

Introduction

The hopeful intuition that the realization of political ideals like freedom or justice is deeply connected to the rational organization of society, such that the rational society would also be the just society, has been a touchstone in much of the history of Western political thought, at least among philosophers of a more high-minded sort. So long as philosophers retain trust in the soundness of this linkage, inquiry into the nature of the just society could be conceived of as a fundamentally rational enterprise, with a normatively desirable goal shared by rational beings. However tantalizing, such lines of thought have for some time now been in disrepute. Whether in the form of deconstruction, skepticism about “metanarratives,” concerns about Eurocentrism, scientific reductions, or positivistic attacks on “metaphysics,” for well over a century Western philosophy has been pervaded by doubts about reason: its universality, its impartiality, its ability to guide human practice authoritatively. Given the centrality of the concept of reason to philosophy throughout its long existence, this could not help but transform its various subfields, and political philosophy has been no exception. On both sides of the Atlantic, as a result, much of the twentieth century has often been seen as a fallow period for political philosophy. While admirers of Louis Althusser, Isaiah Berlin, Leo Strauss, Hannah Arendt, and Michael Oakshott no doubt consider this a crude or misleading generalization, what is less contestable is that systematic projects like those of classical social contract theories or the sweeping philosophies of history of the nineteenth century lost much of their plausibility, and were replaced by an agenda dominated by more local projects, preoccupied not only with the waning force of universal reason but also with the moral and (eventual)

geopolitical failure of the Soviet Union, and the apparent lack of viable alternative models of political organization to liberalism and capitalism.¹

This work is a study of two giant figures in recent political thought—John Rawls and Jürgen Habermas—who have resisted and, in some important respects, reversed these trends. It addresses the merits and limitations of their contributions to the field of political philosophy: its proper scope and object, its method, its point, and the conditions of its very possibility as a rational enterprise. By way of introduction, then, I ought to say something about why these two philosophers—and these two in particular—deserve to be singled out for shaping our understanding of such matters in a way that is not only important and influential in some generic sense but also unique, original, and path breaking. Rawls's and Habermas's significance as political philosophers may, I would argue, be characterized in the following manner:

- Both are self-consciously post-Kantian thinkers in the sense that they adhere to the maxim that in order to make critical use of reason, one must have a theoretically grounded sense of its capabilities and limitations.
- They both hold that reason in the modern era is somehow less authoritative and prescriptive than philosophers in earlier eras have often taken it to be.
- They both nevertheless undertake projects in political philosophy comparable in scope and aims with the systematic projects of the eighteenth and nineteenth centuries—projects that employ more or less universalistic conceptions of reason in order to articulate an impartial perspective for the normative evaluation of political orders considered as wholes—but with appreciably deflated conceptions of reason.

Of course, this is not the only perspective from which one might launch a study of Rawls and Habermas: one might focus instead on their shared neo-Kantianism, or view them as deliberative democracy theorists.² Although reading them as deliberative democracy theorists is certainly plausible and in many ways instructive, it does not, I would contend, fully account for their unique stature in contemporary political thought, or their connection to each other. As for their neo-Kantianism, my interpretation of both Rawls and Habermas is one that, for different reasons, de-emphasizes the role of Kant. In fact, although I will make the point only obliquely, the interpretations of Rawls and Habermas on offer here underline their Hegelianism: in Rawls's case, this is because of the importance he places on using public reason to reconcile opposed private worldviews at the higher

level of political justice.³ With regard to Habermas, I see him essentially siding with Hegel against Kant by maintaining that reason cannot be realized monologically, and in order to be actual, must be mediated by social activity; this lies at the center of Habermas's insistence that validity requires the execution of actual discourses, and hence his proceduralism, which features prominently in my interpretation of him.

