



Ethics and Environmental Policy in Democratic Governance

John Rawls, Public Reason,
and Normative Precommitment

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Abstract

Probably no philosopher of the twentieth century has had a greater impact on democratic theory and ethics than John Rawls, but his direct influence on environmental policy and ethics has been minimal. Rawls's theory calls for "normative precommitment," meaning that in a democracy people should agree on fundamental normative choices before they take account of their own stakes in later decision processes. Independently of Rawls, environmental policy has repeatedly hit upon normative precommitment as a strategy in campaigns for clean water, protecting endangered species, and climate change. Policymakers find normative precommitment an attractive approach because it combines moral sensibility about the environment with potent symbolic politics, but the value of this strategy is attenuated because policy debate and the policy research literature have no philosophical grounding in terms of governance or democratic theory. This is what Rawls provides. His approach will always require too much of society to be useful in deciding "everyday" matters, but it is most valuable in thinking about the big questions of environmental politics and policy, the ones that involve fundamental considerations.

Probably no philosopher of the twentieth century has had a greater impact on democratic theory than John Rawls (1993; 1995; 1999a; 1999b). Yet one area of political theorizing has remained largely untouched by his groundbreaking work. Theorists

of environmental politics have seemed strangely indifferent to both *A Theory of Justice* and *Political Liberalism*. Some discuss Rawls, but only in the limited context of the implications of his views for a specific problem of environmental ethics, such as animal rights (e.g., Wenz 1988). Even though many in the field concede that moral exploration of environmental issues necessarily involves a process of “reflective equilibrium” closely associated with the work of Rawls (de-Shalit 2000, 22), most environmental theorists have been reluctant to embrace his general philosophical perspective and to explore its implications for environmental politics.

The first problem is that Rawls’s approach strikes many as simply a form of philosophical introspection (Dryzek 2000, vi). For democratic theorists generally, and environmentalists in particular, this quality of his approach seems to involve

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individuals mulling over ethical dilemmas in their own minds rather than engaging in any process of collective social action. To the extent that this is true, it makes Rawls’s work highly suspect in a field like environmental politics, where a premium is placed upon consciousness raising linked to social action.

The Rawlsian approach has also been criticized as excessively concerned with procedure (Plumwood 2002). A preoccupation with putting the right processes of political reasoning and communication in place is seen as a problematic approach to “hearing the bad news from below.” Proceduralism of this sort, it is argued, neglects the intimate relationships between process and product that underlie inequities among individuals as well as unsustainable decisions about the environment.

Finally, Rawls has been criticized for being too much a captive of the conventional liberalism that many hold responsible for the environmental problematique. The supposedly neutral premises advanced by Rawls have been characterized as reproductions of an established political order that reinforce the political disenfranchisement of historically disadvantaged interests, both human and nonhuman (Mouffe 1996).

With these three counts in the environmentalist indictment of Rawls, what more needs to be said? Perhaps a great deal.¹ His theory calls for the citizens of a deliberative democracy to agree to constitutional essentials and basic principles of justice arrived at through a process of reasoning that divorces them from consideration of their own interests and preferences. In effect, Rawlsian citizens will agree in the abstract about what is fair before they take account of their own stakes in later decision processes. This is obviously a powerful tool within the limited range of its legitimate use—constitutional essentials, basic principles of justice, and fundamental normative choices. Rawls allows that the status of the natural world and the proper relationship of humans to it does not *necessarily* fall into these categories, an assertion that undoubtedly alienates many environmentalists. But he does indicate that environmental concerns *may* rise to this level of significance where our duties to other societies and to future generations become involved (1993, 244–246). That is, Rawlsian binding normative precommitments may be the preferred way of addressing the all-too-common problems involving sustainability or transboundary externalities, a large and hugely important category of environmental problems indeed (Baber and Bartlett 2001).

John Rawls: A Primer

Estlund (2003) characterizes the work of John Rawls as an act of “audacious humility.” By his own account, Rawls limits his efforts to a description of the basic liberties and fundamental political institutions that would be required in any just society. His theory is based upon the insight that, even among well informed, reasonable, and decent people, controversy over important political questions is inevitable. His objective is to identify those core elements of a political structure that could command the assent of all citizens based solely upon their reasonableness and their commitment to the idea of mutual respect.

The tool Rawls develops to arrive at such a consensus is a degree of impartiality he calls the “original position.” The concept of the original position, unlike the “state of nature” in the contract theories of Hobbes and Locke, says very little about human nature. It describes an arena of decision-making wherein people know very little about themselves or their world. They know that there will be primary goods (money, opportunities, and the like) that it will be in their interest to have. They know that their ability to secure those goods will depend on personal qualities and life circumstances that are variably distributed and not within their control. But they make their choices about the basic structure of their political existence behind a “veil of ignorance” that deprives them of any information about how their abilities or their social situation differs from their fellow citizens. “One or more persons can at any time enter this position, or perhaps better, simulate the deliberations of this hypothetical situation, simply by reasoning in accordance with the appropriate restrictions” (Rawls 1999a: 119).

According to Rawls, there are two principles of justice that self-interested but appropriately impartial citizens would choose. First, they would insist on an equal right to the most extensive system of liberties consistent with the guarantee of the same liberties for all. Second, they would insist that any social and economic inequalities be attached to offices and positions that are open to all and that those inequalities should redound to the benefit of society’s least advantaged individuals. Finally, they would recognize that the first principle of justice is prior and superior to the second.

The objective of Rawls’s theory is not to banish political conflict. It is, rather, to discover and describe our shared principles and convictions—propositions that any reasonable citizen would accept. Their acceptance would not result from the fact that these principles are effective as a political *modus vivendi* and have a value for the maintenance of social peace, as true as that may be. Citizens would accept these principles because they are the product of a decision process that all could recognize as inherently fair and because they satisfy the expectation of reciprocity and mutual respect upon which any system of self-government ultimately depends.

It is worth noting, as Estlund (2003) does, that the works of Rawls take virtually no notice of the social and political tides that swept across America and the world during his life. War and peace, oppression and liberation, the ascension of international capitalism and the decline of international communism, all pass through Rawls’s field of vision without comment. It should not surprise us, therefore, that Rawls has said very little about the implications of his theory for questions of environmental policy. The validity of policy strategies, the value of political tactics, the myriad collective and individual values that converge in moments of public decision—all of these involve controversies that philosophy cannot claim to settle. The ultimate value of Rawls’s work lies precisely in the fact that it takes us beyond such contextually specific arguments in search of a consensual basis for the completion of the Enlightenment project of establishing a society that is at once rational, reasonable, just, and (for those reasons) sustainable.

