to measure, and rules under which to subsume the particular, a being whose essence is beginning may have enough of origin within himself to understand without preconceived categories and to judge without the set of customary rules which is morality. If the essence of all, and in particular of political, action is to make a new beginning, then understanding becomes the other side of action, namely that form of cognition, in distinction from many others, by which acting men (and not men who are engaged in contemplating some progressive or doomed course of history)

eventually can come to terms with what irrevocably happened and be reconciled with what unavoidably exists. (Arendt 1953: 391)

Founding Events and Political Authority

How, then, can the “unexpected new” be possible in human affairs? The possibility of new beginning and rebirth is central to Arendt’s political thought. Arendt believes that the preservation of creative action and the founding of authoritative institutions are crucial to understanding our political life. Arendt views politics as an unending business, committed simultaneously and perpetually to the settlement and unsettlement of identities, both personal and institutional.

Arendt’s theorization of action, which is embedded in diversity, plurality, freedom, and individuality, is characterized by the “capacity for beginning rooted in natality.” Freedom for Arendt is not restricted to an inner domain, the freedom of the will. For her freedom is an expression of active power in the political domain. In other words, Arendt believes that to be free and to act are the same in the political realm. (Arendt 1993: 143-153)

Only in the public realm of action are we capable of joining together with others to bring “something into being which did not exist before.”(Arendt 1993: 151) Thus genuinely political action should be creative. But the creativity of action cannot be judged by already established standards of morality. It must be rather judged by its own criterion. Arendt writes:

Unlike human behavior – which the Greeks, like all civilized people judged according to “moral standards,” taking into account motives and intentions on the one hand and aims and consequences on the other – action can be *judged only by the criterion of greatness*, because it is in its nature to break through the

commonly accepted and reach into the extraordinary where whatever is true in common and everyday life no longer applies because everything that exist is unique and *sui generis*. (Arendt 1958: 246, my emphasis)

General rules and moral standards inherently apply to human behavior. In this sense, human action is rule-governed, but never truly innovative. As we shall see, political judgment, which is “the faculty to judge particulars without subsuming them under general rules,” can be genuinely innovative.

For Arendt, human action is constrained by the very specificity of the public realm. Arendt says that plurality is constitutive of the public realm. Because of plurality, the public realm has “the twofold character of equality and distinction.” Plurality, in short, is an ineliminable feature of the public realm in which people create “new relations and realities” through a complex combination of “word and deed.”

Human action is frail in its own right. Its irreversibility and unpredictability render political action fundamentally frail. This frail character of political action is reinforced by the ‘natality’ of action – its capacity to begin something new. By its ‘natality,’ Arendt understands that every human being has the capacity for new action. Thus it is always possible that past actions might be undone by new ones. This is an important source of the inherent instability and uncertainty of political action and power.

However, Arendt considers the practice of *promising*, our capacity to bind ourselves by promises, to be a potential source of stability. Promising creates the public realm where a limited and isolated area of stability can be enjoyed. This stability of promising, however, is also fragile, since it is develops alongside the will to live together, or power-in-common. In other words, the stability of political society depends on a

common world shared by a plurality of individuals who see it from different perspectives⁵:

Power comes into being only if and when men join themselves together for the purpose of action, and it will disappear when, for whatever reason, they disperse and desert one another. Hence, binding and promising, combining and covenanting are the means by which power is kept in existence; where and when men succeed in keeping intact the power which sprang up between them during the course of any particular act or deed, they are already in the process of foundation, of constituting a stable worldly structure to house, as it were, their combined power of action. There is an element of the world-building capacity of man in the human faculty of making and keeping promises. Just as promises and agreements deal with the future and provide stability in the ocean of future uncertainty where the unpredictable many break in from all sides, so the constituting, founding, and world-building capacities of man concern always not so much ourselves and our own time on earth as our “successor,” and “posterities.” (Arendt 1963: 174-175)

To make promises in this sense is to exercise our capacity for beginning, our faculty for action in concert. Politically speaking, making and keeping promises is crucial to founding a political community that is permanent and reliable.⁶

How can we make the actual political realm permanent and reliable? How can we materialize political power in practice? What is the stable and reliable institutionalization of political power?⁷ In response to these questions, Arendt explains how the exercise of

⁵ Arendt also calls attention to the irreversible character of action. In other words, one crucial predicament of action is that one is “unable to undo what one has done though one did not, and could not, have known what he was doing.” (Arendt 1958: 236-7) She tries to overcome this predicament by placing emphasis upon the capacity to “forgive.” For her, “forgiveness is the exact opposite of vengeance. ... Forgiving, in other words, is the only reaction which does not merely re-acts but acts anew and unexpectedly, unconditioned by the act which provoked it and therefore freeing from its consequences both the one who forgives and the one who is forgiven.”

⁶ Young makes the point as follows: “In the moment of founding, participants mutually promise to abide by principles that guide institutions, to organize and give their energy to the implementation of the institutions, and to be loyal to the institutions and to one another through them.” (Young 2002: 97)

⁷ Arendt’s problem is akin to that of Rousseau that is found in *Social Contract*. Quoting Rousseau’s famous passage, Arendt claims:

“The great problem in politics, which I compare to the problem of squaring the circle in geometry ... [is]: How to find a form of government which puts the law above man.” Theoretically, Rousseau’s problem resembles Siey s’ vicious circle: Those who get together to constitute a new government are themselves unconstitutional, that is, they have no authority to do what they have

political authority can protect opportunities for political innovation. In her discussion of the founding of the US Republic, Arendt offers an entirely new conception of political authority. For Arendt, the source of power in the world-building act of foundation is the speech act itself:

There is an element of the world-building capacity of man in the human faculty of making and keeping promises. ... The grammar of action: that action is the only human faculty that demands a plurality of men; and the syntax of power: that power is the only human attribute which applies solely to the worldly in-between space by which men are mutually related, combine in the act of foundation by virtue of the making and the keeping of promises, which, in the realm of politics, may well be the highest human faculty. (Arendt 1963: 176)

More importantly, the act of foundation is self-referential to the extent that it becomes the source of its own authority.⁸ Political power and authority derive from a common subscription to the linguistic practice of promising. Thus power and authority are interdependent, and the act of foundation is self-referentially authoritative. Speaking of the founding of the American Republic, she writes “it was authority which the act of foundation carried within, rather than the belief in an immortal Legislator, or the

set out to achieve. The vicious circle in legislating is present not in ordinary lawmaking, but in laying down the fundamental law, the law of the land or the constitution which, ... is supposed to incarnate the “higher law” from which all laws ultimately derive their authority.... The trouble was – to quote Rousseau once more – that to put the law above man and thus to establish the validity of man-made laws, *il faudrait des dieux*, “one actually would be gods.” (Arendt 1963: 184)

⁸ For Arendt, authority is recognition by which more than two persons can be related to one another. Arendt says: “Authority, ... most frequently abused, can be vested in persons – there is such a thing as personal authority, as, for instance, in the relation between parent and child, between teacher and pupil – or it can be vested in offices, as, for instance, in the Roman senate (*auctoritas in senatu*) or in the hierarchical offices of the Church (a priest can grant valid absolution even though he is drunk). Its hallmark is unquestioning recognition by those who are asked to obey; neither coercion nor persuasion is needed. (A father can lose his authority either by beating his child or by starting to argue with him, that is, either by behaving to him like a tyrant or by treating him as an equal.) To remain in authority requires respect for the person or the office. The greatest enemy of authority, therefore, is contempt, and the surest way to undermine it is laughter.” (Arendt 1970: 45) More importantly, the notion of authority can apply to the plane of institutions because *de facto* domination constitutes the very structure of domination. As she writes, “the relationship between a ruling elite and the people, between the few, who amongst themselves constitute a public space, and the many, who spend their lives outside of it in obscurity, has remained unchanged.” (Arendt 1963: 281)

promises of reward and threats of punishment in a ‘future state,’ or even the doubtful self-evidence of the truths enumerated in the preamble to the Declaration of Independence, that assured stability for the new republic.” (Arendt 1963: 200)

According to Arendt, political power is more than violent domination. The alternative to violent domination, which constitutes the very problem of politics, is the establishment of the state as the only source of legitimate rules possessed of authority and capable of addressing “the elementary problem of human living-together.”(Arendt 1993: 141)