Rather than viewing them, in the first instance, as neo-Kantian moralists or deliberative democrats, I propose to read Rawls and Habermas as philosophers—that is, as figures that have given a great deal of thought to the concept of reason, its powers and limits, the kind of justification of political power and principles it can offer, its ability to connect and reconcile, to criticize existing social and political conditions, and to structure and guide political practice. The lasting influence of Rawls and Habermas (if it is not presumptuous to think that they will have one) lies in the fact that they are advancing conceptions of political philosophy that genuinely do recall the systematic, reason-based aspirations of political theory in the Western tradition, while acknowledging that objective, substantive conceptions of reason are no longer available for such purposes. The largest question at stake in this work, therefore, is whether this form of theory is possible (or even desirable) under changed conditions. While it is true that, in my judgment, the Rawlsian and Habermasian projects are not equally successful, they are both plausible and powerful, and I aim to answer this question in the affirmative.

In the remainder of this introduction, I will provide a brief primer on the respective intellectual contexts out of which Rawls and Habermas emerge, and the sense in which they have both been credited with “revitalizing” political philosophy (1). I will then discuss the three intertwined aspects of Rawls's and Habermas's methodological innovations in political philosophy mentioned above: their continuity with the Kantian critique of reason (2), their employment of relatively modest or deflated conceptions of reason (3), and their efforts to recapture the systematic aims of modern political philosophy (4). I close with an overview of the book's argument (5).

I. NARRATIVES OF REVITALIZATION

In discussions of Rawls's and Habermas's work that describe their place in the history of political thought, one often encounters words and

phrases like “revitalized” or “revived interest in the field,” “charted a new course,” “led out of a dead end,” and the like. Given their vastly different backgrounds, they cannot jointly, of course, be said to “revitalize” political philosophy as such, but rather to do so within their respective milieus: Rawls within Anglo-American political thought and Habermas within the Frankfurt School’s Left Hegelian brand of critical social theory. There is, however, a significant and quite suggestive overlap in the manner in which they reformulated both the aims and methods of political thought. These reformulations mirror each other in important ways, as I detail in the next section, and have made conversations between Anglo-American liberalism and European critical theory much more feasible than it has been in decades past, as evidenced by the celebrated 1995 exchange between Rawls and Habermas in *The Journal of Philosophy* (one of the only substantive public exchanges that Rawls ever engaged in), in which Habermas characterizes the issues between himself and Rawls as “a family quarrel” (IO, 50). And if it is true that Habermas has done more to accommodate his thought to Rawlsianism over the years than vice versa, the meeting of minds between the two would not have been possible in the first place had not Rawls, like Habermas, been preoccupied with the task of pursuing a justificatory project in political philosophy with a modest conception of reason at his disposal, manifested in his concern—the overriding concern of his post-*Theory* work—to render the content and conclusions of *A Theory of Justice* in a “non-metaphysical manner.”⁴

Why were the Anglo-American and critical theory traditions in political thought both thought to be in need of such a transformation? Rawls, according to a dominant narrative, arrived on a philosophical scene in which consequentialist analyses of political, legal, and moral issues were often seen as the only credible normative perspective available. The utilitarian tradition, with its stripped down metaphysics, emphasis on calculability and allegedly tangible human goods such as pleasure or happiness, as opposed to otherworldly ones such as purity or salvation, adherence to principle or duty, and the like, has appeared to many to be better suited for the modern, scientific world. In contrast, Platonic, Aristotelian, Stoic, Thomist, and Kantian ethical systems seem much more dependent upon some kind of suspicious metaphysics of the cosmos or the subject. In short, Rawls emerged in a philosophical climate leery of morally loaded perspectives on complex entities like societies as a whole. For his part, though, Rawls contends that the utilitarian tradition is subject to intractable difficulties, and he remains one of its most trenchant critics.⁵ He is subsequently credited

with articulating a plausible Kantian, contractualist alternative to the dominant utilitarian paradigm, thereby putting big questions about obligation and the justice of the social order back on the table, without leaning on metaphysically laden conceptions of the subject and social order.⁶