Since its emergence as a political force, the environmental movement has repeatedly hit upon normative precommitment as a strategy for achieving its ends, finding it attractive as an approach because of its ability to combine a moral sensibility about the environment with potent symbolic politics (Sagoff 1990). What has been missing has been any sort of philosophical grounding in terms of governance or democratic theory, thus muting its appeal as a policy strategy.

This grounding is what Rawls provides. Thus it would be well for environmental thinkers generally, and deliberative green democrats in particular, to explore Rawls's philosophy in greater breadth and depth in order to understand its significance for, and the policy importance of, binding normative precommitment as a strategy for achieving environmental democracy, environmental justice, and ecological rationality. Toward that end, this article will discuss the procedural foundations of Rawls's theory of public reason, his second principle of justice and its implications for environmental public goods and distributional fairness across generations, and his initial principle of justice and its implications for environmental justice. Having outlined these foundations, it will turn to an analysis of the significance and limitations of Rawls's overall framework for the achievement of environmental ends by way of public reason in democratic governance.

An "Initial Situation"

Rawls's central concern is to define the most appropriate conception of justice for specifying the fair terms of social cooperation between citizens regarded as free, equal, and fully cooperating members of society over a complete life and from one generation to the next (1993, 3). This is crucial because in his view justice is "the first virtue of social institutions, as truth is of systems of thought" (1999a, 3). But Rawls's concern is not abstract or philosophical. In developing his theory of public reason, his self-declared aim is practical. He presents his theory as a conception of justice "that may be shared by citizens as a basis of a reasoned, informed, and willing political agreement" (1993, 9). This should be a matter of great concern to environmentalists generally and to those in the environmental justice movement in particular. It is true that this focus on social institutions has led some to complain that Rawls is indifferent to the fate of non-sentient elements of the environment (Wenz 1988). But Rawls's choice of subject should make his views highly relevant to those who are primarily concerned with race and class bias in the distribution of environmental risks in human society. Rawls's conception of social justice should be regarded, in the first instance, as a standard whereby the distributive aspects of the basic structure of a society can be assessed (1993, 11–15; 1999a, 8).

Self-Interest and Reciprocity

His theory on the foundations of social institutions marks Rawls as a philosopher in the contractarian tradition of Hobbes, Locke, Rousseau, and Kant. The individualism at the foundation of Rawls's work creates an inevitable tension with the social character of the dominant strains of environmentalism. His principles of justice are, as he puts it, the principles that "free and rational persons concerned to further their own interests would accept in an initial position of equality as defining the funda-

mental terms of their association” (1999a, 10). This reliance on the mechanism of self-interest has raised the ire of some environmentalists (de-Shalit 2000, 201). But it provides a useful starting point in addressing the issues of racial and class bias that animate much of the environmental justice community.

As with contract theories generally, Rawls’s approach to developing principles of social cooperation is procedural. He employs the “veil of ignorance” as an initial situation (the “original position” in Rawls’s terminology) to ensure that no one is advantaged or disadvantaged in the selection of basic principles by the outcome of natural chance or the contingencies of social circumstance (1993, 23; 1999a, 11). In short, “one excludes the knowledge of those contingencies which set men at odds and allows them to be guided by their prejudices” (1999a, 17). In this way, the principles of justice are agreed to in an initial situation that is fair. Moreover, a society satisfying the principles chosen in this initial situation comes as close as a society can to being a voluntary scheme. This is because it meets the standard of fairness which free and equal persons would assent to under circumstances that are themselves fair (1999a, 12).

The role of self-interest in Rawls’s theory has been the target of considerable criticism. Some argue that his theory of public reason hovers uneasily between impartiality and mutual advantage, not really knowing which stance to adopt (Barry 1989). In fact, it finds solid ground between impartiality and mutual advantage, anchored firmly in the concept of reciprocity (Gibbard 1991, 266). Neither disinterest nor altruism is necessary for Rawls. Because everyone’s well-being depends on a scheme of cooperation without which no one could have a satisfactory life, the division of advantages and disadvantages in a society aspiring to fairness must be such as to draw forth the willing participation of everyone, including those less well situated (1999a, 13). This concept of reciprocity is so clearly compatible with the environmentalist’s concern for the interdependence of humans and their environment that it seems remarkable it has escaped comment until now.

Shared Reflection and an Expanded Conception of Reason

The veil of ignorance has been another target of criticism. Some allege that the method of reflective equilibrium is too limited in that it is essentially a process of private reflection (de-Shalit 2000, 24). There is a sense in which reflection on any subject is a private process. But Rawls structures his initial situation to produce a reflective equilibrium that can be shared. In the “original position” he assumes that people are rational. That is, what ends people will pursue are not known or even knowable, but they will pursue them intelligently. He also assumes that people are reasonable where others are concerned, and thus are willing to govern their conduct by a principle from which they and others can reason in common.² This balancing of the rational and the reasonable is inevitably a collective enterprise because, while the disposition to be reasonable is not opposed to the rational, it is incompatible with egoism as related to the other-regarding disposition to act morally (1999a, 49). Thus the reasonable enjoys a position of priority over the rational (1993, 25). This expanded conception of human reason is particularly suggestive of the concept of ecological rationality as discussed in the environmental literature (Bartlett 1986; Bartlett 2005; Dryzek 1987; Plumwood 1999).

Limitations

A final criticism related to the original position is that it produces a set of principles that apply only to those who are parties to the original agreement. In particular, it is complained that Rawls's theory "fails to endorse a duty of justice concerning nonsentient constituents of the environment" (Wenz 1988, 233). Rawls admits that his theory fails to embrace all moral relationships in that it leaves out any account of how humans are to conduct themselves toward animals and the rest of nature (1999a, 15). But, as Andrew Dobson (1998, 181) points out, Rawls is not precluding a concern for animals, it is just that he does not argue that such a concern can be motivated by reasons of justice.³ And given the fact that Rawls describes his theory as limited to the political sphere, the search for a foundation for animal rights was always destined to begin elsewhere (Rawls 1993, 8). So complaints on this score alleging a defect in Rawls's original position (Pritchard and Robison 1981) seek to hold Rawls accountable for failing to do something he never set out to do.