What is distinct about political authority, however, lies in its “resistability.”⁹ Since the founding event depends on promises and opinions, Arendt argues that political authority is at the same time inherently resistible, because the political domain is not based on knowledge or absolute truth. According to Arendt, absolute truth has no legitimate role in politics or in the sphere of human affairs because political actions all carry an element of compulsion. Claims to political truth should be avoided because they make political institutions seem irresistible and inflexible. This implies a rejection of claims that the state is founded on an appeal to God, or on self-evident truths, or unchanging natural laws. What is common to all such appeals is that they make legitimacy a matter of irresistible acquiescence. But the sphere of politics rests on collective deliberation, agreement, and well-grounded opinion. They are based on empirical or factual truth, not rational certainty. “Factual truth,” she writes, “is always related to other people; it concerns events and circumstances in which many are involved; it is established by witness and depends upon testimony; it exists only to the extent that it

⁹ This notion of ‘irresistability’ comes from Honig’s articulation of Arendt’s notion of political authority. Honig 1993: 76-125

is spoken about, even if it occurs in the domain of privacy. It is political by nature.”(Arendt 1993: 238) She continues:

Facts and opinions, though they must be kept apart, are not antagonistic to each other; they belong to the same realm. Facts inform opinions, and opinions, inspired by different interests and passions, can differ widely and still be legitimate as long as they respect factual truth. Freedom of opinion is a farce unless factual information is guaranteed and the facts themselves are not in dispute. In other words, factual truth informs political thought just as rational truth informs philosophical speculation. (Arendt 1963: 238)

Insofar as the validity of political opinions is measured not by the standards of higher or absolute truth, but in terms of better-informed, better-grounded opinions, they are inherently fragile and always resistible. This resistible feature of political authority discloses its character. Arendt argues that political authority is closely linked to a practice of “augmentation” which is already inherent in the Roman concept:

The very concept of Roman authority suggests that the act of foundation inevitably develops its own stability and permanence, and authority in this context is nothing more or less than a kind of necessary “augmentation” by virtue of which all innovations and changes remained tied back to the foundation which, at the same time, they augment and increase. Thus the amendments to the Constitution augment and increase the original foundations of the American republic; ... the very authority of the American Constitution resides in its inherent capacity to be amended and augmented. This notion of a coincidence of foundation and preservation by virtue of augmentation ... was deeply rooted in the Roman spirit. (Arendt 1963: 203-4)

For her this augmenting character of political authority calls for the importance of public reason. Insofar as political authority demands persistent calls for its legitimacy in appeal to founding promises, it leaves open the possibility of its revision by an interpretation, which can be filled by our critical exercise of reason. As Young points out, the augmenting feature of political authority is an endless task, which can be guaranteed by innovative action and speech:

To say that these leaders or policies are legitimate is to make the argument that they are in conformity with a present embodiment of, the principles and promises that institutionalize the public power. Making such an argument, I suggest, requires more than the recital of a history of the citation of founding documents. An argument for the legitimacy of present officials' actions, or laws, I suggest, involves a *renewal* of the power that came into play in the original process, which itself reaffirms the promises, a new commitment of the collective's participants to one another on terms of mutuality and reciprocity. (Young 2002: 97)

Political authority can be augmented by appeal to its founding promises. And the legitimacy of authority is always open and undecided. We always retain the option to initiate a new foundation.¹⁰

Power and the Ability to Judge

Despite her insistence that the performative action of the founding event is a guarantor of political authority, Arendt maintains that it is not the historical event of founding that binds us together in a political community. As in the social contract tradition, the historical events themselves have a role akin to that of a founding fable, which is often expressed in mythic terms. Yet Arendt never doubts that the founding fable may help define and enable new horizons of human possibility. To materialize the fable, its meaning should be translated into the sphere of politics. This transformation should be based on a legitimate, authoritative, stable and durable process.

¹⁰ The role of justice in Arendt's political thought is unclear. Young tries to show in her interpretation that the concept of justice would be indirectly introduced by the emphasis upon the mutual character of making promises. She writes: "To argue that government or policy or action is legitimate in these ways does not itself imply that they are just, right, or good. To the extent that institutionalizing power involves *mutual* promising, however, there is an implicit commitment to the justice or rightness of principles to guide future action, at least as concerning relations with one another." (Young 2002: 97-98)

But the process by which founding events are materialized is always far from ideal. As Bonnie Honig points out, the process can be directed in two possible ways, either of which is incomplete. First, we can endeavor to recover the original act of foundation. But in this process we often tend to forget the violence and ambiguity that was hidden in the founding event. Second, we might try to protect the origin of the system while ignoring the augmentative character of political power. In this process any form of illegitimacy may be prohibited by the use of the state violence. (Honig 1993: 109)

Arendt recognizes these possibilities. She argues that some defects that are present in such cases can be avoided solely by appeal to political *judgment*. Just as judgment is the faculty used by spectators who turn actions into stories, political judgment will bridge the impasse of political authority. Arendt devotes special attention to Kant's notion of (political) judgment.¹¹ Arendt tries to reconstruct Kant's unwritten political philosophy by focusing on the faculty to judge, "the faculty of thinking the particular,"¹²

¹¹ This is closely linked to the role of imagination in judgment. She writes: "Imagination alone enables us to see things in their proper perspective, to put that which is too close at a certain distance so that we see and understand it without bias and prejudice, to bridge abysses of remoteness until we can see and understand everything that is too far away from us as though it were our own affair. This "distancing" of some things and bridging the abysses to others is part of the dialogue of understanding for whose purposes direct experience established too close a contact and mere knowledge erects artificial barriers. Without this kind of imagination, which actually is understanding, we would never be able to take our bearing in the world. It is the only inner compass we have. We are contemporaries only so far as our understanding reaches. If we want to be at home on this earth, ... We must try to take part in the interminable dialogue with its essence." (Arendt 1953: 392)

¹² Arendt takes the faculty of judgment to be "the most political of man's mental abilities." She argues that "[I]t is the faculty to judge *particulars* without subsuming them under those general rules which can be taught and learned until they grow into habits that can be replaced by other habits and rules. The faculty of judging particulars (as Kant discovered it), the ability to say, "this is wrong," "this is beautiful," etc., is not the same as the faculty of thinking. Thinking deals with invisibles, with representations of things that are absent; judging always concerns particulars and things close at hand." (Arendt 1971: 446)

Arendt's account of judgment is ambivalent: it can be understood either as a moral faculty, or as a political faculty.¹³ Moral judgment is future-oriented, and makes it possible to establish a political domain. It is exercised by an actor as she decides how to act in the public realm.¹⁴ On the other hand, political judgment is a retrospective faculty. It requires non-participating spectators who "seek to understand the meaning of the past and to reconcile us to what has happened." (D'entrèves 1994: 103) As a political faculty judgment is the faculty of "enlarged thought," or "representative thinking." Arendt claims:

Political thought is representative. I form an opinion by considering a given issue from different viewpoints, by making present to my mind the standpoints of those who are absent; that is, I represent them. This process of representation does not blindly adopt the actual views of those who stand themselves else, and hence look upon the world from a different perspective; this is a question neither of empathy, as though I tried to be or to feel like somebody else, nor of counting noses and joining a majority but of being and thinking in my own identity where actually I am not. The more people's standpoints I have present in my mind while I am pondering a given issue, and the better I can imagine how I would feel and think if I were in their place, the stronger will be my capacity for representative thinking and the more valid my final conclusion, my opinion The very process of opinion formation is determined by those in whose places somebody thinks and uses his own mind, and not only condition for this exertion of the imagination is disinterested, the liberation from one's own private interests. (Arendt 1993: 241-2)¹⁵

Political judgment is doubly constrained: One condition for political judgment is that it must be impartial and disinterested. Since judgment is "the ability to see things not only from one's point of view but in the perspective of all those who happen to be

¹³ Many commentators remark this problematic notion of judgment in Arendt's political thought. See Beiner 1982, Bernstein 1986

¹⁴ As a moral faculty the role of judgment is akin to that of Aristotle's *phronesis*.

