

# Property-Owning Democracy and the Demands of Justice

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John Rawls is arguably the most important political philosopher of the past century. His theory of justice has set the agenda for debate in mainstream political philosophy for the past forty years, and has had an important influence in economics, law, sociology, and other disciplines. However, despite the importance and popularity of Rawls's work, there is (rather surprisingly) no clear picture of what a society that met Rawls's principles of justice would actually look like.

Much of the confusion arises from the frequent description of Rawls as a proponent of a redistributive welfare state regime. While Rawls's principles of justice do provide philosophical support for the redress of existing inequalities and for the substantial redistribution of resources, it is incorrect to say that he favoured welfare state regimes in anything resembling their current form. In fact, Rawls was a strong critic of what he termed "welfare state capitalism" and an advocate of an institutional alternative which he termed "property-owning democracy." Discussion of "property-owning democracy" occupied only a very small part of his seminal *A Theory of Justice* (1971), and was passed over entirely in *Political Liberalism* (1993). But in his final statement of his view of social justice (*Justice as Fairness*, 2001) Rawls provided pointed and explicit (albeit rather brief) discussion of the essential contrasts between welfare state capitalism and property-owning democracy, and explained why he believed that the welfare state could not in fact realize his two principles of justice.

Nonetheless, the concept of property-owning democracy is not well understood, and is still only rarely treated as integral to Rawls's theory of justice. The aim of this review article is threefold. First, we review how Rawls and his leading interpreters have described the concept of property-owning democracy. Second, we examine how the notion of "property-owning democracy" has recently been appropriated by non-Rawlsian political philosophers working in the republican tradition, who have developed arguments from non-Rawlsian premises which also favour the widespread dispersion of property ownership. Third, we briefly review recent work attempting to translate the general notion of a property-owning democracy into concrete institutional and policy proposals that might be adopted by advanced industrialized nations.

## *A Theory of Justice* and Property-Owning Democracy

The hugely ambitious aim of Rawls's *A Theory of Justice* is to specify a public understanding of justice appropriate to societies committed to both individual freedom and democratic equality. Rawls develops his theory of justice explicitly in opposition to utilitarianism, understood as a public philosophy which equates both goodness and justice with the maximization of aggregate human welfare. Rawls believed that utilitarianism provided an inadequate philosophical grounding for an array of rights commonly associated with liberal democracies (such as freedom of speech and other civil liberties) and also failed to take individuals sufficiently seriously as important in their own right: a strictly utilitarian understanding of justice, for instance, could not preclude in advance depriving a minority of citizens of their liberties or denying them basic resources in order to advance the interests of the majority. As Rawls famously put it, "utilitarianism does not take seriously the distinction between persons."<sup>1</sup>

Rawls also recognized, and was concerned to counteract, the force of traditional objections to the very idea of justice, exemplified by Marx and other skeptics dating back to the character Thrasymachus in Plato's *Republic*. In this view, "justice" refers simply to the norms and rules governing a particular society—norms and rules which inevitably have the purpose and effect of justifying the *status quo* and benefitting the ruling class of a given society. For instance, in Marx's view, under capitalism, there is no *injustice*, as such, involved in a laborer selling their labor time to a capitalist, who then exploits the laborer by appropriating the product of that labor and selling it for a profit. Under capitalist conceptions of justice, this is simply a voluntary transaction, even if the labourer's only other choice was living in extreme penury, or starving to death. On this view, conceptions of justice can only be internal to a given society, and cannot provide an independent standard for judging a society's institutions. Those who are in charge set the rules and then they also get to call it justice.<sup>2</sup>

Similarly, our day-to-day judgments about what is just and fair can often be shaped and distorted by our own gender, race, and class position. Highly educated college graduates may be more likely to believe that those who have the best education should be given more money and power. Men may be more likely to

<sup>1</sup> Rawls (1971: 24). Page citations to *A Theory of Justice* in this article refer to the 1999 revised edition.

<sup>2</sup> Whether Marx was as hostile to the idea of justice as some of his more dismissive comments suggest is a disputed question, and one Rawls examines at some length in his *Lectures on the History of Political Philosophy*. Rawls takes the view (drawing on the work of G.A. Cohen) that Marx does have a normative conception of justice underlying his analysis of capitalism, albeit one that is not explicitly expressed. See Rawls (2007): 335-371. See also G.A. Cohen (1989).

believe that the disproportionate numbers of men in positions of power are a result either of men's inherent superior fitness for such roles or the result of choices made by individual women not to pursue such positions. Middle-class people may be more likely to believe that the poor are largely to blame for their own condition, and managers at capitalist firms may be more likely to believe that they should have the right to issue orders to subordinates.

Rawls's theory of justice aims both to provide an alternative to utilitarianism and an answer to skeptics who believe that impartial justice is impossible or that justice is at bottom a sort of disingenuous 'code language', designed to uphold the *status quo*. The principal mechanism Rawls invokes to develop his conception of justice is the idea of the Original Position (OP). In the Original Position, independent individuals come together for the purpose of selecting principles of justice that will govern their entire society. In the OP, every individual will be under a "veil of ignorance" with respect to their individual identity: individuals will not have any information about their race, gender, class position, educational attainment, religious beliefs, and so on. They will know that they wish to live a self-directed life and to form and pursue a rational life plan, and they will know that they need certain resources (what Rawls calls "primary goods") to pursue those plans; they will also be aware of certain basic principles of psychology, sociology, and economics regarding the nature of human societies and how they operate (i.e., the notion that people's behaviour is influenced by material incentives.) At the outset of *A Theory of Justice*, Rawls argues that the governing principles that would be chosen in this initial position should be regarded as just.<sup>3</sup>