In sum, Rawls's theory is founded on assumptions of self-interest, but self-interest tempered by the universal necessity of reciprocity, by a shared reflective balancing of the rational and the reasonable, and by a conscious delimitation of the theory to political relationships.

Procedures of Justice

Before describing the principles of justice posited by Rawls and exploring some of their implications, it may be useful to explain more fully the original position and the reasoning process that is to take place there. The approach employed by Rawls is an example of pure procedural justice, which is appropriate where there is no independent criterion for the right result. Rather, there is a correct (or fair) procedure such that the outcome is likewise correct (or fair) whatever it is, provided that the procedure has been properly followed (Rawls 1999a, 75). Deliberations in the original position have to do with the relationship between social positions, and not with specific distributions of goods. Social positions are the starting places, properly generalized and aggregated, of people in society. By choosing these positions as subjects of deliberation, societies specify a general point of view from which to develop principles of justice that are intended to mitigate the arbitrariness of natural contingency and social fortune (1999a, 82). This general point of view provides the basis for a public justification of the liberal values reflected in Rawls's theory, which avoids disputes over religious and philosophical perspectives by offering reasons that can be shared solely by virtue of citizenship in a constitutional democracy (Evans 1999, 117–127).

So in the original position the parties want to ensure for themselves (and their descendants) the best situation in society. Doing so presumes not only fair procedures in the selection of principles of justice, but also the existence of certain conditions of justice. These may be described as the normal conditions under which human cooperation is both possible and necessary (Rawls 1999a, 109). There are objective conditions of justice, chief among them that natural and other resources are not so abundant that schemes of cooperation become superfluous, nor so scarce that cooperative ventures must inevitably break down. There are also subjective conditions of justice, circumstances that make it necessary to have a theory of justice, which are

present whenever persons possess their own plans of life such that they put forward conflicting claims to the division of social advantages under conditions of moderate scarcity (1999a, 110). What is sought by rational and reasonable persons under these conditions 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” (1999a, 117).

Designed to yield such a set of principles, the original position is intended to set up a fair procedure so that any principles agreed to will be just. The objective, consistent with the idea of pure procedural justice, is to nullify the effects of specific contingencies that put humans at odds and tempt them to exploit social and natural circumstance to their own advantage (1999a, 118). The parties in such a position have no basis for bargaining in the conventional sense. The know nothing of their situation in society or their natural assets. Therefore, no one is in a position to tailor principles to his or her own advantage. Without these limitations on knowledge, the bargaining problem of the original position would be hopelessly complex, making the required unanimity on a particular conception of justice impossible (1999a, 120–121). But in the absence of this knowledge, the principles of justice agreed to can make manifest, in the basic structure of society, the desire of humans to treat one another not only as means but as ends in themselves (1999a, 156). The veil of ignorance “prevents us from shaping our moral view to accord with our own particular attachments and interests. We do not look at the social order from our situation but take up a point of view that everyone can adopt on an equal footing. In this way we look at our society and our place in it objectively” (1999a, 453).

Having described the original position in some detail, it is possible now to describe the principles of justice that according to Rawls reasonable and rational persons would agree to in that position. The interest of environmentalists has focused on Rawls’s second principle, his principle of distributive justice.

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The Second Principle of Justice

Rawls’s second principle of justice holds that social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone’s advantage, and (b) attached to positions and offices open to all (1999a, 53). The second clause of this principle (positions and offices open to all) is the least controversial and is not closely related to environmental concerns. But the first clause, that inequalities be reasonably expected to be to everyone’s advantage, is of considerable significance and interest.

There are, according to Rawls, two natural senses in which a distribution could be “to everyone’s advantage.” The first sense of this phrase is that distributions could be governed by Pareto optimality, so that no one can be made better off without making someone else worse off (1999a, 58). The second sense of the phrase, referred to by Rawls as the “difference principle,” can be stated as follows. “Assuming

the framework of institutions required by equal liberty and fair equality of opportunity, the higher expectations of those better situated are just only if they work as part of a scheme which improves the expectations of the least advantaged members of society” (Rawls 1999a, 65).

At least two questions arise naturally at this point. Why are the interests of the least favored the standard of distributional justice, and what precisely is subject to distribution under this principle? It should be recalled that those who profit from unequal distributions are expected to earn their profits through contributions to society that benefit all of its members. Use of the “least favored” as a standard for judging this issue is founded on the realistic assumption that when the contributions of those in favored positions spread generally throughout society, it is likely that if the least advantaged benefit, so do the others in between (1999a, 71).

As for the subjects of distribution under the difference principle, these fall into several general categories. They include rights and liberties, social and economic opportunities, income and wealth, freedom of movement and occupation, access to the powers and prerogatives of office, and a sense of one’s own self-worth (1993, 181; 1999a, 79). These things Rawls regards as primary social goods in the sense that they are of value to anyone regardless of their rational plan for life or particular concept of the good (1993, 307; 1999a, 223). The effect of this principle is to transform the aims of a society’s basic structure so that the total scheme of its institutions no longer emphasizes economic efficiency or other technocratic values. It is, rather, an agreement to regard the distribution of natural talents and other contingent advantages as a common asset. The objective is to ensure that everyone shares in the greater social and economic benefits made possible by the complementarities of this distribution and the social synergy that it creates (1999a, 87).

In this way, the difference principle expresses a conception of reciprocity according to which the more advantaged, when they view the matter from an appropriately general perspective, recognize that the well-being of each depends on a scheme of social cooperation without which no one could have a satisfactory life. They also recognize that they can expect the willing cooperation of all only if the terms of the scheme are reasonable (1999a, 88). Thus the difference principle takes equality as the basis of comparison, guaranteeing that those who have gained more must do so on terms that are justifiable to those who have gained less (1999a, 131). There are, however, certain kinds of social and economic tradeoffs about which this formulation of the difference principle might provide conflicting prescriptions. One is the provision of public goods; the other is the question of distributional fairness across generations, discussed below.

Publics: Today and Tomorrow

Rawls’s theory provides for the existence of public goods. It does not, however, specify a particular quantity of any specific public good. He uses the conventional criteria to identify these goods: publicness and indivisibility. He argues that all citizens must be provided with an equal amount of these goods (whatever they are), and that opting out or purchasing more must not be allowed (1999a, 235). He also argues that arranging for and financing these goods must be taken over by the state, and that binding rules requiring payment by citizens for these services must be developed. From an appropriately general perspective, the necessity of this arrangement should

be evident to all, and the use of coercion in the provision of public goods is, therefore, rational from each person's point of view (1999a, 236). This much is relatively uncontroversial. Rawls also identifies a class of public harms, the correction of which is appropriately within the purview of a just government.