¹⁵ Her favorable preference is made to refer to what Kant calls "a broadened way of thinking" in his *Critique of Judgment*:

This ... still indicates a man with a *broadened way of thinking* if he overrides the private subjective conditions of his judgment, into which so many others are locked, as it were, and

present,” (Arendt 1993: 221) it must involve the ability to adopt a third person perspective, the perspective of a ‘spectator.’ Arendt writes:

What the actor is concerned with is *doxa*, fame – that is, the opinion of others ... For the actor, the decisive question is this how he appears to others ... the actor is dependent on the opinion of the spectator; he is not autonomous (in Kant’s language) ... The standard is the spectator. And this standard is autonomous. (Arendt 1982: 55)¹⁶

Another crucial component of judgment is the “criterion of communicability or publicness.” (Arendt 1982: 55) Judgment requires us to go beyond our private prejudice and “think the standpoint of everyone else.”¹⁷ Hence, judgment as representative thinking clearly presupposes universal communicability. She continues:

The power of judgment rests on a potential agreement with others, and the thinking process which is active in judging something is not, like the thought process of pure reasoning, a dialogue between me and my self, but finds itself always and primarily, even if I am quite alone in making up my mind, in an anticipated communication with others with whom I know I must finally come to some agreement. From this potential agreement judgment derives its specific validity. This means, on the one hand, that such judgment must liberate itself from the “subjective private conditions,” that is, from the idiosyncrasies which naturally determine the outlook of each individual in his privacy and are legitimate as long as they are only privately held opinions, but which are not fit to enter the market place, and lack all validity in the public realm. And this enlarged way of thinking, which as judgment knows how to transcend its own isolation or solicitude; it needs the presence of others “in whose place” it must think, whose perspectives it must take into consideration, and without whom it never has the opportunity to operate at all. As logic, to be sound, depends on the presence of

reflects on his own judgment from a *universal standpoint* (which he can determine only by transferring himself to the standpoint of others). (Kant 1987: Section 40)

¹⁶ “By closing one’s eyes one becomes an impartial, not a directly affected, spectator of visible things. The blind poet. Also: by making what one’s external senses perceived into an object for one’s inner sense ... one is in a position to “see” by the eyes of the mind, i.e., to see the whole that gives meaning to the particulars. The advantage the spectator has is that he sees the play as a whole, while each of the actors knows only his part or, if he should judge from the perspective of acting, only the part of the whole that concerns him. The actor is partial by definition.” (Arendt 1982: 58-69)

¹⁷ Impartiality or disinterestedness, according to Arendt, is required not only in political judgment but also in historical judgment. The greatness of ancient historiography, shown in Homer and Herodotus, results from their emphasis upon impartial judgment in narrating stories. See Arendt 1993: 51-52/ 262-63.

the self, so judgment, to be valid, depends on the presence of others. (Arendt 1993: 220-1)¹⁸

Hence, judgment as a feature of political life requires a human community that could fit with the *sensus communis* of others, the sense of a community. It calls for agreement shared by others. Arendt refers to the following passage from Kant's *Critique of Judgment*, in which Kant offers a provisional account of the *sensus communis*:

We must take *sensus communis* to mean the idea of a sense *shared* [by all of us], i.e., a power to judge that in reflecting takes account (a priori), in our thought, of everyone else's way of presenting [something], in order *as it were* to compare our own judgment with human reason in general and thus escape the illusion that arises from the ease of mistaking subjective and private condition for objective ones, an illusion that would have a prejudicial influence on the judgment. (Kant 1987: Section 40)

The criterion for judgment calls for a special sense of community. That is, the notion of *sensus communis* here is not taken as the popular notion of common sense. It constitutes a sense of community that ordinary people would share without any help.

In her reconstruction of Kant's unwritten political thought, Arendt tries to apply political judgment to exemplary events of history without appeal to a hidden teleology. On Arendt's view, Kantian political judgment is radically separate from teleological judgment. We must abandon any tendency to appeal to a hidden teleology, which would lead to a rebirth of a speculative philosophy of history.

In this undertaking, Arendt distinguishes between the standpoints of the spectator and the actor and gives priority to that of the spectator. Along with the notions of

¹⁸“Judgment, and especially judgments of taste, always reflects upon others and their taste, takes their possible judgments into account. This is necessary because I am human and cannot live outside the company of men. I judge as a member of this community and not as a member of a supersensible world.

enlarged mentality, disinterestedness, and Kantian *sensus communis*, Arendt introduces the concept of the spectator taken from Part II of Kant's *Contest of Faculties*.

Kant addresses these issues in a discussion of the French Revolution. In passing judgment on such an historical event, we must adopt the retrospective view of the spectator. According to Kant, this involves the exercise of a special moral predisposition to come to an understanding of others by adopting such a point of view. As Kant writes:

It is simply the mode of thinking of the spectators which reveals itself *publicly* in this game of great revolution, and manifests such a universal yet disinterested sympathy for the players on one side against those on the other, even at the risk that this partiality could become very disadvantageous for them if discovered. Owing to this universality, this mode of thinking demonstrates a character of the human race at large and all at once; owing to its disinterestedness, a moral character of humanity, at least in its predisposition, a character which not only permits people to hope for progress toward the better, but it is already itself progress in so far as its capacity is sufficient for the present. (Kant 1991: 182/ Arendt 1982: 45/ Ricoeur 2000: 105)

This revolution...finds in the hearts of all spectators (who are not engaged in this game themselves) a wishful participation that borders closely on enthusiasm, the very expression of which is fraught with danger; this sympathy, therefore, can have no other cause than a moral predisposition in the human race. (Arendt 1982: 45)¹⁹

But why is the perspective of the spectator morally important? Why is the burden of judgment conferred on the judging spectator? What does it mean to say that we have a "moral predisposition" to adopt this perspective? Arendt believes that the retrospective view of the spectator allows us to reconcile the tragic reality of people in history as well as in fiction. Hence she writes:

We may see, with Aristotle, in the poet's political function the operation of a catharsis, a cleansing or purging of all emotions that could prevent men from acting. The political function of the storyteller – historian or novelist – is to teach

¹⁹ I own these translations to Arendt 1982.

acceptance of things as they are. Out of this acceptance, which can also be called truthfulness, arises the faculty of judgment. (Arendt 1993: 262)

A sense of hope would arise from the spectator of history alone. Political judgment generates hope when it confronts tragic realities as they are. Thus the act of judgment becomes “an entirely new human faculty.” (Arendt 1982: 10)

II. Ricoeur’s Appropriation of Hannah Arendt

Ricoeur regards Arendt’s account of power as a serious attempt to restore the significance of human freedom. By attending to the constitutive structure of the political sphere, Arendt highlights the “horizontal dimension” of that sphere. Ricoeur says:

There is the horizontal tie of wishing to live together: this is what she [Arendt] calls *power*, which occurs only to the extent that people want to coexist. This wishing to living together is silent, generally unnoticed, buried; one does not remark its existence until it falls apart, or when it is threatened – this is the experience of the country in danger, that of the great defeats (*dé-faites*), which are also periods in which the political tie comes undone (*dé-fait*). (Ricoeur 1998: 99)

On Ricoeur’s reading, Arendt’s account of power is a systematic attempt to reduce the relation of command and obedience to the ideal of self-governance. The hope that we might achieve self-governance depends on the formation of the “public sphere of appearance.”

Anthropologically, Ricoeur is in substantial agreement with Arendt. First, Ricoeur accepts that the political realm is characterized by the plurality of human persons. The plurality of human persons raises the problem of conflict and social cooperation. Second, Ricoeur, like Arendt, regards human praxis and speech as necessary to solve social and political problems. And Ricoeur believes that Arendt is

right to say that the aim of political communication is the discovery of better-grounded opinions.

With Arendt, Ricoeur says that we must restore the political realm to overcome the fragility of human action. This fragility comes from the uniqueness of individuals, which is based on the “fact of human natality.” Each individual has the capacity to act otherwise, that is, to exercise initiative. In this sense, every individual is to be regarded as a free and a unique being. But every human being is mortal, and human action is fragile and limited. The public space provided by speech and action, is the place where human action can be institutionalized and continued.