Rawls argues that two principles of justice would be selected: roughly speaking, a principle of liberty and a principle of equality. The liberty principle calls for providing each citizen with "a fully adequate scheme of equal liberties, which scheme is compatible with the same scheme of liberties for all."<sup>4</sup> What Rawls has in mind here principally are civil liberties and not (as in libertarian conceptions) the untrammelled right of individuals to profit from property holding or to enter into exchanges of any kind. The equality principle is twofold: all citizens are to have an equal opportunity to aspire to positions, offices and (more generally) social advancement (the "principle of fair equality of opportunity"); and inequalities between citizens are to be limited to those which maximally help the least well off group in society (the "difference principle"). Rawls accords absolute or "lexical" priority to the liberty principle and, within the equality principle, to the guarantee of fair equality of opportunity over the enactment of the difference principle. Thus, subject to the satisfaction of the liberty principle and the other part of the equality principle, political-economic arrangements must be organized so as to *maximize* the position of the least well off relative to any other possible arrangement.<sup>5</sup>

3 Rawls (1971): 10-19. It is important to recognize, however, that Rawls does not regard the OP as static. If it can be shown that in the OP the agents will reach principles of justice conflicting with our considered judgments, then the description of the OP is to be revised so as to yield a different result. In effect, the OP functions as a mechanism for testing intuitions about just principles. For useful discussion, see Kymlicka (2002): 63-70.

4 Rawls (2001): 42. We quote here from the revised statement of the two principles presented in *Justice as Fairness*.

5 As Samuel Freeman puts it, the difference principle calls for selecting that political-economic *system* which tends over time to maximize the position of the least well off; *and* it calls for maximizing the actual position of the least well off within that chosen system. So the difference

The "difference principle" therefore can be seen as having a dual function. On the one hand, it sets a limit (however vaguely) on the scope of acceptable inequalities. On the other hand, given plausible assumptions about the role of incentives in stimulating productivity, it effectively *mandates* inequalities, so long as such inequalities maximally benefit those at the bottom of society. Rawls, in effect, endorses an affluent society with inequality and a high standard of living for the worst off as superior to a poorer society with little inequality. Here Rawls accepts the standard economist's view that there is a trade-off between strict equality and efficiency, and that material inequalities provide incentives for spurring the effort of economic producers, potentially to the benefit of all. Notably, Rawls also rejects the notion that inequality *in itself* is an overriding moral bad;<sup>6</sup> what is bad are inequalities which cement the superior position of the most well-off, or which generate social harms, such as the domination of one part of society by another, or the loss of self-respect among the badly off.<sup>7</sup>

Given this set of principles, the task for Rawls is to specify a political economy that would be consistent with basic individual liberties (such as the liberty to choose one's employment and important liberties of political participation); that would provide substantially equal opportunities to all citizens; and that would limit runaway inequalities that create permanent classes or that undermine the notion that society is a joint system of cooperation aimed at a common end. By the time of writing *A Theory of Justice*, Rawls had already ruled out centralized state socialism as a plausible vehicle for realizing these principles; state socialism (among its other problems) systematically violated basic liberties (such as freedom of employment and political liberties). Rawls thus assumed that a just society must, in some sense, be a market society. But in *A Theory of Justice*, (and even more explicitly in *Justice as Fairness*, to which we will turn later in this discussion) Rawls left open the question as to whether the just society would be either capitalist or socialist in character. A *just* society based on the private control of capital, however, should take a different form than traditional or "really existing" capitalist societies: instead of the control of capital being highly concentrated among a narrow band of citizens, it should be dispersed as widely as possible. That idea represents the core kernel of "property-owning democracy."

principle regulates both the broad choice of institutional arrangements and the selection of specific policies (i.e., taxes, transfers, labor laws) within a given arrangement. Importantly, Rawls does not equate maximizing the position of the least well-off with maximizing their incomes and wealth, but rather maximizing an index of the broader bundle of primary goods that affect one's sense of self-respect and overall life chances. See Freeman (2007a): 102-109 and Freeman (2007b): 111-115.

6 Derek Parfit (1991) gives the label "Telic egalitarianism" to the view that inequality is in itself bad. On the rejection of "Telic egalitarianism" and for discussion of Rawls's views regarding the badness of inequality, see Martin O'Neill, "What Should Egalitarians Believe?" (2008a). G.A. Cohen criticizes Rawls's theory of justice on a closely related issue, regarding Rawls's attitude to inequality (Cohen, 2008). In Cohen's view, the inequalities permitted by the difference principle may be *sensible*, but should not be regarded as *just*. Cohen argues in effect that Rawls wrongly elides justice as such with more pragmatic concerns in developing his account of social justice. Even if Cohen's critique is accepted, that does not make Rawls's ideas about property-owning democracy any less interesting or important; it simply means (to take Cohen's view) that we should regard it as an effort to specify what a real-world political economy that balanced justice against other important considerations looks like.

7 See Rawls (2001), pp. 130-2. See also Scanlon, (1996); O'Neill (2008a).

## Rawls on the Institutional Framework of a Just Economy

Rawls did not claim to have worked out the details of a political-economic regime corresponding to the idea of a property-owning democracy; his aim was simply to indicate the general outlines of the sort of political economy that might be fully consistent with the principles of justice as fairness. Moreover, this outline is pitched at the level of ideal-type regime analysis in Rawls's writings, and it thereby self-consciously passes over detailed questions of "political sociology" regarding how such a regime will function in practice.<sup>8</sup>

In the broadest possible terms, a property-owning democracy will be a market economy in which holdings of capital are widely dispersed across the population. The view is that fair equality of opportunity and limited inequality can be better achieved through a more broad-based distribution of initial holdings rather than by relying on the mechanism of "after-the-fact" redistributive taxation. A property-owning democracy would be a "regime in which land and capital are widely though not presumably equally held," in which "[s]ociety is not so divided that one fairly small sector controls the preponderance of productive resources," and which is able to "prevent concentrations of power detrimental to the fair value of political liberty and fair equality of opportunity."<sup>9</sup>

In many respects, the institutional structure Rawls proposes in *A Theory of Justice* for a property-owning democracy is familiar to citizens living under welfare state capitalism. Rawls assumes that there will be a political constitution providing basic liberties, a public sector that provides public goods (including an educational system that will provide "equal chances of education and culture for persons similarly endowed and motivated"), and a market and price system with a suitable system of regulation. Rawls goes on to specify five separate branches of government oversight, dealing with regulation of markets, macro-economic policy, social transfers (with each citizen guaranteed a social minimum), the distribution of property, and the provision of non-essential public goods. The overall picture is of a mixed economy with a judicious blend of market mechanisms and government oversight, embedded within a system of basic liberties (such as freedom of career choice).<sup>10</sup>