The single example of a public harm offered by Rawls is the industry that sullies and erodes the natural environment. The costs associated with these harms, Rawls correctly observes, are not reckoned by the market. Commodities produced and sold in these markets are sold at much less than their marginal social costs. It is up to the enforcement arm of government to correct this imbalance between private and social accounting, as a matter of social justice (1999a, 237). This is not an infringement on the liberty of the producer of such products. It is merely a recognition of the principle of reciprocity to which all would assent if the matter were viewed from an appropriately general perspective. In Rawls's own words, "to be held accountable to the principles of justice in one's dealings with others does not stunt our nature. Instead it realizes our social sensibilities and by exposing us to a larger good enables us to control our social narrower impulses" (1999a, 403).

An important part of this larger good is a certain orientation to the future. From an individual perspective, there is no rational basis for preferring the immediate over the long term. Other things being equal, people should arrange things in the earlier stages so as to permit a happy life in the later ones. This rising (or, at least, not declining) plan of life is preferable because later activities can often incorporate and bind together the results and enjoyments of an entire life into one coherent structure in ways that a declining plan of life cannot (1999a, 421). And at a collective level, a society regulated by a public sense of justice results in an increase over time of the forces that tend to produce social stability (1999a, 436).

More concretely, people in the original position are assumed by Rawls to have no information about which generation they belong to. Thus, questions of social justice arise between generations as well as within them.⁴ Chief among these are questions pertaining to conservation of natural resources and the maintenance of an environment capable of sustaining a just human society (1999a, 118–119). The life of a people, in Rawls's view, is appropriately conceived as a scheme of cooperation spread out across historical time. It is to be governed by the same conception of justice that regulates the cooperation of contemporaries (1999a, 289). So the appropriate expectation in applying the difference principle is that of the long-term prospects of the least favored extending over future generations. "Each generation must not only preserve the gains of culture and civilization, and maintain intact those just institutions that have been established, but it must also put aside in each period of time a suitable amount of real capital accumulation" (1999a, 252). This combination of the difference principle with his principle of just savings significantly obviates the complaints of critics who charge that Rawls's principles provide insufficient guidance in establishing a savings rate (Paden 1997).

If all generations are to gain, the parties in the original position must agree to a savings principle that ensures that each generation receives its due from its predecessors and does its fair share for those to come (Rawls 1999a, 254). The objective of this accumulation is not to enrich later generations, but to maintain a society with a material base sufficient to establish effective and just institutions within which the basic liberties can all be realized (1999a, 256–257). The proper rate of savings for future generations is inherently problematic. Rawls describes a series of stages through

which societies may pass, each of which suggests its own rate of savings (1999a, 286–288). But he recognizes that there is nothing sacrosanct about public decisions on this matter. Current biases with respect to time preferences deserve no special respect, and, in fact, the absence of the injured parties (future generations) makes present decisions all the more open to question (1999a, 261). The criterion for this decision is, however, somewhat easier to state as a general matter. The parties are required to agree to a savings principle subject to the constraint that they would wish all preceding generations to have followed the very same principle (1993, 274; 1999a,

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111). This standard gives substance to Rawls's claim that the fundamental organizing idea of public reason "is that of a society as a fair system of cooperation over time, from one generation to the next" (Rawls 1993, 15, emphasis added).

Among the background supporting institutions needed to achieve distributive justice is a guaranteed "social minimum" of material support (Rawls 1999a, 243). As Taylor (1993, 270) points out, any social minimum is dependent on maintaining some base level of environmental quality: "Because each member of every generation is entitled to the social minimum, social institutions must be arranged to sustain the level of environmental quality required to provide the social minimum into the indefinite future."

These questions of distributive justice have preoccupied environmentalists to the virtual exclusion of other aspects of Rawls's work. In particular, Rawls's first principle has been virtually ignored in the environmental literature. This may be due to the fact that the first principle is described by Rawls as procedural in character and is widely regarded by others as having little importance outside of the strictly political realm. This attitude is regrettable, because in Rawls's theory, the first principle is very nearly absolute and enjoys a clear priority over considerations related to the second principle. For this reason alone, environmentalists would do well to consider the implications of Rawls's entire theory before dismissing it as a foundation for environmental justice.

The First Principle of Justice

Rawls's first principle of justice holds that "each person is to have an equal right to the most extensive scheme of basic liberties compatible with a similar scheme of liberties for others" (1999a, 53). No one of these liberties can be absolute, owing to their reciprocal character; they are to be adjusted to form one system that is to be the same for all (1999a, 54). Important among these are political liberties, freedom of speech and assembly, liberty of conscience and freedom of thought, freedom of the person (including freedom from psychological oppression and physical assault), the right to hold personal property, and freedom from arbitrary arrest (1999a, 53). Not included in the list is the right to own certain kinds of property (notably, the means of production).

This first principle of liberty enjoys priority in the total system of justice envisioned by Rawls (1993, 294). The priority of liberty means that "whenever the basic liberties can be effectively established, a lesser or unequal liberty cannot be exchanged for an improvement in economic well-being" (1999a, 132). This is true

even when those who benefit from the greatest efficiency, or together share the greater sum of advantages, are the same persons whose liberties are limited or denied (1993, 295). Denial of equal liberty can only be defended where it is essential to change the conditions of civilization (as in a revolt against totalitarianism) so that in due course these liberties can be enjoyed. Within the realm of equivalent arrangements of liberty, that structure should be chosen which maximizes the worth of liberty (particularly political liberty) to the least advantaged within a complete scheme of liberty shared by all (1993, 179). This standard is critical inasmuch as one of the main defects of constitutional government historically has been the failure to ensure the fair value of political liberty (1993, 198).