Habermas, according to a similarly dominant narrative, is the successor to a first generation of Frankfurt School critical theory whose culminating statement is normally identified with Max Horkheimer's and Theodor Adorno's *Dialectic of Enlightenment*—a work that, on Habermas's view, is enigmatic and problematic, insofar as Horkheimer and Adorno argue that reason in the modern era has become essentially calculative or instrumental in nature, oriented toward the manipulation of objects.⁷ Hence, the application of reason to human life (through science, technology, markets, and bureaucracies—the various manifestations of the general phenomenon that Max Weber calls “rationalization”) is ultimately synonymous with domination, reification, and control. Given this, it becomes difficult to see how reason could be employed as a critical standard for identifying normative deficits in society, if those alleged deficits are, in fact, engendered by reason, not to mention how those who subscribed to Horkheimer's and Adorno's systematic conclusions could rationally justify their own critical standpoint, and how they could condemn this domination and reification, if reason is just instrumental reason, and its sway over human life is as complete as the authors suggest.⁸ Habermas, by arguing that rationality is located in the purportedly universal structures of human communication, and not merely in ongoing efforts by human beings to use reason to extend their mastery over nature⁹, is able to maintain that the possibilities of achieving mutual understanding between persons made possible by communicative reason continues to have emancipatory potential, and he ultimately extends this theory into a discursive conception of democracy by linking the democratic process to a legally mediated process of communication among citizens.¹⁰

It should be noted that neither the Rawlsian nor the Habermasian “revitalization” narrative is universally accepted: there are certainly those who argue that pre-Rawlsian Anglo-American political thought was not as moribund as Rawlsians often assume and, for that matter, that the Rawlsian sway over political philosophy's agenda for the last several decades (which is undeniable) has not been healthy.¹¹ And the dialectical and “disclosive” form of critique employed by Horkheimer and Adorno continues to have its share of practitioners, many of whom tend to be suspicious of Habermas's “communicative turn” in critical theory (along with the friendly relations it establishes with analytic philosophy of language and political lib-

eralism).¹² Nevertheless, these narratives have exercised considerable sway over the theoretical imaginations of political philosophers and commentators on both sides of the Atlantic over the past several decades.

But these thumbnail sketches of Rawls's and Habermas's respective paths to prominence beg the questions: why did systematic ambitions in political thought seem to be in trouble? And what did Rawls and Habermas do to revive them?

2. POLITICAL PHILOSOPHY AND THE CRITIQUE OF REASON

Much of the reason that Rawls's and Habermas's attempts to engage in systematic justificatory projects have been so impressive and well received is that the conception of reason thought to be available nowadays for engaging in philosophical analysis and justification has diminished in scope and power. Since Kant's time, modern reason has been understood as reason that puts itself on trial, by reflecting on its own ability to answer the questions it raises. In order to make valid, normatively binding claims, we must be aware of the nature and extent of reason's authority, lest we overstep its bounds and end up in contradictions. One of the lessons that Rawls and Habermas absorb from this is that a foundationalist model of justification is unfeasible. On a foundational model, the justification of a particular claim (whether an action's rightness, a law's worthiness to be obeyed, a proposition's truth, and so forth) adduces the grounds that lend that claim its authority. Eventually, the foundationalist contends, the chain of justification must terminate on some ground that is self-satisfying by virtue of being intrinsic to our reason, indisputable, or unrenounceable (for example, the ultimate moral worth of human beings or the incorrigibility of certain sensory experiences). Otherwise, the foundationalist argues, justification is subject to infinite regress, and not a justification at all. A foundationalist project in political philosophy is, then, one that claims to identify an ultimate normative source for the legitimacy of law and state power, and/or particular forms of social organization—for example, a fundamental contractual agreement, natural law, utility, God's will, and the like. During the continuing critique of reason in the nineteenth and twentieth centuries, the belief that reason is capable of unearthing or discovering within itself such universal, a priori knowable foundations in ethics or epistemology has declined, and "foundationalism" has become a term of abuse.

