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Sen, Rawls—and Sisyphus

Christian Schemmel*

In The Idea of Justice, Sen argues, against the social contract tradition and Rawls in particular, that political theory should change focus from the question "What is a just society?" to the question "How can the justice of the present state of affairs be improved?". His main objections are that Rawlsian theory is incapable of establishing unanimous agreement on one set of principles of justice, and that such agreement is neither necessary nor sufficient for arriving at an agreement on proposals for improving the justice of current states of affairs. This paper defends Rawlsian theory. It argues that Sen's objections have force only if his alternative, comparative methodology is able to circumvent fundamental disagreement, and shows, by means of an internal argument, that it is not able to do so. The upshot of the paper is that the search for agreement on principles of justice in political theory may be, to some extent, like the task of Sisyphus, who has to roll a rock up a hill, for all eternity, only to see it roll down again—but that this is not a reason for particular concern. It concludes with some suggestions as to how Rawls-inspired political theory can nevertheless aim at making proposals of more immediate political relevance.

Keywords: The Idea of Justice, Amartya Sen, 'Transcendental' vs. Comparative justice

INTRODUCTION

Over the last twenty years, unrest has grown in contemporary political theory about its perceived lack of connection to the political issues that determine our contemporary reality. The spectacular success of John Rawls's *A Theory of Justice* has changed the discipline. But the turn to analytical political theory of the Rawlsian kind has had its costs; a high degree of abstraction, and an emphasis on conceptual precision and rigour at the expense of closeness to the political issues of the day are among these. This has given rise to many criticisms of Rawlsian political theory, and has found expression, *inter alia*, in a debate about 'ideal' vs. 'non-ideal theory',¹ and a renewed interest in 'realist' political theory.²

Now, Amartya Sen has added his powerful voice to the core of those criticizing the distance of Rawlsian political theory to issues of real world justice. In *The Idea of Justice*³, Sen criticizes the social contract tradition, and Rawls's work, in particular. He argues that political theory should change focus, from the basic question of the social contract tradition, "What is a just society?", to the question, "How can the justice of the present state of affairs be improved"? This call looks timely and well-motivated. However, this paper argues that, despite Sen's claims to the contrary, political theory of the Rawlsian kind is still indispensable. It proceeds as follows. Section 1 identifies Sen's

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most fundamental objections to Rawls' conception of 'justice as fairness': that political theory of the Rawlsian kind does not succeed in establishing unanimous agreement on one set of principles as the uniquely right ones, and that such agreement is neither necessary nor sufficient for arriving at an agreement on how to improve the justice of current states of affairs. Section 2 assesses these objections, and argues that they have force only if Sen's alternative comparative methodology for assessing questions of justice is able to circumvent fundamental disagreement. Section 3 shows, by means of an internal argument, that it is not able to do so. The upshot of the argument is that the search for agreement on the right principles of justice in political theory may hence be, to some extent, like the task of the mythological figure Sisyphus, who has to roll a rock up a hill, for all eternity, only to see it roll down again—but that this is not a reason for particular concern. The conclusion offers some suggestions as to how political theory of the Rawlsian kind can nevertheless aim at making proposals of more immediate political relevance.

'TRANSCENDENTAL INSTITUTIONALISM' VS. 'REALIZATION-FOCUSED COMPARISON'

Sen initiates his critique of Rawls, and his development of an alternative account of how justice ought to be theorized, by proposing a fundamental division of modern political theory into two camps: in the one corner, we find the social contract tradition, identified with Thomas Hobbes, John Locke, Jean-Jacques Rousseau and Immanuel Kant (p. 6) and, in contemporary political theory, John Rawls. The basic question that this tradition seeks to answer is *what characterizes a just society*. Sen labels this approach 'transcendental institutionalism' (henceforth: TI), because, in his view, it focuses on identifying 'perfect justice', that is, a unique set of principles which constitute justice ('transcendentalism'); and, in doing so, it concentrates on the question as to which *institutional* arrangements would make for such a perfectly just society (pp. 5f). In the other corner, we find an approach which Sen labels 'realization-focused comparison' (henceforth: RFC). Its champions—among whom Sen names Adam Smith, the Marquis de Condorcet, Jeremy Bentham, and Karl Marx—were, according to him, mainly interested in "comparisons of societies that already existed or could feasibly emerge". Theorists of this bent take as their theoretical starting point, not the question as to what would constitute *the just society*, but the question as to which changes in social states of affairs would constitute improvements in justice, or at least "the removal of manifest injustice" (all quotes from p. 7). Sen identifies social choice theory—the aggregation and ranking of collective preferences for/judgments about different social alternatives—as the main contemporary heir of this tradition.