On Ricoeur’s reading, Arendt underscores the political dimension of action, which is distinguished from labor and work. Political action is “an attempt to confer immortality ... on perishable thing.”(Ricoeur 1992: 196) Thus the political is an expression of “man’s ultimate attempt to ‘immortalize’ himself or herself.” From the point of view of the actor, political action is future-oriented. Like Machiavelli’s ambition to create an “eternal city,” claims Ricoeur, Arendt’s main concern is to explain “how to rescue the republics from the ephemeral.”²⁰ (Ricoeur 1992: 196) On Ricoeur’s reading, Arendt believes that political institutions provide political action with an element of immortality. But according to Ricoeur, this immortal character of political institutions is associated with their normative activity. The establishment of the genuine ‘common’ public realm rests on a “normative principle by which to *judge* the eclipse of politics as the supreme expression of free action and to *condemn* all the attempts to dissolve politics

²⁰ This question actually constitutes Ricoeur’s main threshold for Arendt’s political thought. Ricoeur’s argument is based on the claim that Arendt’s theorization of action as fundamental to political life is to be measured by its temporal standpoint of duration. Ricoeur claims, “the criterion best suited for the new

into human engineering.”²¹ (Ricoeur 1983b: 68) For that reason, the constitution of political society is the same as the founding of normative principles on which free and responsible individuals mutually agree.

Like Arendt, Ricoeur thinks that we can be fully human only in the context of legitimate political society. This raises several important issues which we have already discussed above, including the possibility of human initiative, and the nature of our collective capabilities. The most important function of politics is to fix common meanings between distinct individuals. Or, to put it in Arendt’s terms, the question is how “action in concert” is possible.

As Arendt stressed, the will to act together and its constitutive role in the creation of political power, is prior to the existence of the political sphere. But Ricoeur argues that this important foundation is usually forgotten or covered over. It is “ordinarily invisible.”(Ricoeur 1992: 196-7) As we shall see, the fundamental reason for this forgetfulness is that power-in-common is replaced by a hierarchical relation of the political, that of domination. Ricoeur gives careful attention to the *forgotten* status of political power. (Ricoeur 1992: 197) But this status of ‘being forgotten’ is not to be understood in historical terms. The status of the common initiative is not forgotten at some datable past time. Ricoeur writes:

inquiry can then consist in an evaluation of the different human activities from the temporal viewpoint of their durability.”(Ricoeur 1992: 196, fn. 38)

²¹ This ‘common’ public realm for Arendt is already implicit in the Latin notion of the *sensus communis*. The status of the *sensus communis* is not an empirical fact. It simply refers to a sense of community that ordinary people share. As is well known, Arendt’s wager to establish the public realm is more or less direct. Instead of connecting the political judgment to the teleological judgment such as a historical judgment, Arendt attempts to argue for the autonomy of the political judgment by deriving it from the judgment of taste. Ricoeur criticizes the Arendtian approach as one-sided. Since a critical distance is possible in historical judgment, Ricoeur argues that the critical and historically informed development of the concept of Right could provide concrete resources for the improvement of existing institutions. See Ricoeur 2000: 94 – 108.

This forgetfulness, inherent though it is in the constitution of the consent that produces power, does not refer to any past which would have been lived as a present in the transparency of a society that was conscious of itself and of its having been engendered as both a unity and a plurality. I insist on this point: it is a forgetfulness that is not of something past. In this sense, it is forgetfulness without nostalgia. It is a forgetfulness of what constitutes the present of our wanting to live together. (Ricoeur 1991a: 29)²²

The forgotten status of political power makes the political authority enigmatic.

The origin of political authority is unknowable to the extent that its origin is mythical. It has to do with the past and traditions. Despite this enigmatic character of the political, Ricoeur contends that the desire to live together is the fundamental source of political institutions. It is what Arendt identifies as “power-in-common.”

Violence and Justice

According to Ricoeur, one of the great advantages in Arendt’s political thought is that Arendt regards human freedom as the foundation of political life. But Arendt’s ‘freedom’ is not a given capacity of human beings, but a task to be accomplished. The role of the political sphere is to protect the exercise of human capability as much as possible within a given community. As McGowan points out, “What politics can make available to us is freedom, not prosperity or justice. Politics cannot secure freedom, but it can strive to create the conditions of its availability and to protect freedom where it does exist. Only with freedom can we enjoy the opportunity to act in such ways as to pursue distinction and immortality.”(McGowan 1997: 271) The ideal of freedom is to find a

²² This translation comes from Dauenhauer 1998: 156. The original citation is this: “[C]et oubli, inhérent à la constitution du consentement qui fait le pouvoir, ne renvoie à aucun passé qui aurait été vécu comme présent dans la transparence d’une société consciente d’elle-meme et de son engendrement un et pluriel.

political realm where every participant can maximally exercise her or his own capacity for initiative.

But in spite of substantial agreement, Ricoeur is critical of aspects of Arendt's approach. He offers two interrelated objections. First, he argues that justice must play a positive role in the structure of political institutions, because we need norms for the justification of political coercion and the evaluation of violence. Second, he argues that it is impossible ever to eliminate violence from the political domain. In what follows, I will discuss each of these objections.

Let us begin with the first objection.²³ Ricoeur argues that freedom is not sufficient for common political action: we also need an ethical ideal of justice. On Ricoeur's view, the ideal of justice plays a regulative role in political society and human relationships, and Arendt's account is incomplete inasmuch as she overlooks this role. Norms of justice provide a standard by which individuals can make judgments about their institutions, and about the actions of others, and without an understanding of these standards, and of the origin of our sense of justice in the experience of injustice, we will never have an adequate appreciation of the complexity of political cooperation.²⁴

Ricoeur is also critical of Arendt's view that political violence can be eliminated where political power is perfect. While Ricoeur agrees that power and violence are distinct, he stresses that the phenomenon of violence has to do with thwarted human

J'insiste sur ce point: un oubli qui n'est pas du passé. En ce sens, un oubli sans nostalgie. Un oubli de ce qui constitue le présent de notre vivre-ensemble."

²³ Richard Bernstein made a similar point about Arendt's attempt. He says, "It is curious how little Arendt has to say about justice and its relation to politics. This is perhaps the most glaring difference between Arendt and Aristotle from whom she draws so much inspiration. Typically, when she speaks of "political passions" she includes "courage, the pursuit of public happiness, the taste of public freedom, an ambition that strives for excellence" but *not* the passion for justice. It is not even clear whether justice is a social or a political virtue (or whether justice too has a social and political "face")."(Bernstein 1986: 302 fn 20)

²⁴ I owe this insight to Professor Wolf.

capacity. For Ricoeur, 'violence' refers to any form or practice in which persons are 'instrumentalized' for alien ends. It has many forms including deceit, objectification, cultural marginalization, ideological manipulation, economic or political disempowerment, and exploitation. But in general, 'violence' designates any attempt to diminish the capacity to act. (Ricoeur 1992: 220) It is a denial of human initiative. The possibility of violence exists wherever one person has political power over another, and even where "we as a community" exert power over ourselves as individuals. Violence is inherent in any form of "power-over" because it resides in "the power exerted over one will by another will." (Ricoeur 1992: 220)

Ricoeur here underscores the dialogical aspect of violence. The possibility of violence is inherent in the fragility of human action, for violence is contained in any form of interaction. But it would be wrong to think that violence is only a matter of interpersonal relations. If we understand meaning of interaction more generally, we see that violence can not only be done to the self by other selves but also can be done by ourselves to ourselves, and by whole communities. (Wall 2002: 53)

What is crucial to Ricoeur's discussion of violence is its moral demand of political life. For Ricoeur, violence is inevitable because of the very fragility of political action. Political action seeks rationality, but actions in the political domain are not always rational. The irrationality of human action in respect to its orientation toward the future can be shown in two respects. First, human action may be irrational if the agent is not in full control. Second, human action may be irrational to the extent that it is unpredictable. In human action it is quite possible to produce undesired consequences that would be harmful to not only to others but also to the actor herself. This means that

every action may generate suffering, and that violence is inherent in nature of the political. Since the political realm presupposes a plurality of human persons and a diversity of goods that individuals pursue, conflict is inevitable, and must entail violence. Thus human interaction always involves an unequal relation between some who are agents and others on whom agency is exercised. Interaction thus generates the destruction of initiative, namely, the capacity to act. The exercise of one will over another will is violent insofar as it obstructs an individual's power to act.