Rawls's and Habermas's reasons for concluding that a foundationalist

project in political philosophy is no longer viable are not identical, though they have similar implications. Habermas's reasons are theoretical: he is in broad agreement with the critique of philosophical foundationalism and metaphysics, and holds that reason is essentially procedural—that is, reason authoritatively prescribes processes for determining the validity of beliefs and action norms, but cannot anticipate the outcomes of those processes.¹³ Rawls's reasons for rejecting foundationalism are more practical: if, as Rawls forcefully argues, the point of political philosophy is to articulate a framework for legitimate politics that all reasonable persons can subscribe to, then foundational claims about the nature and status of such a framework are self-destructive, because an unforced agreement about the ultimate foundations of political morality is unattainable in a free and pluralistic society (PL, 36–37, 134–45). Rawls and Habermas agree that reason does not contain within itself, nor does it have access to, a concrete blueprint or picture of the good or just society. For Habermas, there simply is no such thing as a blueprint; for Rawls, if there were, it would not be the kind of thing that citizens could agree on and therefore not the kind of thing they may use in public justification.

3. REASON AND SYSTEMATIC POLITICAL PHILOSOPHY

How were Rawls and Habermas able to renew political philosophy as a systematic, rational enterprise with critical potential, at a time when such a thing was (and still is) for the most part thought to be impossible, or, if not impossible, at least implausible or old fashioned? Those that admire Rawls's or Habermas's body of work tend to share the sense that they make possible a form of theory consonant with the systematic aspirations of the modern Western tradition of political philosophy, spanning roughly from Grotius and Hobbes, and the subsequent giants of natural right and social contract theory, through Hegel, Marx, and Mill in the nineteenth century—aspirations that have often more recently been thought no longer to be achievable given the antimetaphysical bent of so much twentieth-century thought, and the deflated conceptions of reason (or the rejection of reason's authority) associated with that broad movement. Of course, it would be specious to contend that there is much in the way of a shared aspiration or methodology among approaches as diverse as social contract theory, modern natural law, Millian utilitarianism, and the various versions of Hegelian, Marxist, and Western Marxist social theory and philosophy

of history. With that rather large caveat in mind, we might nevertheless venture that these various approaches do make universalistic, or at least fairly sweeping, normative assessments about societies as a whole, or even modernity as a whole, while conceptualizing societies as political, legal, cultural, and/or economic wholes. That is, reason is thought to offer a perspective that impartially comprehends social totalities or historical epochs and assesses them in terms of their justice, legitimacy, or normative trajectory. At the risk of flattening the gamut of very real differences between these various models of political thought, the point I would like to make here is that these kinds of “big questions” have been increasingly difficult to engage in the contemporary period. Early in *Between Facts and Norms*, Habermas declares that philosophy is faced with a pair of handicaps as it attempts to gain critical purchase on contemporary political society. The first is a problem of reason failing to grasp the complexity of its object:

The practical philosophy of modernity continued to assume that individuals belong to a society like members to a collectivity or parts to a whole. . . . However, modern societies have since become so complex that these two conceptual motifs—that of a society concentrated in the state and that of a society made up of individuals—can no longer be applied unproblematically. (BFN, 1–2)

Put another way, from a sociologically enlightened perspective, it is rather benighted to suggest that there is some basic normative relationship between persons that serves to stitch modern societies together; what Rawls calls the legally mediated “political relation” between citizens cannot be considered the central integrating mechanism of modern societies. Here, the postmodern image of society as decentered and porous rears its head, suggesting that there is no object for political philosophy to grasp and judge.¹⁴ The second handicap that Habermas perceives concerns reason itself: “[Practical reason] no longer provides a direct blueprint for a normative theory of law and morality” (BFN, 5). Reason, Habermas asserts, does not possess in itself content that can be translated into a concrete vision of the just society; if reason is still prescriptive (and Habermas thinks that it is), it can be so only in an attenuated manner: “In the classical modern tradition of thought, the link between practical reason and social practice was too direct” (BFN, 3).