Sen argues that RFC should replace TI. He does not criticize TI in the abstract, and this paper will not discuss whether his categorization of the thinkers named above is always correct.⁴ His attack is centred on Rawls's theory of (social) justice, that is, 'justice as fairness'. Since he raises a whole battery of different objections to Rawls, it is important to single out those which, if successful, are most able to motivate the paradigm shift in political theory that the *Idea of Justice* calls for.

Sen's objections largely fall into three groups: a) those concerned with Rawls' attempts to identify a *unique set of principles of justice*, 'justice as fairness' (Chapter 2); b) those concerned with Rawls' special focus on institutions as the agents that implement, or constitute, social justice (Chapter 3); c), those concerned with Rawls' focus on principles of justice for a *closed* society, which is said to preclude adequate concern for outsiders (Chapter 6). Objections of type c) are well known from discussions of global justice over the last thirty years. Objections of type b) raise many different points, such as that a focus on institutions is in danger of both undervaluing the importance of "social realizations" (p. 19) as the target of justice, and of people's "actual behaviour" (pp. 67ff) as a determinant of how and whether justice can be reached. Yet, it is objections of type a) that are the most fundamental ones, not only to Rawls's theory in particular, but to analytical political theory of justice of the Rawlsian kind, in general, and, accordingly, this paper focuses on these objections.

As is well known, Rawls puts forward his conception of 'justice as fairness' as the best contender for principles of social justice; and, for Rawlsian theory, in order to count as a good contender, a conception of justice has to be reasonably definite, and contain, in particular, rules for resolving possible conflicts between different aspects of justice. Accordingly, justice as fairness' consists of a lexically ordered structure of three principles of justice: a principle of equal basic liberties, which is lexically prior to a principle of 'fair equality of opportunity', requiring the removal of socially created obstacles to equality of opportunity, which is, in turn, lexically prior to the difference principle, which requires that all differences in income and wealth must be to the maximum advantage of the worst-off.⁵

Objections of type a) question whether it is actually sensible to try to identify a unique set of principles in the first place. Sen's critique of Rawls on this point is straightforward: there is, he claims, simply no reason to suppose that informed, impartial, open discussions of matters of justice—the possibility and necessity of which Sen ardently defends against critics of the Enlightenment focus on reason and objectivity (Chapters 1 and 5) — will lead to general, unanimous adoption of a set of principles of justice as the uniquely right one.⁶ Instead, it is more reasonable to suppose that there will always be a plurality of competing principles surviving reasonable scrutiny (p. 57). Furthermore, he argues that agreement on principles is neither necessary nor sufficient for individuating proposals for improvements in justice on which supporters of different principles can agree. Accordingly, the next section will examine these objections in turn.

SEN'S OBJECTIONS TO RAWLS: DISAGREEMENT AND REDUNDANCY

The Critique of Lack of Agreement on Fundamental Principles

Sen explains the difficulty of agreeing on a unique set of principles with the help of the following 'flute example':

"At the heart of the particular problem of a unique impartial resolution of the perfectly just society is the possible sustainability of plural and competing reasons for

justice, all of which have claims to impartiality and which nevertheless differ from — and rival — each other. Let me illustrate the problem with an example in which you have to decide which of three children — Anne, Bob, and Carla — should get a flute about which they are quarrelling. Anne claims the flute on the ground that she is the only one of the three who knows how to play it [...]. In an alternative scenario, it is Bob who [...] defends his case for having the flute by pointing out that he is the only one among the three who is so poor that he has no toys of his own. [...] In another alternative scenario, it is Carla who [...] points out that she has been working diligently for many months to make the flute with her own labour [...]"(pp. 12f.).

As Sen rightly points out, this is a case where adherents of different theories of justice, "such as utilitarians, or economic egalitarians, or no-nonsense libertarians" (*ibid.*), would recommend different solutions on the basis of their ultimate principles. The economic egalitarian would champion Bob's case and the libertarian Carla's. The utilitarian, against that, would emphasize the fulfilment and pleasure that Anne gets from playing the flute, while at the same time showing some sensitivity to considerations of inequality/poverty (Bob) and libertarian self-ownership (Carla). She would, however, not concede these considerations any ultimate standing, but would regard them only as additional factors to be taken into account in a resolution of the conflict that appeals to only one fundamental principle: that of utility maximization. Sen's take-away lesson from this case is: "that it is not easy to brush aside as foundationless any of the claims based respectively on the pursuit of human fulfilment, or removal of poverty, or entitlement to enjoy the product of one's own labour. The different resolutions all have serious arguments in support of them, and we may not be able to identify without some arbitrariness, any of the alternative arguments as being the one that must invariably prevail" (p. 14).