What, then, makes property-owning democracy distinct from welfare state capitalism? The distinction is to be found in the relative weight accorded in importance to "after-the-fact" social

<sup>8</sup> The most sustained discussion of property-owning democracy offered by Rawls can be found in Chapter V, of *A Theory of Justice* (1971), especially section 43, and again in the Preface to the French edition of *A Theory of Justice* (reproduced as the preface to the revised edition of TJ, see especially at pp. xiv-xvi). The most systematic discussion comes in pages 135-140 of *Justice as Fairness: A Restatement* (2001). (The idea is given no attention at all in *Political Liberalism* [1993].) Given this paucity of discussion in Rawls's formal published writings, the discussion here is particularly informed by four further sources. These include a pair of articles in 1986 and 1987 by Krouse and McPherson that pay attention to Rawls's notion of a POD and try to draw out some of its implications (Krouse and McPherson, 1986, 1987); various publications by the British economist James Meade in the 1960s and 1970s describing a "property-owning democracy", from which Rawls explicitly takes the name for his preferred socioeconomic regime (Meade, 1965a, 1965b, 1975, 1993); work by one of Rawls's prominent students, Joshua Cohen, specifying the problematic relationship between capitalism and democracy (especially Cohen, 1989); and finally, Rawls's own recently published lectures on Karl Marx highlighting the contrast between Rawls' conception of a just society organized as a property-owning democracy and Marx's ideal of communism (Rawls, 2007).

<sup>9</sup> Rawls (1971): 247, 245.

<sup>10</sup> Rawls (1971): 242-251; quotation on education at 243.

transfers relative to alterations in the distribution of property in achieving a relatively egalitarian economy. Welfare state capitalism aims at providing an economic baseline as well as certain public goods (education, health care, housing) to all citizens; this is achieved primarily through redistributive taxation (what Rawls terms transfers). Property-owning democracy also aims to provide an economic baseline to the "least well off," but it has a further goal as well: preventing large concentrations of wealth and dispersing ownership of property as widely as possible. One might say that welfare state capitalism simply wants to provide a social baseline at the bottom, whereas property-owning democracy also wants to put limits on accumulation at the top, thereby narrowing overall inequality from both directions (top and bottom). Moreover, property-owning democracy is also concerned to engage in redistribution in additional dimensions: i.e., not just the redistribution of income characteristic of welfare state capitalism, but also the redistribution of wealth and capital assets (as well as ensuring a more equitable distribution of human capital).<sup>11</sup>

In terms of how such goals might be realized, Rawls points to inheritance taxes as the best mechanism for distributing property more widely and preventing large estates from being transferred in whole from one generation to another. Here Rawls cites proposals for taxation on intergenerational transfers developed by economist James Meade; persons receiving such transfers would owe progressively higher taxes on these gifts according to how many such gifts they had received over their lifetime. Rawls does not stipulate that each person must receive an inheritance, and rejects the idea that there is an inherent injustice in some persons receiving more gifts than another (so long as this takes place within the framework of an overall system that is just).<sup>12</sup> For Rawls, inheritance taxes have a more limited, though vital function: preventing large concentrations of wealth from being transmitted inter-generationally. This aim in turn corresponds to a social ideal in which there is no permanent class of politically privileged holders of wealth and capital sufficiently powerful to extract gains for itself that do not function to benefit the least well off.

## Left Critiques of *A Theory of Justice*

As noted above, Rawls's remarks describing his favoured socioeconomic regime in *A Theory of Justice* are rather sparse; Rawls devotes just 9 of the 514 pages of the book to discussion of "property-owning democracy," and only mentions the term in the main text twice. Perhaps as a result of the lack of detail on this issue, a number of left-wing critics took Rawls to be advocating welfare state policies which would enable capitalist processes to produce as much as wealth as possible, while redistributive processes located in the state assured that the "least well off" received as much in the way of (compensatory) economic resources as economically feasible.<sup>13</sup> The notion of a capitalist welfare state that could in fact maximize the position of the least well off immediately struck many critics on the left as implausible. In one of the best-developed early critiques of Rawls, Barry Clark and Herbert Gintis argued that Rawls relied

<sup>11</sup> As subsequent commentators have noted, such equalization of wealth and assets also has implications for how work is to be organized. See Hsieh (2009).

<sup>12</sup> Rawls (1971): 245.

<sup>13</sup> In *Justice as Fairness*, Rawls admits that the distinction between welfare state capitalism and property-owning democracy "is not sufficiently noted in *Theory*." Rawls (2001): 135 n2.

on citizens holding an implausibly expansive sense of social justice, in order to facilitate the redistribution required to “correct” the inequalities generated by capitalism, so as to meet the requirements of the difference principle.<sup>14</sup> In a related critique, Gerald Doppelt argued that Rawls failed to appreciate the impact of relative economic position, particularly in the production process, on the generation of self-respect. Consequently, Doppelt suggested that the different ways in which Rawls treated the cases of, on the one hand, civil and personal liberties (which are to be distributed equally, as a matter of assuring the conditions of self-respect for all) and, on the other hand, positions and power in the production process (which can be distributed unequally without undermining fundamental self-respect), was normatively unjustifiable when one considered the effects of inequality on status and self-respect.<sup>15</sup> Likewise, David Schweickart argued that the logic of Rawls’s theory of justice should have led him to embrace democratic socialism as the social system most capable of realizing his favoured principles.<sup>16</sup>

In an important response to these early critiques, Arthur DiQuattro defended Rawls against the charge that he is a supporter of traditional capitalism or of a system of social classes (understood in the Marxist sense of the term). In particular, DiQuattro argued that Rawls did not envisage a society divided between owners and non-owners of capital; in short, Rawls did not endorse capitalism, and did not assume that the allowances made for socioeconomic inequality under the second principle of justice necessitated a capitalist organization of production. In defending Rawls from these challenges from the left, DiQuattro quite properly called attention to the crucial distinction Rawls made between property-owning democracy and capitalism.<sup>17</sup>