The emergence of morality in human affairs arises from the violence inherent in human interaction. Morality is a reaction to the imbalance between acting and suffering, it is a "response to violence." (Ricoeur 1992: 221) As Ricoeur puts it, "it is violence and the progress of *victimization* generated by violence which invites us to add a deontological dimension to the teleological dimension of ethics." (Ricoeur 1988b: 214)

For Ricoeur, political justice mediates and regulates political violence, but cannot eliminate it. In developing his broader conception of justice, Ricoeur proceeds in two different directions: he discusses the positive pursuit of an ideal form of human relationships, which culminates in the ideas of non-violence. But he also develops a conception of legal justice that can involve the institutional expression and justification of violence. The pursuit of the ideal of non-violence is similar to what Weber calls an "ethic of conviction." We must ask whether non-violence is possible in human interaction. The aim of non-violence as an opposite of violence is the aim to restore each individual's primitive power to act. This tendency, however ideal it may be, is useful since it represents a hope in an eschatological sense. The ideal of justice presents yet another form of morality, which aims at rule by law, and the concrete restoration of our initiative

and the prohibition of actions that would inhibit it. Thus the idea of justice begins with the attempt to compensate victims of violence. The ideal of justice differs from pure non-violence, since justice allows the institutional expression of the “feeling of vengeance that comes from a compensation for action.” Without institutional constraint, vengeance would be strongly violent. Thus “justice is opposed not just to violence per se, or even to concealed violence or all the subtle forms, ... but to that simulation of justice constituted by vengeance, the act of procuring justice by oneself.” (Ricoeur 2000: 130-131)

Political Authority and the Political Paradox

As we have seen, Ricoeur regards the elimination of violence as an impossible ideal in the political domain. There is always a “residual violence” insofar as the political is mediated by the state. For Ricoeur, the role of the state in human life is deeply paradoxical. In the first place, the state can be understood as the framework that constitutes the entire social relationship of a community. Even if it does not create a community, the state “frames it,” by maintaining a reciprocal relation between the collective and the citizen. But second, and perhaps more importantly, the state can behave irrationally, as a total monster exercising monopoly on the use of physical force. For Ricoeur, the state is seen as “the organization of a historical community that allows it to make decisions.” (Ricoeur 1998: 105) In this definition, a primary function of the state is to produce crucial decisions concerning the use of physical force. Ricoeur claims:

The state has become ... the form of power at the interior of a finite historical community. It is the agent of a historical community, the mode of organization which makes it capable of making decision, it is essentially a capacity for decision

in a finite community. To this, its principal characteristic, is added that of the unconditioned exercise of violence. (Ricoeur 1974a: 138)

In many respects, the State today is more a pretension than a reality, and its sovereignty is sometimes pure fiction. (Ricoeur 1974a: 139)

The capacity to make decisions and the use of physical force by the state, which constitute the specificity of the political, might lead us to reverse the relation between the state and the citizen. Their relation is “an asymmetrical, non-reciprocal one, the relation of authority to submission.”(Ricoeur 1965: 237)

This means that the internal exercise of decision making always takes a path, which is separate from the common will. The exercise of physical force always presupposes violence, even where this violence is exercised in an organized way, and in accordance with just political institutions. Violence is thus indispensable to political institutions. “[V]iolence is not the whole of the political, but its dark side. It implies a constant threat of resurgence, but it is not, in my opinion, constitutive of the state.” (Ricoeur 1998: 105)

On Ricoeur’s view, the initial act of founding a political community has, as a matter of history, always involved violence. Since this violence remains latent in political society as long as it exists, he calls it “residue violence.” It is the source of all the other acts of violence perpetrated by the state. He claims that the residue violence, though it is not constitutive, always remains in the political society. A good state will strive to moderate and minimize the violence accomplished by the rule of law. But it is equally important, he argues, to find a balance between the initial and residue violence. Ricoeur writes:

If the legal state ... stands in the place between two extremes, namely the initial violence and the residue violence, residue violence can be recognized in the police force which has progressively stripped citizen of their rights to retaliate, of their private reactions of violence. (Ricoeur 1995c: 20)

In Ricoeur's view, political authority is at the root of all the versions of the political paradox.²⁵ For Ricoeur, Arendt fails to take into account the fact that authority also contains the trace of the violence that the State's founders employed to bring it into being. For instance, he writes:

Authority is that of the "magistrate", that of justice. The 'order' which it engenders and maintains could not therefore be separated from justice, even less opposed to justice. But it is precisely this established violence, this violence of justice which constitutes a problem. (Ricoeur 1965: 237)

While the rationality of the constitution aims to reduce this violence to a minimum, Ricoeur insists that the constitution itself is subject to irrationality precisely by way of the prerogative it gives to the ruler to make decisions and to coerce obedience if necessary.²⁶

²⁵ Following Max Weber, Ricoeur accepts a phenomenon of domination as an essential part of political power. Political power is defined in terms of the exertion of influence over others either in accordance with or against their will. More specifically, Max Weber's *de facto* account of political power takes political power as "the probability that one actor within a social relationship will be in a position to carry out his own will despite resistance, regardless of the basis on which this probability rests." (*Economy and Society*, 53) This notion of political power can become structural power when it is mediated by human institutions. Here the role of state is crucial. For Weber, the state is "the rule of men over men based on the means of legitimate, that is, allegedly legitimate, violence," he concludes that "every state is based on force." (Ibid., 78)

On Ricoeur's reading, Weber's conclusion is suggestive in many ways. There is oppressive governance in the very structure of the political. The political can be maintained solely by the exertion of violence. This always raises the questions about the justification of political authority. In this sense, Ricoeur takes for granted domination as part of the structure of the political. Furthermore, domination must be legitimate. In order for political authority to be legitimate, it must be founded on a general consent. In this sense, the state and its legal system can be regarded as the major capacity for exercising political violence.

²⁶ According to Ricoeur, there is only a practical solution to this paradox of politics. As he points out, "the problem of the control of the state consists in this: to devise institutional techniques especially designed to render possible the exercise of power and render its abuse impossible. The notion of 'control' derives directly from the central paradox of man's political existence; it is the *practical* resolution to this paradox. To be sure, it is, of course, necessary that the state should *be* but that it not be too much. It must direct,

As noted above, the irreducibility of violence from the political realm is due to the fact that there is political authority. Ricoeur argues that political authority is always *enigmatic* and *paradoxical*. (Ricoeur 2001: 107) Political authority is enigmatic because its origin and justification remain opaque. Ricoeur asks:

At the root of the political, at the foundation, there is the enigma of the origin of authority. Where does it come from? This is something that has never been settled and that causes the shadow or the ghost of the theological to continue to haunt the political. (Ricoeur 1998: 132)

Further, political authority is paradoxical because there is a difficulty in its legitimation. Like Arendt, Ricoeur believes that the stability of political power depends on the legitimacy of its authority, which is *foundational*. But he argues that political authority is handed down to us through tradition, which appeals to the prior history of authority. This prior history, however, does not mean chronological origin. Rather it refers to justificatory anteriority. He says:

The origin does not function as a first, as the datable beginning of a series. Rather the origin functions as that which is always already there. ... Evidently, it has its chronological trace. But the origin is an anterior that belongs to the order of foundations rather than to the order of chronology. (Ricoeur 1998: 147)

According to Ricoeur, political authority is fundamental to the justification of democracy. Ricoeur takes the democratic project as “the set of measures that are taken so that ... the horizontal tie of wishing to live together in general prevails over the irreducible, hierarchical relation of command and authority.”(Ricoeur 1998: 99) But Ricoeur also argues that this democratic project is always incomplete because its stability and durability rest on the prior history of authority:

organize, and make decision so that the political animal himself might be; but it must not lead to the tyrant.” (Ricoeur 1965: 262)

It [democracy] is always founded on the anteriority of itself in relation to itself. Can this be called a foundation? If so, it would be in the sense in which one speaks of founding events. But these founding events do not escape the enigma of the receding origin or, to put it better, the dialectic of the immemorial origin and the dated beginning. (Ricoeur 1998: 102)

If this is the case, there are two things to be recognized. First, it is impossible scientifically to determine the incontestable origin of political authority. Second, we must recognize that the interpretation of authority presupposes certain qualifications. Qualified interpreters of political authority should lead us to recognize its fundamental fragility.

Even though its origin and justification are not transparent, political authority depends on trust. In order for political authority to be genuinely authoritative, we must find it “credible.” (Ricoeur 2001: 123) But since its origin allows for many different interpretations, there should be room for dissent (Ricoeur 2001: 123), which may lead people to resist the credibility of political authority. Since the credibility of political authority can be always undermined by individuals or group of citizens, its fragility is ineliminable from the political realm.