Rawls's principle of liberty is not, however, a prescription for license. There is a right vested in government to maintain public order and security. This is an enabling right, in the sense that it is a right government must have if it is to carry out its duty of impartially supporting the conditions necessary for all to pursue their interests and to live up to their obligations to others as they understand them (1993, 187). This right of government can be seen as a natural extension of the right of self-protection. Justice does not require that persons stand idly by while others destroy the basis of their existence. It can never be to citizens' advantage, from a general point of view, to forgo the right of self-protection (1993, 192). Also, it is rational for citizens to wish to protect themselves against their own irrational or unreasonable inclinations by consenting to a scheme of prohibitions and penalties that may give them the necessary motivation to avoid foolish actions. They may also wish to accept certain impositions designed to undo the unfortunate consequences of their imprudent actions (1993, 219). These measures are not impositions on freedom, because they do not reduce the value of the overall scheme of liberty enjoyed by citizens. By acting from these principles to impose limitations upon themselves, citizens express their nature as free and rational beings subject to the general conditions of human life (1993, 222).

There are significant implications of Rawls's first principle for the environmental justice movement. If, as Rawls argues, it is never to anyone's advantage to forgo the right of self-protection, then one of the most basic liberties must be the freedom from being put at risk by the actions of others. Rawls argues that social institutions may be evaluated by how effectively they guarantee the conditions necessary for all equally to further their aims, or by how efficiently they advance shared ends that will similarly benefit everyone (1999a, 83). Thus it may be plausible to argue that our obligations to the future include maintaining not only a fair savings rate but also a non-diminishing range of choices and opportunities to pursue valued interests and activities (Norton 1999, 132–133). And it is arguable that this obligation is not merely distributive but also an issue of basic liberty inasmuch as it serves to guarantee the equal value of basic liberties. This is critically important, because the basic liberties may be equal in a formal sense but their worth, or usefulness, may not be the same for all (Rawls 1999a, 132).

This more substantive view of basic liberties allows us to develop a more ecologically meaningful version of Rawls's first principle. In his discussion of health as a social good, Manning (1981, 159–160) points out that the primary social good of self-respect is damaged if health protection is not provided. But perhaps an even stronger statement of the matter is warranted. Beckerman (1999, 86) observes that in a just society institutions do not humiliate people. Because it would never be in

anyone's interest to forgo the right of self-preservation, it is only reasonable to assume that health risks are always imposed on people involuntarily (either in direct ways or through the imposition of falsely dichotomous choices). This loss of liberty cannot be justified, as can other losses in liberty, as a temporary condition essential to the transformation of civilization into a more equally just society (Rawls 1999a, 132). Such a sacrifice can never be imposed by equal citizens in a well-ordered society because in establishing basic institutions they are motivated by their fundamental capacity for social cooperation (1993, 306). Involuntary abridgements of liberty can play no role in such institutions.

Furthermore, it is essential to a just society that the full and fair value of basic liberties is ensured. Beyond the issue of imposed health hazards, this requirement reaches the protection of environmental capital in the form of natural resources and genetic diversity. Contrary to the complaint that Rawls fails to address the issue of the effect of environmental policy on the distribution of primary goods (Miller 1999, 156), the focus on ensuring the full value of basic liberties brings resource conservation into the priority discussion of basic liberties. This eventuality leads Rawls to argue that while questions regarding the status of the natural world and our proper relationship to it are not ordinarily constitutional issues, "they may rise to the level of constitutional essentials and *basic justice* once our obligations to future generations and to other societies are involved" (1993, 246, emphasis added).

Rawls and the Environment: Integrating the Dialogues

Rawls (1993, 10) argues that it is normally desirable that the comprehensive philosophical and moral views people are inclined to use in debating political issues should give way in deliberations about fundamental political values—such as constitutional essentials and basic questions of justice—to a minimalist form of debate grounded on the limited premises to which all reasonable citizens could subscribe. These public reasons should be easily accessible to every citizen, and anyone should (at least potentially) be able to accept them. Rawls offers three examples of appropriate public reason arguments for environmental policies:

To further the good of ourselves and future generations by preserving the natural order and its life-sustaining properties; to foster species of animals and plants for the sake of biological and medical knowledge with its potential applications to human health; to protect the beauties of nature for purposes of public recreation and the pleasures of a deeper understanding of the world. (Rawls 1993, 245)

But environmental policies and actions are not limited only to those that can be justified solely by the use of public reasons. How might an understanding of the central features of Rawls's theory of public reason enhance discourse on environmental policy and empower a movement toward environmental justice?

Rawls recognizes that the provision of basic liberties is only the starting point of a just society. He acknowledges that whereas, from a formal point of view, the basic liberties are the same for every citizen, the worth or usefulness of liberty is not the same for everyone (1993, 326). The poignancy of this observation is clear in the disproportionate exposure of poor and minority communities to toxic hazards in the United States. Neighborhoods already struggling against crime, illiteracy, drugs, and hopelessness are regularly subjected to health hazards that differ from the other

risks they confront in that they are powerless to protect themselves from them either individually or collectively (White 1998). The historical indifference of “mainstream” environmentalism to the relationship between pollution and powerlessness is evocative of Rawls’s observation that a reasonable society is part of our ordinary human world, not something to which we attach great virtue until we find ourselves without it (1993, 54).

The challenges of environmental injustice are different from those with which most environmentalists grapple. Species preservation, habit conservation, resource management, and other technical aspects of environmental protection yield most readily to reasoned arguments divorced from

the moral and philosophical doctrines that have driven the civil rights movement. This would seem entirely appropriate to someone aspiring to the level of generality and reflective equilibrium advocated by Rawls. In discussing the abolitionist and civil rights movements, however, he argues that the comprehensive religious and philosophical views to which they appealed were required to give sufficient strength to the political conception they advocated so that it could

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subsequently be realized. Given those historical conditions, it was not unreasonable to act as they did for the sake of the ideal of public reason itself (1993, 251). Allowing the use of these more comprehensive views is justified because “the worth of political liberties to all citizens, what ever their social or economic position, must be approximately equal” (1993, 327). The political disenfranchisement reflected in numerous empirical studies of the distribution of toxic sites and their correlation with race and class arguably merit a similarly expansive treatment. The potential utility of Rawls’s approach for crafting environmental justice arguments lies in its ability to address the implications of inequitable distributions of ecological risk from both the limited viewpoint of public reason and the richer perspective of widely held comprehensive doctrines (Bell 2002).

Beyond the question of basic liberties and their environmental implications, Rawls’s second principle of justice raises a number of significant environmental issues. The principle requires that inequalities in the distribution of primary social goods should work to the benefit of those occupying the least advantaged positions in society. As a general matter, inequality that does not meet this description would have to be imposed on the less advantaged, damaging the most important of primary goods, self-respect (Rawls 1999a, 386). Moreover, the appropriate burden of proof in these matters favors equality—it defines a procedural presumption that persons are to be treated alike (1999a, 444). Here is a prima facie case that productive activities that provide profit for some while imposing environmental losses on others are unjust.