Shortly thereafter, Richard Krouse and Michael McPherson offered the first sustained effort in the literature to engage with what Rawls meant by property-owning democracy.<sup>18</sup> Drawing on both Rawls’s writings and James Meade’s efforts to describe a property-owning democracy, Krouse and McPherson show how both a concern for the fair value of the political liberties and the difference principle point in the direction of a regime that broadens property ownership directly, rather than a welfare state dependent on large-scale *ex post* redistributions to limit inequality. While some redistribution via taxation will be necessary even in a property-owning democracy, the fundamental mechanism for achieving an egalitarian society must be to “[limit] the concentration of property over time.” Krouse and McPherson then went on to pose four critical questions, quoted verbatim below:

1. What institutional means are required to preserve [an] egalitarian distribution [of property] over time (should it at some time be achieved), and indeed can adequate means be described?
2. What would life in a property-owning democracy be like? Would the combination of (relatively) egalitarian property ownership and competitive markets produce a society that was acceptably ‘well-ordered’, harmonious, and stable?

3. Can a theory of justice illuminate the choice between the best private property regime—property-owning democracy—and the best socialist arrangements for providing justice?

4. How can this characterization of the ideal property-owning democracy help to guide the process of reform in existing, nonideal, private property societies?<sup>19</sup>

### *Justice as Fairness on Property-Ownning Democracy*

Well-developed answers to each of the questions posed by Krouse and McPherson are still lacking in the literature.<sup>20</sup> Indeed, in the 1990s, most critical debate about Rawls’s system of justice followed the agenda set by his own *Political Liberalism* (1993), examining the question of whether a liberal egalitarian account of justice should aspire to being “comprehensive” as opposed to merely “political.” Rawls argued that liberal principles of justice can in fact be endorsed by persons with widely varying comprehensive religious and philosophical doctrines, and with varying conceptions of the good life, and need not (and, indeed, must not) involve one dominant social group imposing its own particular value commitments or comprehensive philosophical doctrine on others.

Accordingly, attention to questions of distributive justice and the idea of property-owning democracy faded to the background of the debate about political liberalism. Indeed, some observers have noted an internal connection between Rawls’s argumentation for political liberalism and the reduced prominence of distributive justice in his writings: a generation of debate among political theorists in the wake of *A Theory of Justice*, as well as the strong rightward turn in politics in both the United States and the UK in the 1980s, made it abundantly clear that the stringently egalitarian requirements of the difference principle were unlikely ever to command universal assent among philosophers, let alone among the broader public.<sup>21</sup> That political fact in turn calls into doubt the broader project of developing principles of justice that both have “real teeth” and that could also be widely accepted within highly diverse modern societies.

Rawls himself at times seemed to downgrade the standing of the difference principle within his account of justice in *Political Liberalism*.<sup>22</sup> For instance, Rawls argued that firm principles of distributive justice need not (and ought not) be written into the political constitutions of just societies, and that application of distributive principles should be left to legislators. This aspect of Rawls’s view can be explained by his understandable reluctance to see complex social policy questions settled in the courts, but nevertheless his proposed solution could be seen as giving the realization of distributive justice a status that is contingent on the decisions and preferences of legislators (who Rawls assumes

<sup>19</sup> Krouse and McPherson (1988): 99-100.

<sup>20</sup> A forthcoming volume edited by O’Neill and Williamson (2010) is intended to redress that gap.

<sup>21</sup> Chambers (2006)

<sup>22</sup> Thus Simone Chambers argues that while “the difference principle lives on as Rawls’s favored interpretation of economic justice,” in *Political Liberalism* he no longer insists that “it is the only possible candidate for a fair principle.” Further, Chambers observes, “In addition to demoting its status within the theory, there is a more subtle fading away of the topic. Social justice is no longer front and center. His growing concern to find a view of justice that would be compatible with pluralism came to overshadow his deep commitment to egalitarianism.” Chambers (2006): 86.

<sup>14</sup> Clark and Gintis (1978)

<sup>15</sup> Doppelt (1981)

<sup>16</sup> Schweickart (1979)

<sup>17</sup> DiQuattro (1983)

<sup>18</sup> Krouse and McPherson (1986, 1987)

will accept and seek to implement the difference principle).<sup>23</sup> Given that really-existing democratic politics is rarely, if ever, characterized by consensus on fundamental principles of justice, especially in the context of countries like the United States, leaving the difference principle's fate in the hands of democratic politics has struck some commentators as tantamount to abandoning it.<sup>24</sup> That note of ambiguity in turn signalled a broader tension within Rawls's theory: whether Rawls intended his theory of justice to reflect the self-understanding of existing democratic societies (an interpretation lent support by his engagement with the tradition of American constitutional law in *Political Liberalism*) or whether he intended the theory to be critical of existing institutional practices as well as inegalitarian social views. One can also see this tension as embodying a broader tension between some of the different roles that Rawls identifies for political philosophy: for example, between the fundamentally progressive enterprise of identifying a "realistic utopia", as against the less radical, Hegelian task of offering a "reconciliation" to our existing social world.<sup>25</sup>

It is thus a striking fact that in his final sustained statement about justice, *Justice as Fairness: A Restatement* (2001), Rawls 'lays down his cards' so to speak: more than in any previous book, he makes it clear that he believes that contemporary capitalist societies, especially the United States, have veered far away from realizing liberal principles of justice. It is here as well that we find the most detailed contrast between, on the one hand, welfare state capitalism, which Rawls rejects, and, on the other hand, property-owning democracy and liberal socialism, both of which he is prepared to endorse. Rawls argues that either property-owning democracy or liberal socialism could in theory realize principles of justice, and argues that the choice between the two should be made on the basis of contingent historical and cultural factors. The implication seems here to be that in societies like the United States, with weak socialist traditions and a strong cultural emphasis on entrepreneurial individualism, property-owning democracy is the more likely vehicle for realizing the just society (with liberal socialism perhaps a more suitable option in societies with more collectivist political cultures or stronger socialist traditions).