In Rawls’s work, these sorts of metalevel reflections on the fate of reason in the modern age are largely absent. Nevertheless, one finds in Rawls the same sort of disillusionment with pretensions of what Habermas calls “the practical philosophy of modernity,” in particular in Rawls’s distinctions between the “comprehensive” and the “political,” on the one hand,

and between “the rational” and “the reasonable” on the other. Comprehensive reason—reason that outlines a worldview, that reveals truth, that links what we should believe, what we should do, and how we should live to a privileged source of normative authority—still has its adherents, and Rawls does not go so far as to say (as Habermas sometimes does) that it is discredited. Indeed, Rawls expects that most of us do individually possess some “comprehensive doctrine,” incompletely and inconsistently worked out as it might be (PL, 165). But, in pluralistic modernity, comprehensive reason has lost its power to persuade the public and, along the way, loses its ability to convincingly articulate the normative basis of citizens’ political relations to one another: “In such a society, a reasonable comprehensive doctrine cannot secure the basis of social unity, nor can it provide the content of public reason on fundamental political questions” (PL, 134). Indeed, Rawls suggests that the power of comprehensive reason to provide such an account can only be based on just that—power—and not on any intrinsic capacity of reason to persuade: citizens can rally around a comprehensive account of political justice only in a relatively closed society that is not exposed to or does not tolerate pluralism, where, as Habermas puts it, consensus is not “achieved” but “normatively ascribed.”

Seriously addressing the “big questions” from the tradition of modern political philosophy concerning the justice or injustice of basic social structures, and the basis of political obligation and legitimacy, appears to require theoretical machinery that is increasingly hard to come by—namely, a conception of reason that is at once *universalistic*, *substantive* or *contentful*, and *practice orienting*. That is, reason that (a) can claim binding normative authority over all rational beings and that transcends all particular contexts, (b) designates certain outcomes (for example, action norms, principles of justice, forms of social organization) as more rationally desirable than others, and (c) is capable of translating its content into a program for political action, be it in terms of revolutionary praxis, a blueprint for the good or just society, a constitutional design, or a reform agenda. Combining all three of these elements in single, comprehensive account of reason is an exceedingly tall order in the present context.

Given this, it is unsurprising that the post–World War II period has witnessed a proliferation of projects that, while not less ambitious, nevertheless have a decidedly local, perspectival, contextual, or relativistic flavor to them, not to mention the emergence of approaches that simply eschew deep justificatory questions altogether. We might think here of genealogical approaches (Nietzsche, Foucault, Butler) that abjure universalism, while

retaining critical, but not prescriptive, intent; the moody politics of withdrawal offered by Adorno or Alasdair MacIntyre, which view reason as having no panacea to offer a fallen present; and contextualist (Rorty, Walzer) or “common sense” approaches, which address normative political issues without feeling compelled to support their claims by justifying a more abstract normative framework.

4. NONMETAPHYSICAL AND PROCEDURAL CONCEPTIONS OF REASON

One of the central tasks of this work is to argue that Rawls and Habermas are advancing conceptions of political philosophy that genuinely do recall the systematic, reason-based aspirations of political theory in the Western tradition, while acknowledging that objective, substantive conceptions of reason are no longer available to us. This implies that they have broken with these contemporary trends toward local, nonuniversalistic models of criticism. Not everyone, however, would agree that Rawls and Habermas ought to be interpreted in this way. Both have been variously suspected of smuggling in or tacitly assuming metaphysical premises in order to support their normative claims, of devolving into a kind of contextualism, or simply failing to coherently articulate a rationally justified critical standpoint.