Beyond this general point, Rawls argues that if social stability is to be more than a simple *modus vivendi*, it must be rooted in a reasonable political conception of the right (1999b, 16). Should the cooperative arrangements agreed to as part of that political conception have unjustified distributive effects between people, these effects would have to be corrected by the agency of government (1999b, 43). This leads Rawls to conclude that an important role of government is to be the representative and

effective agent of a people as they take responsibility for their territory and its environmental integrity, as well as for the size of their population (1999b, 38–39). His reasoning begins with the argument that the institution of property is recognition that an asset tends to deteriorate unless a definite agent is given responsibility for maintaining it and bears the loss for not doing so. In the present case, the asset is the people's territory and its capacity to support them in perpetuity; and the agent is the people themselves as politically organized (1999b, 39).

The question of supporting a people in perpetuity returns us to another of Rawls's arguments with significant environmental implications. Early in *A Theory of Justice*, Rawls states that parties in the original position want to ensure for their descendants the best endowment of genetic resources possible. In pursuit of this goal, the parties will adopt policies that they would have desired earlier generations to follow (1999a, 92). This is a biological (one might say environmental) version of the just savings principle described earlier. In addition to financial resources, educational opportunity, and social infrastructure, those in the original position would adopt policies designed to pass on to their descendants a world no less biologically rich than they inherited from their predecessors. They would adopt these policies not out of altruism or some sense of familial connection but, rather, because these are the policies they would have willed generations before them to adopt.

Subsequently Rawls relates the just savings principle to the principles of justice by interpreting the just savings principle from the standpoint of the least favored in each generation (1999a, 292). Such application should result in patterns of savings for future generations sufficiently generous that the least favored will benefit. Failure to so interpret the just savings principle according to the difference principle would allow just constitutions to produce unjust results over time. This is because a just constitution, even under the most favorable conditions, is a case of imperfect procedural justice. The people of a given time may decide wrongly. The injustice may be perfectly evident according to the conception of justice underlying the regime itself. So there can be nothing sacrosanct about the public's desires concerning the level of savings, and its bias in favor of its own time perspective deserves no special respect (1999a, 296). The collective will concerning provisions for the future is subject, as are all other social decisions, to the principles of justice (1999a, 297). For Rawls, the conception of justice can no more be voted on than the axioms, principles, and rules of inference of mathematics or logic (1995, 144).

This is no imposition on the citizens of a just society. Citizens in a well-ordered society are fully autonomous because they freely accept the constraints of the reasonable. In so doing, their political life reflects a conception of persons that presumes their capacity for social cooperation (1993, 306). Thus a sense of justice shows itself in two ways. First, it leads us to accept the just institutions that apply to us and from which we and our associates benefit. Second, it gives rise to a willingness to work for the setting up and maintenance of just institutions and for the reform of existing institutions when justice requires it (1999a, 415). The reach of this logic may extend beyond the nation state if the implications of Rawls's approach for the distributive justice of global consumption are followed to their conclusion (Hill 2001).

So although Rawls states that the natural world and the proper human relation to it is not obviously a constitutional essential or a basic question of justice, these issues may become questions of constitutional essentials and basic justice once our duties and obligations to future generations and other societies are involved (1993,

246). It now remains only to suggest a response to one final complaint that has been lodged against Rawls's theory of justice. Some have alleged that public reason is inadequate to the needs of environmentalism because it offers no defense for the nonsentient members of the biosphere (Wenz 1988, 233).

Rawls both brings this complaint upon himself and, ultimately, offers his own best defense. He argues that the capacity for a sense of justice and of moral feeling is an adaptation of humankind to its place in nature (1999a, 440). Because this adaptation is unique to humans, conduct toward animals is not regulated by the principles of justice, or so it would seem (1999a, 441). True to his contractarian roots, Rawls maintains that it is moral persons who are entitled to equal justice because justice is owed to those who have the capacity to take part in and to act in accordance with the public understandings arrived at in the original position (1999a, 442). So, while he does not maintain that the capacity for a sense of justice is necessary in order to be owed the duties of justice, Rawls does suggest that we are not required to give strict justice to any species lacking that capacity (1999a, 448).

Although this might appear to end the matter, Rawls leaves the door ajar for further analysis of the problem. He allows that it is certainly wrong to be cruel to animals and that the destruction of an entire species is a great evil. "The capacity for feelings of pleasure and pain and for the forms of life of which animals are capable clearly impose duties of compassion and humanity in their cases. . . . They are outside the scope of the theory of justice, and it does not seem possible to extend the contract doctrine so as to include them in a natural way" (1999a, 448). But Rawls recognizes that our moral instincts extend beyond the human species, and that these impulses must be accounted for by a more general theory of moral obligation. He concludes his discussion of the issue by saying that "how far justice as fairness will have to be revised to fit into this larger theory it is impossible to say. But it seems reasonable to hope that if it is sound as an account of justice among persons, it cannot be too far wrong when these broader relationships are taken into account" (1999a, 449).

Perhaps without meaning to, Rawls may have pointed the way to this broader theory. In his most recent book, *The Law of Peoples* (1999b), he extends his theory of public reason from the relationships within societies to the interactions between peoples. Rawls uses the term "peoples" to emphasize that he is not concerned with states as traditionally conceived but, rather, with societies and their moral character as reasonably just or decent regimes (1999b, 27). From this perspective, Rawls describes five orders of peoples, three of which are not relevant here because they are described by Rawls as being in some sense unreasonable.

The first order of peoples is the *reasonable liberal society*. What distinguishes a liberal society is that it has a reasonably just constitutional order, its citizens are united by a government that serves their fundamental needs, and its citizens share a moral commitment to be both reasonable and rational in their relationships with one another (1999b, 23–25).

The second order of peoples is the *decent people*, or the *decent hierarchical society*. These societies are characterized by nonaggression toward other societies and an internal legal regime that is driven by a shared conception of the good. This second characteristic is evidenced in a concern for basic rights, a sense of moral obligations and duties, and a public-minded administration of the shared conception of the good through a system of rules reasonably believed to be consistent with that

conception (1999b, 64–66). These decent but not liberal societies, together with the reasonable liberal societies, make up Rawls’s category of well-ordered societies.⁵ Members of well-ordered societies owe one another a duty of toleration (1999b, 88).