In an equally striking move, Rawls in *Justice as Fairness* (approvingly citing Krouse and McPherson) rests the argument for property-owning democracy not primarily in terms of the demands of the second principle of justice, but rather in terms of the first principle. Rawls argues that the widespread political inequalities generated by welfare state capitalism represent a systemic violation of the "fair values of the political liberties." Unlike other liberties, the fair value of the political liberties must be distributed equally; a society in which this is not the case cannot be considered to be either self-governing or free.<sup>26</sup>

23 Rawls (1993). Importantly, however, Rawls does treat provision of a social minimum "providing for the basic needs of all citizens" as a constitutional essential; see Rawls (2003), pp. 228-29.

24 Thus see Thomas (2009), who argues for constitutionally guaranteeing the fair value of the political liberties. Such a constitutional guarantee, in his view, would preclude democratic politics from sanctioning excessive inequalities, while avoiding the need to lock in place any particular institutional scheme designed to realize property-owning democracy. See also J. Cohen (2003) for a critique of Rawls's supposition that consensus can be reached on the content of justice in actual democratic politics.

25 See Rawls, (2001), pp. 1-5.

26 In *A Theory of Justice* Rawls also connected arguments for inheritance taxes to the requirement of maintaining the fair value of political liberties, as well for realizing fair equality of opportunity. There Rawls states that "it seems" that "a wide dispersal of property is a

This move is important both for its own sake and because it means that Rawls's arguments for property-owning democracy are thereby not solely contingent on acceptance of the controversial difference principle. Nonetheless, as well as its falling short with regard to the first principle, Rawls *also* makes clear that a predictable consequence of the concentration of wealth and political power characteristic of welfare state capitalism is that such polities rarely if ever are able to enact redistributive policies sufficiently strong to establish and maintain intergenerational equality of opportunity, or to limit objectionable inequalities which serve no social purpose other than the enrichment of the already privileged.

According to *Justice as Fairness*, one of the main aims of property-owning democracy is "to prevent a small part of society from controlling the economy, and indirectly, political life as well..."

Property-owning democracy avoids this, not by the redistribution of income to those with less at the end of each period, so to speak, but rather by ensuring the widespread ownership of assets and human capital (that is, education and trained skills) at the beginning of each period, all this against a background of fair equality of opportunity. The intent is not simply to assist those who lose out through accident or misfortune (although that must be done), but rather to put all citizens in a position to manage their own affairs on a footing of a suitable degree of social and economic equality. (Rawls, 2001: 139).

Rawls goes on to describe POD as a socioeconomic system with at least the three following institutional features:

- (1) Wide Dispersal of Capital: The *sine qua non* of a POD is that it would entail the wide dispersal of the ownership of the means of production, with individual citizens controlling productive capital, both in terms of human and non-human capital (and perhaps with an opportunity to control their own working conditions).
- (2) Blocking the Intergenerational Transmission of Advantage: A POD would also involve the enactment of significant estate, inheritance and gift taxes, acting to limit the largest inequalities of wealth, especially from one generation to the next.
- (3) Safeguards against the Corruption of Politics: A POD would seek to limit the effects of private and corporate wealth on politics, through campaign finance reform, public funding of political parties, public provision of forums for political debate, and other measures to block the influence of wealth on politics (perhaps including publicly funded elections).

Policies of type (3) should be viewed as being in place with an eye on the protection of the fair value of the political liberties, and are therefore closely connected with creating a regime that is in accord with Rawls's first principle of justice. Policies of type (1) and (2) should, in contrast, be viewed as providing the means for institutionalizing the demands of Rawls's second principle of justice. Through a combination of all three kinds of policies, Rawls aims to specify a social system that has the

necessary condition . . . if the fair values of the basic liberties are to be maintained." Rawls (1971): 245-46. But this connection is foregrounded to a greater degree in *Justice as Fairness*, where he makes it the primary focus of his critique of welfare state capitalism.

capacity to overcome the structural limitations of welfare state capitalism in delivering a fully just set of socioeconomic arrangements.

### Recent Commentary on Rawls's Conception of Property-Owning Democracy

Spurred on in part by the striking arguments of *Justice as Fairness*, property-owning democracy has received increasing attention in recent years from liberal egalitarian political philosophers. (To be sure, in many accounts of Rawls's social and political thought, property-owning democracy is discussed only briefly, if it is mentioned at all.)<sup>27</sup>

Discussions of the dilemmas of contemporary liberal egalitarian politics offered by Simone Chambers and Will Kymlicka each stress Rawls's critique of the welfare state and the implicit radicalism of property-owning democracy.<sup>28</sup> In recent papers, both Ben Jackson and Amit Ron trace the intellectual origins of "property-owning democracy" phrase to the early 20<sup>th</sup>-century British conservative Noel Skelton; Jackson suggests that James Meade's use of the term (subsequently picked up by Rawls) was a deliberately ironic attempt to invert the meaning of what hitherto had been a conservative idiom.<sup>29</sup> Samuel Freeman argues that Rawls's preference for property-owning democracy vis-à-vis the welfare state parallels his preference for the "liberalism of freedom" of Kant and J.S. Mill, in which citizens take an active role in developing their capacities, as opposed to the "liberalism of happiness" associated with classical utilitarians such as Bentham.<sup>30</sup> Freeman's extremely comprehensive treatment of the full range of Rawls's thought also contains a relatively extended account of the distinction between welfare state capitalism and property-owning democracy.<sup>31</sup> In a related vein, Nien-hê Hsieh draws on Rawls to argue the case for what he terms "workplace republicanism," i.e., the introduction of workplace democracy and limitation of arbitrary managerial authority; in *Justice as Fairness*, Rawls forwarded some suggestive though noncommittal comments about the potential importance of workplace democracy in helping to realize a just society.<sup>32</sup> This aspect of Rawls's thought has also been picked up by Martin O'Neill, who explores, in a recent article, what he terms "three Rawlsian routes" for defending some form of economic democracy as a precondition for a just socioeconomic order.<sup>33</sup>