According to some readings, especially of his later work, Rawls’s approach is ultimately just another kind of contextualism: an account of what a certain group of liberally minded North Atlantic people who fancy themselves to be “reasonable” happen to be able to agree upon. While some (such as Rorty) intend this characterization of Rawls’s work as praise, many others see Rawls either as not actually providing a normative account of politics at all, or as unjustifiably valorizing his own North Atlantic, liberal political culture. While it is true that Rawls attempts to operate with a conception of reason (or rather, “the reasonable”) that is not avowedly universalistic, these impressions of the contextual character of Rawls’s work are belied by the fact that it retains a strong normative, prescriptive, critical bent. I argue that, although there is some serious tension between the more Kantian aspects of Rawls’s theory (in particular, his claims about the “constructivist” status of his two principles of justice) and the “political, not metaphysical” account that he gives of his methodology, Rawls is neither a closet natural rights theorist nor a simple contextualist content to articulate local moral-political intuitions. The major question that I raise with regard to Rawls’s work is whether his theory can be prescriptive and ac-

tion-orienting, while abandoning universalism, and the major critique that I offer of Rawls amounts to the claim that he cannot. His work represents an inspired effort to produce authoritative principles of political justice and social criticism without assuming a “context transcending” perspective.¹⁵ It is an effort that I argue, in the end, fails to negotiate this tension. This critique is not intended, however, to take away from the instructive, indeed revolutionary, aspects of Rawls’s theory, in particular his challenging ideas about method and justification in political theory.

The fact that the most intriguing portions of Rawls’s work are focused on these methodological and justificatory concerns shows, in my view, that the way that the Rawlsian aftermath is often interpreted is mistaken: for many, a major lesson to be drawn from Rawls is that political philosophers simply do not need to engage with more abstract philosophical issues—such as epistemic issues concerning rationality and justification, and metaphysical questions concerning the nature of rights and the human subject—that it is sufficient to begin with a consistent reconstruction of “our” moral intuitions and directly address moral and political problems. This interpretation of Rawls’s methodological contribution underlies much philosophy done in the philosophy-and-public-affairs mode.¹⁶ But there is a danger here. Certainly, a major thrust of modern political theory that Rawls represents, in a way, a culmination of, is the effort to show that reasonable and civil political relations, public argument and justification, can take place using a political vocabulary (of rights, civic duties, democratic values, and the like) that people with very different ethical and religious worldviews may make use of. But if we simply refuse to interrogate the meaning and validity of these concepts, they threaten, as Jeremy Waldron puts it, “to degenerate into a sort of lingua franca in which moral and political values of all or any kinds may be expressed.”¹⁷ Rawls invites us to think of justification in political philosophy in new ways, not simply to disregard it. He does intend the principles of justice as fairness to serve as the public language that citizens of different backgrounds and faiths use to address one another, but it is important that it not be just a kind of empty shorthand meaning whatever its various users and addressees want it to. He writes:

Justice as fairness aims at uncovering a public basis of justification on questions of political justice, given the fact of reasonable pluralism. Since justification is addressed to other, it proceeds from what is, or can be, held in common; and so we begin from shared fundamental ideas implicit in the public political culture in hope of developing from them a political conception that can gain the free and reasoned agreement in judgment. (PL, 100–101).¹⁸

While this quotation might be called on to support the view that “methodological Rawlsians eschew the idea of justification *simpliciter* in favor of justification *to*,”¹⁹ it does not imply that justification is simply a case-by-case matter of persuading a unique addressee, and that there is nothing methodological and normative that philosophy can say about the process. I do not see it as a favorable interpretation of Rawls to hold that, at the end of the day, his concept of “the reasonable” is arbitrarily defined as whatever those that we choose to regard as reasonable believe. The reasonable must serve to constrain the uses to which the public vocabulary of political liberalism may be put. Although I argue that Rawls ultimately has a difficult time making this point, I do think that it is one that he would like to be able to make.