To most environmentalists the question will now occur, Is there any place in the fellowship of well-ordered societies for species of higher animals? The great apes live in tightly knit social groups and display an evident commitment to an order of rules that, from the perspective of the animal behaviorist, clearly contribute to the well-being of the group’s members. The behavior of members of these “societies” makes plain that they are aware of and subscribe to these rules. Their consciousness of themselves as a group is revealed by their general reluctance to accept outsiders of the same species. And their recognition of the voluntary nature of group membership is evident in their occasional willingness to accept new members in spite of this general rule. The dominant males, while sometimes high-handed by human standards, seem to enforce the rules within self-imposed limits that suggest a realm of personal autonomy to which even the most junior member of the society is entitled. Does this not answer, at least in broad outline, to Rawls’s general description of the decent hierarchical society?

Some may consider the reasoning suggested above to be a stretch. And there may be a danger in adopting the anthropocentric assumption that animals must rely on human mental constructs like justice for their status in the world. But the implications of this argument are compelling. If humans can stretch the conception of “moral personhood” (Garner 2003), might not certain classes of animals be owed both the courtesy of noninterference in their way of life and a certain respect for the territorial integrity of their society? And might not society have found a philosophical warrant for habitat protection as deep as the underlying logic of its own social order?

Andrew Dobson defends Rawls’s position with respect to the rights of animals by claiming that Rawls does not preclude a concern for animals, “it is just that he thinks such concern cannot be motivated by reasons of justice” (1998, 181). But perhaps both Dobson and Rawls have sold public reason short. One might recall at this point a remark Rawls made in connection with humans of diminished capacity. “While individuals presumably have varying capacities for a sense of justice, this fact is not a reason for depriving those with a lesser capacity of the full protection of justice. Once a certain minimum is met, a person is entitled to equal liberty on a par with everyone else” (1999a, 443). In this use of the word “person” what matters more, the character of an individual’s society or a vanishingly small fraction of his or her DNA?

Certainly the answer to this question is not empirical. Neither is it political in the sense that everyday public debate will produce a stable consensus on the subject. Just as our conception of the person in this context is unavoidably a matter of ethical precommitment, so too do concepts such as wilderness, species preservation, and habitat protection pose the sorts of question for which Rawls’s original position was designed.

Speaking to Environmental Policy: An Example

A misconception common among even serious students of John Rawls is that his theory of justice provides specific answers to particular problems of public policy. Rather than specifying particular policies, a theory of justice provides “a standard

TABLE 1
Rawls and Environmental Policy: A Summary

<i>Theoretical element</i>	<i>Function in public reason</i>	<i>Parallel in environmental policy</i>
Reasoning in original position	Achieves appropriate level of impartiality in choice of basic principles of justice	Adoption of species protection as a priori policy objective (normative pre-commitment)
Restriction of citizens to use of “public” reasons	Promotes consensus that overlaps competing comprehensive doctrines (ideologies and religions)	Environmental impact, public hearing, concise general statement requirements of NEPA
Equality of basic rights and opportunities as first principle	Secures fundamental value of reciprocity necessary to social stability	Environmental justice movement: self protection and material conditions of survival
Inequalities attached to open positions and arranged to benefit least advantaged	Justifies unequal distribution of benefits of social cooperation to all participants	Citizen-action provisions of ESA, EPA funding of citizen “greenfields” groups, and other direct-participation provisions of environmental law

whereby the distributive aspects of the basic structure are to be assessed” (Rawls 1999a, 8). Instead of specifying a system of politics, it provides a fundamental benchmark for thinking about possible institutional arrangements in the same way that the concept of truth allows arriving at basic conclusions about competing systems of thought.

With this caveat in mind, it is possible to suggest (but only suggest) some of the basic implications of Rawls for questions regarding the distributive issues at stake in environmental policy. Table 1 summarizes a number of the key elements of Rawls’s theory, their relationship to basic concepts of environmental protection (Baber and Bartlett 2001), and parallel concepts in environmental politics and policy.

For reasons of limited space, only the first of these conceptual connections to environmental policy will be described; it will be illustrated by the connection of reasoning in the original position to the normative precommitment represented by the Endangered Species Act (ESA). The original position has already been described as a situation in which citizens are deprived of most knowledge about their own position in society. In particular, “persons in the original position have no information as to which generation they belong” (1999a, 118). For this reason, questions of social justice will arise between generations regarding the conservation of natural resources (1999a, 119). Natural resources, including genetic biodiversity, clearly fit into the category of “primary social goods” as Rawls describes them (1999a, 79), and therefore their distribution across generations must be subject to some rule of justice.

According to Rawls, those in the original position would conclude that there is

only one appropriate rule for the distribution of such goods. It is the principle “which members of any generation (and so all generations) would adopt as the one their generation is to follow and as the principle that they would want preceding generations to have followed (and later generations to follow) no matter how far back (or forward) in time” (1993, 274). The objective of the Endangered Species Act can be described in very much the same way—as seeking “to ensure that future generations will enjoy an environmental legacy that the current generation can be proud of” (Percival et al. 2000, 839–840).

The clear objective of the ESA is to establish an a priori commitment to the preservation of species, based on neither prudential nor ideological grounds, but upon a normative commitment to do that which our descendants would have us do. That is why the ESA eschews the analytical approach of, say, the National Environmental Policy Act in favor of “seemingly absolute proscriptions on actions threatening the survival of endangered species” that represent “an extraordinary devotion to the value of protecting biodiversity” (Percival et al. 2000, 840).

Without suggesting anything positive or negative about the provisions of the ESA, or about the commitment of successive administrations and congresses to enforce its provisions, it is reasonable to ask whether an approach grounded in the arid concepts of procedural justice is the best approach to species protection. After all, the value of biodiversity as a commodity has been so eloquently described (Wilson 1999) that simple self-interest might be relied upon to do the job. Alternatively, there is a strong trend toward biocentrism growing in the environmental community and beyond (Paehlke 2000) that could well make species extinction at human hands socially unacceptable. So either prudence or ideology (or a politically potent combination of the two) might be on the verge of solving the problem of species loss without resort to the philosophical complexities of Rawls. The very fact that the Endangered Species Act was adopted without reference to Rawls might be thought proof of this.