Most recently, papers by Hsieh, O'Neill, Waheed Hussain, and Thad Williamson have further developed both the basic idea of property-owning democracy and have also subjected the concept to critical scrutiny. Hsieh focuses on the role of work in a property-owning democracy; Hussain compares property-owning democracy to what he terms democratic corporatism; O'Neill offers a partial critique of Rawls's arguments against the welfare state; and Williamson describes how a wide dispersal of real estate, cash, and capital might be actually institutionalized and sustained in a property-owned democracy.<sup>34</sup> A forthcoming volume on property-owning democracy, edited by O'Neill and Williamson, will take the arguments of a number of these philosophers forward, as well as include the work of a number

27 See Pogge (2006); Audard (2007).

28 Chambers (2006); Kymlicka (2002).

29 Jackson (2005); Ron (2008)

30 Freeman (2007a).

31 Freeman (2007b).

32 Hsieh (2005).

33 O'Neill (2008b)

34 Hsieh (2009); Hussain (2009); O'Neill (2009); Williamson (2009).

of other writers, each giving further elaborations and critiques of Rawls's ideas regarding the institutional basis of a just social order.<sup>35</sup>

### Non-Rawlsian Arguments for Property-Owning Democracy

#### Property-Owning Democracy and Market Socialism

The idea of a market economy based on a wider dispersal of capital than is characteristic of contemporary capitalist societies is not unique to Rawls or to the debate he stimulated; nor is the general search for a plausible alternative to capitalism in light of the historic failure of centralized state socialism. Indeed, since the late 1980s, political economists and philosophers have detailed a variety of proposals for a market socialist society, proposals that typically offer far more specificity and attention to institutional detail than the general comments about property-owning democracy offered by Rawls. Particularly cogent formulations are those of Joshua Cohen, David Miller, John Roemer, David Schweickart, and Gar Alperovitz.<sup>36</sup> Typically, these proposals call for some form of community or public ownership of capital within a market model, while also allowing for broadly democratic planning of the economy as a whole. In most cases (Roemer is an exception), these proposals also call for giving workers effective democratic control of most or all enterprises. Notably, these models do not require or advocate political revolution, but assume the constitutional framework of liberal democracy; nor do they challenge the market as a mechanism of resource allocation, even when the models allow for significant degrees of government planning. What these versions of liberal democratic socialism do insist upon is changing who owns and reaps dividends from capital. To this extent, proposals for liberal democratic socialism bear a significant resemblance to Rawls's conception of a property-owning democracy.<sup>37</sup>

#### Republicanism and Property-Owning Democracy

Also of relevance are recent discussions by republican political theorists concerning the content of a republican political economy (or "commercial republic") which also point in the broad direction of dispersing capital more widely.<sup>38</sup> The proposals of American political theorist Stephen Elkin are particular noteworthy, for two reasons: first, he specifically rejects the Rawlsian paradigm for thinking about politics and instead takes James Madison as his starting point for reasoning about the content of a commercial republic; second, he explicitly uses the language of property-owning democracy. Consequently, the following section of our discussion pays particular attention to Elkin's non-Rawlsian arguments for a POD.

The core premise of republican approaches to political theory is that in thinking about politics, it is not enough only to specify the moral foundations of legitimate government, or the normative principles (including principles of social justice) to

35 O'Neill and Williamson (forthcoming, 2010).

36 Cohen (1989), Miller (1991), Roemer (1993), Schweickart (2000), Alperovitz (2004).

37 To be sure, prominent differences between the two proposals remain. In particular, unlike most forms of democratic socialism, Rawls's property-owning democracy has no role for democratic oversight or planning of major capital investments. For further discussion, see Williamson (2009).

38 Dagger (2006); Elkin (2006).

which government should aspire. Rather, we must think about how to construct and maintain a regime that, despite the presence of at least partially self-interested actors, succeeds in preventing the domination of any one group of citizens by any others, via either private or public means, while also allowing all citizens meaningfully to contribute, via the political process, to influencing the social conditions which shape their lives. Constructing such a regime requires paying careful attention to institutional design; to how leaders are selected and to the incentives that they are offered; to the character and engagement of the ordinary citizens who are charged with both selecting leaders and holding them accountable; and, not least, to the regime's political economy and how it functions, including the distribution of wealth that it generates.

Civic republicans, especially those who draw their inspiration from Madison and other regime theorists such as Machiavelli and Montesquieu, characteristically argue that reasoning from the original position, in the Rawlsian style, can take us only so far in telling us what a workable and tolerably just political regime might look like. More than this, such republicans reject proposals for a "division of labour" within political theory, such that some scholars, expert in pre-institutional political philosophy and abstract reasoning, define and specify the normative principles which should guide political life, while a second group of scholars, who look more carefully at the facts of the world, work out how to put those principles into practice. From the viewpoint of republicans such as Elkin, such a division of labour is untenable: Elkin argues that we cannot fully make sense of political concepts such as "liberty" and "equality" until we have thought through, and indeed garnered some practical experience with, what it would mean to realize such values in practice, through real political institutions. Put another way, we cannot claim that we want something unless we understand what it would truly take to get it, in practice, given reasonable assumptions about human nature.<sup>39</sup> One of those assumptions, in turn, is that political actors often act from mixed or self-interested motives, as opposed to being motivated by the desire to realize justice.<sup>40</sup>

39 Thus Elkin: "In the context of [institutional] practice, there aren't two separate judgments—one about values, the other about practices that will serve them. There is only one: how much we value something given what it takes to realize it." Elkin (2006): 77.

40 To be clear, Rawls also recognizes the importance of considering the institutional implications of a conception of justice before accepting it. Hence Rawls writes: "It is important to trace out, if only in a rough and ready way, the institutional content of the two principles of justice. We need to do this before we can endorse these principles, even provisionally. This is because the idea of reflective equilibrium involves our accepting the implications of ideals and first principles in particular cases as they arise. We cannot tell solely from the content of a political conception—from its principles and ideals—whether it is reasonable for us." Rawls (2001): 136. This recognition on Rawls's part is important, but is not sufficient to satisfy Elkin's objection, on two grounds. First, Rawls limits his account of the institutional content of property-owning democracy to ideal-type regime analysis—even though he acknowledges the possibility that "a basic structure may generate interests that make it work very differently than its ideal description." Rawls (2001): 137. Considerations of the kinds of interests a regime might generate are, according to Rawls, questions of "political sociology" and not something that accounts of ideal-type regimes need to consider. In Elkin's view, in contrast, careful consideration of the interests a regime is likely to produce and how they might be held in balance so as to maintain the regime *and* achieve its stated values over time is precisely what "constitutional" thinking must take up. Second, as stated in the text, Elkin rejects Rawls's view that the premise of a general agreement about the content of justice and the assumption of "full compliance" are useful beginning points for thinking about a workable constitutional regime.