Furthermore, Ricoeur argues that the legitimacy of political authority would be problematic because of the augmentative feature of political power. Here Ricoeur accepts Rawls’s fundamental characterization of the democratic culture: Adapting the idea of “reasonable disagreement” from Rawls, Ricoeur argues that the foundation of a democratic regime is constituted by a diversity of moral, religious, and philosophical traditions. We must recognize and tolerate different worthy (reasonable) traditions. Together, these different comprehensive doctrines, accepted as constitutive conceptions of the good by particular persons in society, become the basis, the “co-foundation” of

political authority. In circumstances of social pluralism, we must rely on the achievement of an “overlapping consensus” among reasonable comprehensive doctrines. (Ricoeur 2001: 123) It is our political responsibility to seek such an overlapping consensus, since our predecessors have bequeathed to us a history of legitimate and authoritative institutions that govern our life together. If we wish to legitimate our own exercise of political power, it is our responsibility is to carry this tradition forward in time. Politics rests on a foundation that it does not create for itself but which it repeats and augments. Ricoeur asks a rhetorical question:

Does the forgotten of politics always split into two parts: the forgotten of the “fact” that we *are* only by reason of our acting together – even if it is in a polemical manner – and the forgotten of the “fact” that we *have been* by virtue of the strength of a prior foundation that is always presumed but perhaps forever undiscoverable? (Ricoeur 1991a: 42)²⁷

Political Judgment from a Moral Point of View:

Ricoeur on Arendt’s Theory of Political Judgment

Ricoeur’s final argument against Arendt addresses her appropriation and reconstruction of Kant’s unwritten political philosophy. Arendt tries to show that we can pass moral judgment on history without referring to a hidden historical teleology. Ricoeur regards Arendt’s effort as an attempt to overcome Hegel’s speculative philosophy of history. On the Hegelian view, we need to understand the historical process in terms of the progress of “spirit,” otherwise our evaluative judgments will be groundless. Arendt develops a non-Hegelian alternative based on her reading of Kant’s

²⁷ I owe this translation to Dauenhauer 1998: 156. The original text is this: “L’oublié du politique se scinderait-il toujours en deux: l’oublié de ce que nous *sommes* du seul fait d’agir ensemble – fut-ce sur le

Critique of Judgment. But Kant, like Hegel, refers to the historical development of humanity as a basis for historical judgment. Can we make judgments about history without recourse to teleology in Kant's philosophy? In this section, I will consider the answer Arendt proposes, and Ricoeur's reading of this answer.

In her *Lectures on Kant's Political Philosophy*, Arendt develops a three-part response, which constitutes her theory of political judgment. First, she argues human plurality creates a problem for the *communicability* of judgments of taste as well as a similar problem in the domain of political judgments. In the realm of taste, we usually consider conflict to be relatively unproblematic. But in the political domain plurality of judgments combined with our need to live together in spite of our similarities and difference, combine to create a serious problem of social conflict. In each case, argues Arendt, there must be underlying commonalities that enable people to understand their disagreements, and these commonalities provide the key to their resolution. Arendt's refers to Kant's *sensus communis*, an underlying common capacity that allows us to evaluate our own judgments in light of human reason itself, as providing the key to both aesthetic and political judgment. In this she extends Kant's theory of aesthetic judgment, by applying it to the domain of the political. This leads us to the second important feature of Arendt's theory of political judgment: according to Arendt, both political and aesthetic judgment are concerned with *particularity*. Unlike determinative judgments, which subsume individual cases under a general law or principle, these contexts require the use of *reflective* judgment, in which we employ reason to discover common features of diverse particular cases. Arendt calls attention to the fact that political judgments, like

mode polémique --, et l'oublié de ce que nous *avons été* par la force d'une fondation antérieure toujours présumée et peut-être à jamais introuvable?"

aesthetic judgments, involve the application of *reflective deliberation* to particular cases. The final element of Arendt's theory of political judgment is her claim that the perspective of the spectator is not merely necessary, but in fact prior to the perspective of the actor in history. In making political judgments, as noted above, we evaluate our own personal and particular judgments in light of human reason itself. On Arendt's reading of this Kantian claim, when we do this we abstract from our personal point of view to adopt, at least as a deliberative tool, the third person perspective of the spectator. Arendt adds that the perspective of the spectator is prior to the perspective of the actor.

By in large, Ricoeur accepts all three of these features of Arendt's theory of political judgment. (Ricoeur 2000: 103-106) But Ricoeur understands this theory in light of a somewhat different reading of Kant. On Ricoeur's reading, a theory of political judgment requires a deeper understanding of Kant's theory of taste, and the role of creativity. He emphasizes that "*competitive*" relation between judgments of taste and what Kant refers to as "the creative activity of genius." While taste is based on the "following"(*Nachfolge*) and "imitation"(*Nachahmung*), genius is a creative capacity which motivates the artist to produce a work of art.²⁸ The creative function of the genius involves changing existing meanings and breaking through barriers. The function of judgment involves the application of existing meanings, and employs existing barriers as a standard. It is because of their underlying differences that the relation between taste,

²⁸ This thesis is derived from the section 48 of *Critique of Judgment*. The important passages are the following: "*Judging* beautiful objects to be such requires *taste*; But fine art itself, i.e., *production* of such objects, requires *genius*... [T]aste is merely an ability to judge, not to produce." An equal play of genius and taste is essential to the relation between them (Section 50): "Taste, like the power of judgment in general, consists in disciplining (or training) genius. It severely clips its wings, and makes it civilized, or polished: but at the same time it gives it guidance as to how far and over what it may spread while still remaining purposive. It introduces clarity and order into a wealth of thought, and hence makes the ideas durable, fit for approval that is both lasting and universal, and [hence] fit for being followed by others and fit for an ever advancing culture." (Kant 1987)

and genius will involve conflict which must be overcome. In Arendt's theory of political judgment, there is a similar tension between the spectator and the agent of history. But according to Ricoeur, Arendt is wrong to give the spectator priority over the agent of history. (Ricoeur 2000: 100)

Ricoeur is skeptical of Arendt's aesthetic reconstruction of Kant's political philosophy. (Ricoeur 2000: 106)²⁹ He argues that Arendt's mistake was to see political judgment as essentially historical judgment, and to consider its operation in our evaluation of the past. But, argues Ricoeur, political judgment is also future oriented, and political action must be guided not only by our understanding of the past but also by our ideals and hopes for the future. It is because political judgment is action guiding that it is morally pressing, and because such actions are subject to moral evaluation, political judgment requires appeal to a moral point of view. In this respect, future-oriented political judgment is distinct from retrospective aesthetic judgment. Ricoeur remedies the gap in Arendt's theory by emphasizing the relevance of the moral point of view in political action. He argues that it is essential to introduce both moral judgment and active citizens as Kant did in *Perpetual Peace*. Hence, on Ricoeur's reading, the task of recovering Kant's unwritten political philosophy can be appropriately completed only if we understand the relevance of the theory of judgment developed in the *Third Critique* in light of the theory of moral choice developed in the *Metaphysics of Morals*.

This insight leads Ricoeur to argue for the importance of teleological judgment in political judgment. Focusing on Kant's "Idea of a Universal History from a Cosmopolitan Point of View," Ricoeur calls attention to the *prospective* or *teleological*

dimension of historical and political judgment, in contrast to Arendt's excessive emphasis on the retrospective dimension. He argues that the activity of political judgment requires dialectical interplay between these two perspectives, and that, because of this, it is not appropriate to assign "priority" to the retrospective perspective of the spectator. Ricoeur thus reformulates the question that must be answered by a theory of political judgment: How can we understand our hopes for the future in light of our retrospective *moral* judgments of history?