As for Habermas, few will dispute that he is defending an ambitious, universalistic theory of rationality. But there are serious doubts about its plausibility, or whether it has any practice orienting implications. Habermas is attempting to lay out a systematic and normative account of the democratic constitutional state with a conception of reason that largely abandons substance—that is, that abandons the notion that reason possesses content which can be ascertained via reflection alone. This lack of substantiality will prove to be the major sticking point in our evaluation of Habermas, as critics frequently inveigh against the allegedly “empty formalism” of his thought: if communicative reason essentially prescribes a *process* for the evaluation of actions and norms but lacks *substance*, and if the same is true of the conceptions of morality and democracy that Habermas links to it, then his theory is vulnerable to the charge of being free of content, of indiscriminately placing its normative stamp of approval on any outcome whatsoever, just so long as it emerges from some discursive process.²⁰

The main question for Habermas in this work is whether his theory can be practical and action-orienting without being substantive; the defense of an interpretation of Habermas’s theory that I offer herein amounts to the claim that it can. This interpretation of Habermas’s program runs counter to the legion of critics who fault him for the abstract formality of his theories. It is also contrary to a group of Habermasians, as well as deliberative democratic theorists, who are generally sympathetic to Habermas’s approach but deny that his theory is committed to a thoroughgoing proceduralism. It is possible, I concede, to pick up on certain threads in Habermas’s writings to argue that he presupposes a substantive, basically Kantian account of autonomy, which subsequently serves as the *telos* of reason, morality, and democracy. Against this I argue that Habermas’s theory indeed is a highly procedural account of democracy, and legal and

political legitimacy, and not surreptitiously based on a substantive conception of moral autonomy, as some of his defenders contend. A superior alternative to this Kantian interpretation is one that is not apologetic about the procedural character, based on Hegelian insights concerning the need for social activity (discourse, in Habermas's case) in order to make the universal concrete.

5. OVERVIEW

This work is not intended as a general overview of either Rawls's or Habermas's philosophy.²¹ I am assuming of an English-speaking audience some familiarity with Rawls's basic concepts (for example, the two principles of justice, the veil of ignorance, the original position). I offer more exposition on Habermas, especially in Chapters 4 and 5, but do not delve into his theory of universal pragmatics, upon which much of his approach is ultimately based,²² and I tread lightly over his social theory (for example, the system/lifeworld distinction). Also, I focus more on Rawls's *Political Liberalism* (along with some of the earlier papers announcing the "political turn" and his later writings on public reason) than *A Theory of Justice*. The latter work, however, is the one most often canonized as Rawls's masterpiece; whatever one thinks of *Political Liberalism*, it is rarely referred to as reverentially. And, of course, the relationship between these two books—for example, how much tension there is between them, how much of the political turn is latent in *Theory*, how much of *Theory*'s content *Political Liberalism* repudiates, and so forth—is a huge issue in Rawls scholarship. In general I try not to take a position on these questions, although that is not always possible—as, for example, when I consider the role of the original position argument in Rawls's later work. Suffice it to say that my own view is that although there are, as Rawls himself readily admits, methodological differences between *Theory* and *Political Liberalism*, it is not altogether implausible to see the political turn as making explicit some of Rawls's ideas in *Theory* concerning justification, and that *Political Liberalism* is as interesting and original as *Theory*, though in a different way, being more focused on the methodological question of how the content of justice as fairness should be represented.

I have also already indicated that I am not a neutral mediator of the issues between Rawls and Habermas. Although I defend Rawls against a number of objections to his approach, in the end, I do regard it as flawed. And although Habermas's theory has its share of problems and needs to be

interpreted in a certain way (perhaps not the most obvious one, and one that does make certain concessions to the Rawlsian position), I consider it to be superior. On balance this is more of a Habermasian than a Rawlsian work, and I do not know how many Rawlsians will be convinced by what I have to say. But, of course, the objective is not simply to show that Habermas is right, and Rawls is wrong, but to see what can be learned by looking at how two extraordinarily impressive thinkers have confronted the prospect of conducting a certain kind of ambitiously systematic philosophical project in a philosophical climate that is in many ways ill disposed toward it.