There are two reasons, however, to doubt that biodiversity is an issue that will take care of itself through the working out of day-to-day politics. First, the success of the ESA has been matched on the international stage by the less hopeful fate of the Biodiversity Treaty. The U. S. refusal to ratify the treaty cannot readily be blamed on the opposition of labor or business, the inadequacy of the underlying science, or problems with international cooperation. The explanation is far more prosaic, involving nothing more than political ideology (Paarlberg 1999). More generally, it is well recognized that keeping biodiversity on the political agenda is difficult because of “its lack of immediate impact on human life-styles, the lack of an easily identifiable opponent, and a lack of cohesiveness of the large and diverse groups supporting species protection” (Switzer and Bryner 1998, 255).

A second reason why conventional politics may well be inadequate to the challenge of species protection is precisely that conventional politics is grounded in the self-interest and ideologies that motivate humans most strongly. Rawls’s version of political liberalism looks for “a political conception of justice that we hope can gain the support of an overlapping consensus of reasonable religious, philosophical, and moral doctrines in a society governed by it” (1993, 10). A normative precommitment of that sort can be expected to be more durable than political compromises because, if its initial premises are accepted, it takes priority over the shifting considerations of profit and preference. This is particularly important in the area of environmental

politics because the objectives of environmental protection are not well served by policies that ebb and flow with changes in the fortunes of political partisanship. They are, if successful, elements of a form of social stability that is not merely a *modus vivendi* but “a reasonable political conception of right and justice affirmed by an overlapping consensus of comprehensive doctrines” (Rawls 1999b, 16).

Conclusion

Public reason organizes the environmentalist’s instinct toward ethical precommitment in a particularly useful way. Rawls’s principles are serial in order. They give an absolute precedence to the basic liberties that should render disproportionate impacts of environmental hazards impermissible. On the foundation provided by Rawls’s first principle, the just savings concept (appropriately interpreted through the difference principle) mandates a concern for the environmental circumstances of future generations that requires (at least) a “no net loss” policy toward natural resources that also has a highly egalitarian character. And Rawls’s most recent effort to extend the reach of justice-as-fairness into the realm of relations between societies allows us to formulate a rationale for noninterference in (at least) the living groups of higher animals. Although these issues do not exhaust the range of concerns under the heading of environmental justice, a coherent solution to them would certainly point the way to continued progress.

Public reason organizes the environmentalist’s instinct toward ethical pre-commitment in a particularly useful way.

Rawls’s theories are most useful in thinking about the big questions of environmental politics and policy, those involving fundamental considerations—constitutional essentials, basic principles of justice, and profound normative choices. Rawls’s work can be seen as the most demanding account of what “public” means when it comes to reasoning about political questions, because it requires participants to forgo any attempt to base their ethical and institutional choices on their own interests. “Public reason” is, for Rawls, a process, an outcome, and a set of justifications, all of which are shared by the entire reasoning citizenry. He recognized that some environmental matters may rise to that level and should be dealt with through public reasoning and collective ethical precommitment. Progress in environmental science and philosophy may mean that over time the need may emerge for more such public reason policies on environmental matters.

Rawls’s approach will always require too much of society and its citizens to be fully applicable in deciding ordinary, or “normal,” matters. To reconcile interests with justice by exiling interests altogether is hardly a workable way to conduct normal politics, the everyday but nevertheless important social choice activities that occur within the constitutional, principled, normative bounds already determined under Rawls’s just procedures. Yet even if Rawls’s version of public reason does not give us an operational methodology, it can still be the source of an important regulative norm. And it is important to remember that his full prescriptions may be limited to justifying basic, fundamental environmental policies having to do with sustainability and environmental justice, but they do not prohibit additional green policies that go beyond those of fundamental normative choice. In ordinary everyday politics, “Rawls’s account allows appeal to biocentric, ecocentric and aesthetic

arguments where constitutional essentials and questions of basic justice are not at issue” (Bell 2002, 707). Nonpublic reasons, or comprehensive arguments, may still justify a most broad spectrum of environmental policies supported by a majority, so long as they are not contrary to constitutional essentials and matters of basic justice.

NOTES

1. Because Rawls’s theory is built upon the liberal values of individualism, autonomy, and freedom, which easily conflict with many imperatives of environmentalism, it might be (and is) argued that there are theoretical frameworks that are superior to the perspective offered by Rawls for achieving environmental ends. But this is true only if one assumes as realistic the eventual achievement of a prerequisite common political culture—a comprehensive view shared by all. In contrast, Rawls’s approach, because it is limited to a justification of the basic institutions and fundamental rights of a just society, yields a set of principles that can potentially command the assent of all reasonable citizens who adopt an attitude of impartiality and reciprocity. Consequently, accepting those principles (and the moral obligations they entail) does not require that citizens share in any comprehensive doctrine or specific vision of the good. So any advances in environmental protection that can be grounded on those principles can, therefore, expect to command the support even of citizens who do not share the environmentalist perspective.

2. How do we distinguish the reasonable from the rational? Rawls provides an example from everyday speech. “We say: their proposal was perfectly rational given their strong bargaining position, but it was nevertheless highly unreasonable, even outrageous” (1993, 48; see also Bartlett and Baber 1999).

3. Until the publication by Rawls of *Law of Peoples* (1999b), the same could have been said about the relationship of a just society with other societies (just and otherwise).

4. Considerable debate has surrounded this condition. Several commentators have argued for a stronger veil of ignorance than Rawls seems to demand, allowing no information about generational membership of any sort into the original position (see Manning 1981; Singer 1988; Wenz 1988). Rawls’s (1999a) recently updated discussion of this issue may have resolved the matter in a way agreeable to these writers.

5. Rawls has defined the concept of the *well-ordered society* several times. In *A Theory of Justice* he wrote that the members of a well-ordered society have the common aim of cooperating together to realize their own and one another’s nature in ways allowed by the principle of justice. This collective intention is the consequence of everyone’s having an effective sense of justice (1999a, 462). In *Political Liberalism* he defined a well-ordered society as one in which everyone accepts, and knows that everyone else accepts, the same principles of justice; the basic structure is publicly known, or reasonably believed, to satisfy these principles; and its citizens generally comply with these principles out of an effective sense of justice (1993, 35). By the publication of *Law of Peoples*, Rawls was referring to well-ordered societies as being either reasonable liberal societies or decent but not liberal societies (1999b, 4).

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