The answer to this question is given in Kant's notion of hope. Hope, argues Ricoeur, can bridge the gap between the past-directed "witnessing function" and the future directed "prophetic function" of historical and political judgment. Several passages from Kant are especially relevant here: In the Eighth Proposition of his "Idea for a Universal History," Kant expresses hope that "a universal cosmopolitan condition ... will come into being" in which "all the natural capacities of mankind can be developed completely. (Kant 8th Proposition/ Ricoeur 2000: 106) And in the "Contest of Faculties," the relation between hope and prospective dimension of history is expressed as follows: "there must be some experience in the human race which, as an event, points to the disposition and capacity of the human race to be the cause of its own advance toward the better." "For such a phenomenon in human history is not to be forgotten." (Kant 1991: 184/ Arendt 1982: 46) And in a rare moment of poetic inspiration in the essay "Theory and Practice," he writes:

Is the human race as a whole likeable, or is it an object to be regarded with distaste? Must we simply wish it well (to avoid becoming misanthropists) without really expecting its efforts to succeed, and then take no further interest in it? In

²⁹ Arendt's view, according to Ricoeur, is that "the Kantian world citizen is in fact a *Wertbetrachter*, a world spectator." (Ricoeur 2000: 106) The impartial point of view of this spectator, for Arendt, gives us a hope to the tragic witnesses of the terror of history.

order to answer such questions, we must first answer the following one: Does man possess natural capacities which would indicate that the race will always progress and improve, so that the evils of the past and present will vanish in the future good? If this were the case, we could at least admire the human species for its constant advance toward the good; otherwise we should have to hate or despise it, whatever objections might be raised by pretended philanthropists (whose feelings for mankind might at most amount to good will, but not to genuine pleasure). For however hard we may try to awaken feelings of love in ourselves, we cannot avoid hating that which is and always will be evil, especially if it involves the deliberate and general violation of the most sacred rights of man. Perhaps we may not wish to harm men, but we shall not want to have any more to do with them. (Kant 1991: 87)

In answer to this question, Kant offers an historical theory of hope. He argues that we can find in the faculties of human beings a dispositional feature, our capacity for moral judgment, that justifies our hope that the human situation will progressively improve over time. In Ricoeur's reading, this notion plays a mediating role: it is hope that links the retrospective perspective to the prophetic perspective in the exercise of political judgment. As he writes, "the retrospective signs for reflective judgment are prospective as regards those projections authorized by the 'disposition' with which nature has endowed human beings as destined to strive for a cosmopolitan state." (Ricoeur 2000: 106) Thus it is hope that relieves the paradoxical tension between the spectator's point of view and that of moral action.

This is the reason for Kant's emphasis on the notion of "educated opinion or public" Kant develops in his 1784 essay "The Idea for a Universal History." The notion of 'educated public' refers to politically competent people who are retrospectively good at reflective judgment and whose prospective hopes are founded on their moral judgment. On Ricoeur's reading of this Kantian view, "Only educated opinion is capable of joining, in the perception of events, the meaning we can assign to reflective judgment and the

value of the sign, of the symptom, hope draws upon when it turns from retrospection to expectation.” (Ricoeur 2000: 107)

In assessing historical events, however, Ricoeur notes two dangers to be avoided. First, if one regards one’s hopes as fixed and determinate, one might construct ones hopes into a totalizing vision of history. In this, we hear an echo of Ricoeur’s critique of Hegel and Marx. But we fall into a second danger if we fail to interpret our hope through the faculty of moral judgment, we may be left with a kind of moral relativism according to which the criteria of historical or political judgment is reduced to the validity of cultural taste or personal emotional response. In order to avoid these dangers, Ricoeur argues that we must include in our theory of political and historical judgment the moral dimension derived from Kant’s idea of teleological judgment. Kant’s account is based on rules guiding the relationship between nature and history, especially the progress of the human species in history. Taking it for granted that this is the search for the rule under which historical facts are subsumed, Ricoeur underscores the critical function of Kant’s philosophy of history. For example, in his ninth thesis in *the Idea for a Universal history* Kant writes: “It is admittedly a strange and at first sight absurd proposition to write a *history* according to an Idea of how world events must develop if they are to conform to certain ration ends; it would seem that only a *novel* could result from such premises.” (Kant 1991: 51-2) Ricoeur’s point is that Kant fully recognizes the limitation of his historical enterprise. Since historical judgments are at most reconstruction by virtue of a narrative, the critical aspect of Kant’s philosophy should be re-incorporated in his unwritten political philosophy in order to save its proper task.³⁰

³⁰ The main task of providing the moral dimension of historical judgment for Ricoeur is very complicated because it is concerned with the art of narrating.

Ricoeur urges that recovering the role of critical reason in a theory of political judgment requires a moral criterion that can serve as a basis for the judgments of active citizens. This is, claims Ricoeur, why *Perpetual Peace* and *The Metaphysics of Morals* are crucial to Kant's theory of political judgment. Politics calls for both the standpoint of the spectator and that of the actor. This becomes clear if we consider the discourse on war in *Perpetual Peace*. From the standpoint of the spectator, war is considered as producing meanings. From this perspective, war might appear simply as an unfortunate aspect of the natural condition of humankind. But from the moral standpoint of the agent, war ought not to happen and always to be condemned.

Thus Ricoeur argues that it would be a great mistake to hypostatize the judgment of the spectator alone in the exercise of historical judgment, we must also exercise our moral and rational faculties. As Ricoeur says, "all that we can suggest is that reflection, in bearing on past events, reveals its prospective dimension thanks to a critical distancing. We must not therefore bind together in a univocal fashion reflection and retrospection." (Ricoeur 2000: 108)

It is this moral dimension of judgment, historical or political, Ricoeur stresses, that calls for the necessity of institutional mediation. To connect retrospection and prophecy, we must forge human institutions. Here Ricoeur emphasizes the regulative status of human institutions as an Ideal. The idea of a "perfect civil constitution" is a good example. It is not merely an idea, but a *guiding* idea which structures our hope for a promising development of the human species and human political institutions. But according to Kant, this idea is only a background for "the hope that, after many revolutions, with all their transforming effects, the highest purpose of nature, a universal

cosmopolitan existence, will at last be realized as the matrix within which all the original capacities of the human race may develop.”(Kant 1991: 51)

For Ricoeur, institutions constitute a meeting place for both the view of citizenship and a cosmopolitan point of view. This point of view, and the institutions we imagine from its perspective, call for the law-governed State and for peace among States. In this context, the concept of right must play a central place. As he states, “The philosophy of right then needs to be placed in an intermediary position between those ‘dispositions’ arising from a natural finality and the moral requirement of a law-governed State, both in cities and among cities. We cannot place the whole weight of this demand on reflective judgment.”(Ricoeur 2000: 108) Hence, Ricoeur argues that without institutional mediation “the world citizen remains a world spectator, and reflective judgment remains unreconciled with the rule of practical reason...The sole indication of such reconciliation for a critical philosophy is the exemplarity that gives a point of futurity to communicability and, in this way, a ‘prophetic’ dimension to reflective judgment itself.”(Ricoeur 2000: 108)

III. Non-Violence, History and Justice

Despite the fact that Ricoeur prioritizes the moral point of view in his account of political judgment, he also emphasizes the importance of non-violence in political and historical thought. Although he argues that violence is ineliminable from the political domain, he does not think that this implies that the notion of non-violence is useless. But Ricoeur’s theory forces us to ask, in what sense is the notion of non-violence still

significant, and is it worthwhile to strive for an ideal of nonviolence? And what is the relationship between the notions of political violence, nonviolence, and justice?

In order to answer these questions, we need to go back to Ricoeur's early writings on historical knowledge. There Ricoeur argued that the notion of non-violence is historically effective. But how? If nonviolence is an unattainable ideal, then proponents of nonviolence might seem to be historically irrelevant dreamers whose ideas can have no influence on the activities of practical political actors. Ricoeur poses the question as follows: "Under what conditions may the non-violent man be something other than a yogi, in the sense in which Koestler uses this term or something other than a purist on the fringes of history?" (Ricoeur 1965: 223)

According to Ricoeur, we can understand the political efficacy of the ideal of nonviolence by considering three underlying issues: First, what is the relevance of *violence* in history? Under what conditions does violence concern history? Second, we must ask whether the idea of non-violence can have been efficacious in the past. And finally, we must consider the Stalinist view that violence is necessary or instrumentally valuable for the achievement of human progress toward peace.