This approach to politics is exemplified in Stephen Elkin's recent book *Reconstructing the Commercial Republic*. Elkin describes the "circumstances of politics" as involving a "large aggregation of people who 1) have conflicting purposes that engender more or less serious conflict; 2) are given to attempt to use political power to further their own purposes and those of people with whom they identify; 3) are inclined to use political power to subordinate others; and 4) are sometimes given to words and actions that suggest that they value limiting the use of political power by law and harnessing it to public purposes." "These circumstances," Elkin adds, are not "'the best of foreseeable conditions.' They are simply the conditions that obtain as we Americans, like others, go about our political business."<sup>41</sup>

Elkin argues that James Madison's theory of a "commercial republic"—a liberal regime characterized by government that is at once popular, limited, and active—has six central elements. The first five include preventing faction, preventing a tyranny of lawmakers, ensuring that lawmakers consider the public interest, ensuring that lawmaking has a meaningful deliberative component, and ensuring a measure of civic virtue in the populace. For purposes of the present discussion, the key element is the sixth—namely, the "social basis for the regime," or in other words, who has property and thereby political influence in the society, and thereby the capacity to shape how the regime operates in practice.<sup>42</sup>

Madison's political theory rested heavily on the possibility of "men of property and substantial community position"—most often large landowners—coming to take a very broad view of their own interests. Suppose the public interest and the (enlightened) self-interest of these men overlapped substantially, and that these same "men of property" were in a position to have disproportionate political influence—for instance, by being the predominant class from which elected representatives would be chosen. If this were the case, and if the political institutions themselves were designed to give lawmakers, including the ambitious, strong reason to appeal to the public interest, then a deliberative politics that in fact served the public interest might be possible.<sup>43</sup>

As Elkin notes, this Madisonian account is a deeply unsatisfactory theory for contemporary liberal regimes. Broad-minded "men of landed property and standing" are no longer the dominant social class; instead we have the predominance of corporate property, and corporations are themselves legally required to have quite narrow interests. Moreover, if inequalities of wealth and income become excessive, and these translate into significant political inequalities, as they in fact often do, then we face the spectre of not, as Madison feared, factional majority rule, but rather factional minority rule by the wealthy and the well-off. So the problem remains—what is to be the social basis of a political regime based on self-rule and limited but active government?<sup>44</sup>

41 Elkin (2006): 254-55. Elkin here is quoting Rawls (1993): xvii. It might be noted that Rawls, beginning in *Political Liberalism*, does revise his theory so as to take account of one major fact about the world, namely, the fact of reasonable pluralism. For a republican like Elkin, the question is why Rawls stops there as opposed to taking account of other prominent facts as well (such as large-scale corporate power). See Elkin (2006): 359-360, n10. For a related critique, see Sheldon Wolin's (1996) critical review of *Political Liberalism*.

42 Elkin (2006): 21.

43 Elkin (2006): 38-42.

44 Elkin (2006): 51-73. Elkin's argumentation on these themes is more

Elkin's answer is fourfold. First, a commercial republic should be a regime in which the middle class is the politically predominant class, and can serve as a "pivot" in adjudicating conflicts between business elites and the poor; in particular, it is important that the middle class have enough power to force the business elites to justify their proposals in terms of the public interest. Second, excessive inequalities of wealth are inconsistent with the maintenance of a commercial republic, precisely because they translate into inequalities of political influence and make relations of mutual respect between all citizens impossible. Third, persistent poverty as well as the economic insecurity of the near-poor and much of the middle class are inconsistent with the formation of independent, self-respecting citizens who recognize the value of deliberative politics. As Elkin puts it, "To worry about whether you can pay your bills wonderfully concentrates your mind—but not on political life."<sup>45</sup> Fourth, the interests of property-holders should be broadened to the greatest possible extent; this could be achieved by broadening the ownership of property and capital, and by fostering a politically strong middle class capable of challenging elite proposals, such that elite groups must argue on their behalf by appealing to the public interest.

Consequently, Elkin writes, "in a fully realized commercial republic, the fruits of prosperity should not be available only to a few; neither should economic production be in the service of creating an oligarchy with the status and material comforts of an aristocracy."<sup>46</sup> Elkin thus proposes ensuring that work is better paid, as well as advocating the more effective use of inheritance taxes, and above all widening the distribution of capital—in short, much of the agenda of what Rawls terms "property-owning democracy."<sup>47</sup>

This focus on capital as opposed to income as the focus of redistributive efforts has in turn four further justifications: first, the link between accumulated capital and disproportionate, dangerous and factional political power; second, the observation that private relationships of domination rest on the divide between those with capital and those without, not the divide between higher-paid and lower-paid workers; third, the recognition that it is impossible to contain inequalities of income without also paying attention to inequalities in asset holdings; and fourth, the political judgment that it is all but impossible as a practical matter to allow the market to generate wide dispersions of rewards, and then to rely upon the tax system to correct the resultant inequalities to a tolerable level. The beneficiaries of socioeconomic inequality are not, and never plausibly will be, so committed to social justice that they will endorse large-scale redistributions of their own incomes on a regular basis. On the contrary, they will insist on the justice of keeping their own market-generated returns, a claim that will have strong resonance among the well-off. A regime that relies less on post-transfer taxation to achieve a tolerable measure of socio-economic equality will be more stable over the long term.<sup>48</sup>

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complex and nuanced than this brief summary can do justice.