Since I eventually argue that Habermas's theory may fruitfully be read as overcoming some of the deficits that I locate within the Rawlsian approach, I begin, in the first three chapters, with an examination and critique of Rawls. Chapter 1 outlines Rawls's political turn and his view that justice as fairness should be thought of as a "freestanding" theory, and considers a set of objections to this conception of theory, which I call the *descriptivist critique*. The next two chapters are to a large extent devoted to evaluating the seriousness of this critique and the degree to which Rawls's theory is vulnerable to it. Chapter 2 offers the most detailed exposition on Rawls; it lays out his main justificatory concepts: overlapping consensus, public reason, reflective equilibrium, and political constructivism. I argue that the relationship between this constellation of concepts is complicated, but that it is difficult to see why Rawls's constructivist procedure (the original position), or its results (the conception of justice as fairness), would be normatively binding. Chapter 3 develops this further by arguing that, ultimately, there is an unresolved tension between the Kantian and "political, not metaphysical" elements in Rawls's mature thought; the essentially factual, or descriptive, underpinnings of his theory prove insufficient to support the role of a shared, critical standpoint that Rawls would like to claim for his conception of justice. I then turn to interpretations of Rawls's project, by Ronald Dworkin and Charles Larmore, that try to resolve this tension by shoring up the moral foundations of his theory. I argue that such a move, although enticing, is ultimately incompatible with Rawls's very clear commitment to pluralism, and nonfoundational, nonmetaphysical political philosophy. The normative impetus of Rawls's thought might be preserved (albeit in a modified form), I suggest, by offering it a basis in procedural rationality. This, of course, moves one to turn to Habermas.

Chapter 4 introduces Habermas's method, contrasting his reconstructive, postmetaphysical approach to Rawls's nonmetaphysical constructivism in a way that alerts us to the fact that the methodological differences be-

tween Rawls and Habermas are significant enough to make direct comparisons problematic. I also discuss here Habermas's account of "the discourse principle," and his conception of philosophy as an enterprise that takes up the dual task of rationally reconstructing communicative structures and developmental processes, and interpreting the perspective of participants in human social practices. Chapter 5 deals with the reconstructive end of Habermas's political theory: the daunting argument, laid out primarily in chapter 3 of *Between Facts and Norms*, in which Habermas attempts to arrive at a normative account of individual rights and democracy by combining the discourse principle with "the legal form." After addressing some preliminary concerns about the cogency of this argument, I turn, in Chapter 6, to a very serious worry—namely, the objection raised from a number of perspectives to the effect that the heavily formal and procedural character of Habermas's account of the democratic constitutional state's infrastructure is objectionable, and objectionable on Habermas's own terms, since it is at odds with the self-understanding of participants in democratic practices. I defend Habermas with an interpretation that incorporates some Rawlsian elements into his theory, and that links it tightly to a particular conception of legal constitutionalism which emphasizes the democracy-enabling aspects of constitutionalism over its constraining aspects.

I dub accounts of constitutionalism that stress the latter *container theories*, and in Chapter 7, I argue (a) that Rawls endorses a container theory of the relationship between constitutionalism and democratic legitimacy, and (b) that container theories are problematic and replicate many of the problems with Rawls's approach discussed in Chapter 3. Chapter 8 gives a fuller interpretation of what I take to be the rejection of container theories of constitutionalism implicit in the best interpretation of Habermas's theory of law and democracy. This interpretation finally allows him to calm the serious doubts about the normative credibility of non- and postmetaphysical approaches to systematic political philosophy. In a brief, concluding Chapter 9, I offer some thoughts on how the interpretations of Rawls and Habermas on display here allow them to overcome the common, and more global, objection that their attempts to reanimate systematic political philosophy involve an idealized, otherworldly conception of politics that has little to do with the realities of power in actual political communities.