The first question deals with the formidable fact of historical violence. Against this historical course of events, there is our "ethical nature of consciousness," which guards against violence. In other words, if violence is an attempt to eliminate the initiative of others, then it is natural to say that unique individuality is wounded in the very moment of violence. But our ethical consciousness repudiates this notion, searching for a genuine meaning in the violent events of history. As Ricoeur says,

History says: violence. Consciousness rebounds and says: love. Its rebound is a rush of indignation. By means of this rebound it posits an end to history: its

suppression as violence. At the same time it posits man as the possible friend of man. (Ricoeur 1965: 228)

Since nonviolence is an ideal of reason, the possibility of non-violence can be recognized only by human beings. Thus:

Pacifism thinks itself humane and benign. It believes it is already in the world, that it has come from the world, the result of the natural goodness of man which is simply masked or hindered by some few evildoers. It is not aware that it is actually very complicated, that it has history, that it can only come from *elsewhere*, that it summons history to something other than what is naturally intended by history. (Ricoeur 1965: 228)

While violence cannot be eliminated from politics, nonviolence can be achieved, and its achievement is a goal worth hoping for. In this limited sense, non-violence can be locally achievable even in the political domain. Its typical case is the pursuit of political justice. Since it is commonly assumed that non-violence is an appropriate substitute for violence, it would be enough to establish a just society that is interpreted in terms of a ‘non-violent polity’ or ‘rule free from domination.’ Insofar as there is violence in interpersonal relations, it is natural to suppose that the function of justice is to eliminate it. But, Ricoeur asks, Is a “non-violent polity” or “non-violent rule” possible? (Ricoeur 1978a: 222)

Ricoeur’s answer is clear. Politically, the ideal of non-violence is a utopian idea. Insofar as the State is necessary, we must recognize that it is impossible to eliminate violence entirely. As already emphasized, the political community internally presupposes an essentially problematic notion of authority or domination insofar as it is based on the asymmetrical relation between command and obedience. Externally, the political

community suffers from its own insecurity. War between states makes it difficult even to think of non-violence in the political community.

Nevertheless, Ricoeur insists that the goal of political justice is the elimination of violence. As he claims, the political community is “the seat of a concentration and a transmutation of violence.”(Ricoeur 1965: 226) This is the main reason why governing persons is fundamentally different from the mere administration of things. Governing persons requires us to treat them as ends in themselves rather than mere means to certain ends. But even though political life is essential to human well-being, political action is prone to violence. In this sense, Ricoeur maintains that the effectiveness of non-violence is not simply in its employment as a political idea, but also its employment as a historical idea, necessary for the exercise of effective political judgment.

The notion of nonviolence as a historical idea is the very core of Ricoeur’s second question: “If non-violence comes from elsewhere, how shall it be present to history?” This question concerns the ideal significance of non-violence rather than its reality. As Ricoeur writes, “If non-violence is to have a meaning, it must fulfill it within the history that it first transcends; it must have a second efficacy, which enters into account with the efficacy of the violence in the world, an efficacy which alters human relationships.”(Ricoeur 1965: 228) In this context, it is crucial to realize that the efficacy of non-violence is possible only as a hope or an ideal to be undertaken.

Two things are especially worthy of attention in Ricoeur’s discussion of non-violence as hope. First, Ricoeur maintains that the notion of hope is meaningful only in an eschatological sense. This means that hope in an ultimate unity is to be pursued as our final goal. Second, Ricoeur pays special regard to the importance of words in the pursuit

of such hope. This is relevant to the pursuit of justice, because the search for justice is ultimately connected to the problem of imposing rational meaning in language.

The idea of non-violence is employed in any attempt to unify the meanings of human actions. It is contained in a unity of all the teleologically constructed meanings. The idea of non-violence is focused on “the problem of the effort to integrate in an inclusive understanding the relationship of man to nature, of man to man, of existence and meaning, and finally, the very relation of language and violence.”(Ricoeur 1974a: 98) This idea of non-violence is an ideal, like the regulative ideals in Kant’s theory of judgment. According to Ricoeur, ‘non-violence’ as a regulative idea serves as a final goal, directing our attention toward the possibility of an ultimate unity of all the meanings of human action.

Considered in this way, Ricoeur argues that the idea of non-violence leads to a “history which remains to be made, to be inscribed in the destiny of institutions and modes of feeling and acting.”(Ricoeur 1965: 229) Here it is important to see that the idea of non-violence is not to be understood in terms of the idea of justice as retribution for prior violence. Justice is more than retribution, because it offers room for further rational meanings. Ricoeur provides a clue to that possibility as follows:

This concrete and present testimony given to the eventual fellowship of man does not have its efficacy restricted to its inevitable effects in the annals of opposing violences. He [the non-violent person] hopes that over and above the impurity which he shares with all the acts which light upon history, that his novel act, which is always questionable on the basis of its short-term effects, has a double sense; that it supports the purpose of values and the endeavor of history toward the recognition of man by man. (Ricoeur 1965: 229)

To understand this position, we must distinguish between the principle of non-violence and a non-violent person. Ricoeur claims that the principle of nonviolence can

be used reciprocally to that of the non-violent person only if the principle of non-violence is employed as a limiting idea, an ideal that is never reached, but toward which we may still strive. Thus the notion of non-violence functions in a way that is similar to that of the idea of justice. For justice is also a regulative limiting ideal, by which people hope to reach reciprocal equilibrium between principle and action. It is worth noting that this is also what Rawls hopes to obtain in his theory of justice. According to Ricoeur, this equilibrium or balance is achieved in what he calls *critical phronesis*, wise judgment that would be best fitted to particular situation.

Critical phronesis as a teleological goal of non-violence is a dimension of conviction, that justifies critical judgment and perhaps resistance against present-day practices that are unjust or unfair. So in its relationship to our ideal of justice, non-violence plays a crucial role in political choice and action. Ricoeur writes:

For he who lives, who acts, there is neither compromise nor synthesis, but *choice*. The intolerance of any mixture is the very soul of non-violence. If faith is not total it denies itself. If non-violence is the calling of a few, it must appear to them as the duty of all. For whoever lives it and ceases to watch it from a distance, non-violence wishes to be the whole of action, wishes to make history. (Ricoeur 1965: 233)

Ricoeur's emphasis upon exercising human choice reveals one of the most important aspects of Ricoeur's broader conception of justice. The very goal of justice, for Ricoeur, is practical. Justice involves the search for wise choices in the historically given situation, individually and collectively.

This brings us to Ricoeur's third question: Is violence a necessary instrument to be used in the service of human progress toward peace? The defenders of progressive violence argue that it is sometimes acceptable, even advisable to employ violent means in

the pursuit of desirable ends. The assumption is that the justification of the means depends only on that of the end.

Ricoeur denies that violence can ever be given such an instrumental justification. He argues that progressive violence is always unacceptable and repressive. It would be justified to choose a violent and repressive strategy only on the supposition that it were the only way of achieving the end of peace. But there is never only one way, so violence is never justified as a means.³¹

According to Ricoeur, the notion of non-violence can be effective in the form of resistance to injustice. Rather than achieving certain ends, the main function of non-violence is that of refusal. Taken together, the ideas of non-violence and justice in their general sense function to provide us with tools that enable us to be self-reflectively critical of our traditions, institutions, and customs. They are therefore of crucial significance in political action. Ricoeur claims that despite its limited realization within the already given structure, the primary goal of political action is practical political change, the creation of discontinuity between the violence of the past and our hopes for the future. This discontinuity is to be found in the idea and practice of non-violence. Because of its abstract character, it may be difficult to perceive the operation of non-violence at the institutional level. But Ricoeur insists that this idea is crucial if we hope to make wise choices in practical political life, and in our understanding of history.

To conclude, non-violence, for Ricoeur, is crucially significant for history and political practice. It provides us with a critical perspective for intelligent resistance

³¹ This is clearly connected with what Ricoeur calls the “non-violent practice of discourse itself.” (Ricoeur 1974a: 101): “Violence in discourse consists in the claim that a single one of its modalities exhausts the realm of speech. To be non-violent in discourse is to respect the plurality and diversity of languages. It is

against everyday injustices. In the practice of political judgment, the notion of non-violence serves as a reciprocal counterpart to our understanding of our own violent history. History teaches us the violence of the past, helps us think about the possibility that we might avoid perpetrating similar violence acts in the future. For that very reason, non-violence strives to integrate man and nature, man and man, and existence and its meaning. Politically, it is the very effort to live together. Our ethical wish to live together in just institutions is our dream of non-violence as an eschatological hope. And this explains why the notion of justice plays a critical role in human affairs.³²

to leave the modes of discourse in their proper places.... Respect for the multiplicity, diversity, and hierarchy of languages is the only way for men to work towards rational meaning.”

³² Emphasizing “the ultimate incompleteness of discourse and action,” Ricoeur says that human beings are “politically *en route*.”(Ricoeur 1986: xiv)

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