45 Elkin (2006): 134.

46 Elkin (2006): 134.

47 Elkin (2006): 292-96. Indeed, Elkin's discussion goes significantly beyond Rawls's own proposals, drawing on some of the ideas (such as universal capital grants and support for worker ownership of firms) discussed in subsequent literature (see main text, below, for a brief review).

48 To be sure, moving towards a broader distribution of capital and property also would face formidable political obstacles. The view is that if a suitably wider distribution could be achieved, this would be a more

Here we have a second set of arguments for moving in the direction of property-owning democracy. Clearly, there is overlap between some of Rawls's reasoning and that of Elkin, particularly in Rawls's stress on the fair value of political liberties. What is worth noting here is simply that one need not share any commitment to the Rawlsian edifice, or to a mode of political thinking that uses the ideal conditions of the original position as a starting point for reflection, to reach the judgment that persons interested in tolerably just liberal regimes should take an interest in property-owning democracy. In short, property-owning democracy need not be regarded as a uniquely Rawlsian idea, but instead may plausibly be endorsed by adherents of a range of sophisticated theories concerning the just society.

## Policies to Broaden Property Ownership

The idea of property-owning democracy has thus enjoyed renewed attention from multiple strands of democratic political theory in recent years. Parallel to this development has been increased interest among policy scholars and some practitioners in "asset-based" policy approaches to redressing poverty. The basic thought behind asset-based approaches is that social policies should not rely only on efforts to prop up low incomes amongst the poor, but should also enable the disadvantaged to gain access to productive assets that might significantly improve their long-term life chances. Examples of such assets including savings accounts, educational funds, housing, pension funds and automobiles.<sup>49</sup> To take one prominent example of an asset-based policy, governments might establish savings funds at birth for each child and capitalize each account with (for example) \$1,000, in expectation that the value of the fund will steadily grow over time and represent a significant source of funds by early adulthood; a version of this policy (the Child Trust Fund) has been implemented in the UK. Ackerman and Alstott have offered a much more ambitious proposal in the context of the United States, calling on government to provide all citizens at age 18 with an \$80,000 "stake," on the view that having access to such significant funds would dramatically alter the life prospects and plans of many disadvantaged, working-class, and even middle-class young Americans.<sup>50</sup>

Most of the mainstream discussion of asset-based policies focuses on individual accounts and on bolstering access to cash savings or housing. Advocates of property-owning democracy should also naturally have an interest in ways of broadening ownership of *productive* capital. Government support (in the form of loans, technical assistance, and in some cases capital investments) for smaller businesses represents one traditional policy approach; another possibility is the provision of funds or incentives to allow individuals to buy corporate stock. More far-reaching are efforts to turn control over entire enterprises to workers or to local neighbourhood organizations. As Gar Alperovitz has documented, both employee ownership and community ownership (through vehicles such as community development corporations) of productive businesses have increased dramatically in the United States since the 1970s.<sup>51</sup> Both approaches broaden the ownership of capital in ways

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stable long-term basis for limiting inequalities and broadening prosperity than relying primarily on continual, large-scale progressive taxation.

49 See Sherraden (2005) for a thorough discussion.

50 Ackerman and Alstott (1999).

51 Alperovitz (2004, 2006).

consistent with property-owning democracy, as well as offering other possible benefits in addition (such as sustaining jobs in poorer or declining localities).

In short, there are numerous practical mechanisms available to policymakers to attempt to broaden access to capital; most of these mechanisms are potentially politically popular and capable of winning support from a range of ideological positions. The literature lacks, however, a sustained treatment of how such policies might be broadened and ratcheted up to scale in a manner which might realize the aims of property-owning democracy. Ackerman and Alstott's stakeholder society proposal and Alperovitz's arguments on behalf of a "pluralist commonwealth" come the closest in this regard, though neither proposal explicitly uses the language of "property-owning democracy." In short, there is ample room for further work in translating the very ambitious aims of Rawlsian (or alternative republican) conceptions of property-owning democracy into concrete political proposals.

Similarly, there has been almost no serious discussion of the *politics* of property-owning democracy or of the question of whether and how existing "welfare state capitalist" societies might be changed into a form of market society more closely approximating property-owning democracy. Two observations are in order here: first, the social basis for a movement towards property-owning democracy is likely to be quite different than traditional left coalitions on behalf of socialism and social democracy; the aims of property-owning democracy are quite different in emphasis (though arguably not inconsistent with) the traditional goals of labour and labour organizations. Indeed, the more entrepreneurial, individualistic tenor of property-owning democracy coheres with Roberto Unger's call for the "left" to cast its lot with the "petty bourgeoisie" rather than declining industrial working classes.<sup>52</sup> In practice, a workable politics of property-owning democracy would need to be blended with other policies and initiatives more oriented towards traditional labour concerns about employment stability, wage levels, and labour law.

Second, while proposals to create Child Trust Funds and broaden access to homeownership are generally popular, the most crucial step towards a Rawlsian conception of property-owning democracy—more aggressive, stringent taxation on inheritance and estates—is likely to inspire much more opposition. This is especially true in the United States, where a concerted effort by conservative ideologues over the past fifteen years has succeeded in persuading many Americans and lawmakers that inheritance taxes represent an unjust "death tax"<sup>53</sup>; there is also substantial opposition to inheritance tax in countries such as the UK.<sup>54</sup> Serious arguments for full-blown property-owning democracy thus must be combined with serious and persuasive arguments regarding the legitimacy of breaking up large estates through inheritance taxes and other forms of wealth taxation.<sup>55</sup> The argument for the justice of taxing large-scale wealth in order to secure the fair value of political liberties, institute meaningful equal opportunity, and improve the lot of the least well off in turn mirrors the larger Rawlsian argument for understanding society as a system of social cooperation aimed at realizing a common life characterized by fairness, as

opposed to a game in which the aim is to accumulate as many assets as possible within the permissible rules. The argument for breaking up large inheritances and the argument for viewing society as a fair system of cooperation are inextricably tied together. Without the prior commitment to viewing society as a fair system of social cooperation, arguments for breaking up large inheritances are dramatically weakened; without the political capacity to break up large accumulations of wealth in practice, Rawlsian aspirations for realizing a just society based on the two principles of justice will remain tantalizingly out of reach.

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