Now, adherents of TI may retort that, strictly speaking, Sen's is not a general argument, but merely a general *claim* about the reach of objective reason regarding the identifiability of uniquely right principles of justice. However, it would be unfair to require Sen to deliver a knock-down argument for such a general claim. Illustrating it with the help of a particular example certainly goes some way, and noting the extent of disagreement over principles of justice also within the scholarly community should lend further support to it: we may note that Rawls' conception of justice mentioned in the previous section has been the subject of contention and discussion within the community of political theorists over the last forty years or so, and continues to be so; and that there seems to be no other contender in sight that could reasonably hope to attract such unanimous agreement. If it is legitimate to assume that political philosophers are in general reasonable people, then this should bolster Sen's case. Even if we are not prepared to concede once and for all that reason, objectivity and impartiality do not settle the question, we should at least concede its difficulty. Accordingly, there is a good *prima facie* case for looking out for a different methodology that would help us to settle at least some conflicts of justice here and now: this is what RFC promises.

The Redundancy Critique

Sen continues to prepare the case for RFC by adducing another argument against TI: the *redundancy* charge, according to which TI is neither necessary nor sufficient for making comparative judgments of justice. The necessity-charge needs to be tackled first, since, if successful, it would be the stronger one. Unfortunately, Sen does not deliver any argument here, but only a general claim, supported by two analogies. The general claim is that “it is not at all obvious why in making the judgment that some social arrangement X is better than alternative arrangement Y, we have to invoke the identification of that some quite different alternative, say Z, is the very ‘best’ (or absolutely ‘right’) social arrangement” (p. 101).

The two analogies are:

1. “In arguing for a Van Gogh over a Picasso we do not need to get steamed up about identifying the most perfect picture in the world, which would beat the Van Goghs and the Picassos and all other paintings in the world” (*ibid.*).
2. “[W]e may indeed be willing to accept, with great certainty, that Mount Everest is the tallest mountain in the world [...], but that understanding is neither needed, nor particularly helpful in comparing the peak heights of say, Mount Kilimanjaro and Mount McKinley” (p. 102).

Hence, Sen concludes that “[t]here would be something deeply odd in a general belief that a comparison of any two alternatives cannot be sensibly made without a prior identification of a supreme alternative. There is no analytical connection there at all” (*ibid.*).

Now, the problem with the first analogy is that, while most people would accept that Sen is right about paintings, the crucial claim that aesthetics and theories of justice are relevantly similar just begs the question. Indeed, Sen retracts it right away, noting “that the analogy with aesthetics is problematic since a person might not even have any idea of a perfect picture, in the way that the idea of ‘the just society’ has appeared to many to be clearly identifiable, within transcendental theories of justice” (p. 100).⁷ However, the second analogy is at least as problematic: we have no difficulty in comparing heights, because height can be measured with the help of units of measurement like the metre which are purely conventional, agreement on which, therefore, raises no difficulties. Theorists of the Rawlsian bent believe that the individuation of general principles of justice is the first task for theories of justice, and that tackling concrete cases of proposed justice improvement has to be logically secondary, precisely because agreement on general criteria is not conventional, but highly morally charged. This belief is unchallenged by Sen’s analogies.

What about Sen’s second, weaker criticism that TI principles of justice are not sufficient for comparative justice assessment? Sen argues that the just society that TI envisages does not “give us rankings of departures from justness in terms of comparative distances from perfection” (p. 98), because departures from justice may occur in different dimensions. For example, in the case of ‘justice as fairness’, even

though we know that the principle of equal basic liberties is prior to the principle of equality of opportunity, the conception does not tell us which violations of equal basic liberties are worse than others (*ibid.*). Rawlsians may quibble with this, and argue that Rawls's comments on the respective importance of different liberties give some indication here (Rawls, 1999a, Chapter 4); yet the basic point that 'justice as fairness' does not give us a *complete* ranking of injustices, which is sufficient for the insufficiency charge to go through, is correct. However, it is also not particularly controversial. No Rawlsian claims that agreement on 'justice as fairness' gives us a perfect blueprint for reform towards perfection from where we are now, wherever that may be. But Rawlsians would point out that Rawls' principles do at least give some guidance: for example, they tell us that, under generally favourable institutional circumstances, equality of basic liberties may not be sacrificed for distributional gains;⁸ and they can also plausibly argue that the lexical order of principles for a just society implies that the fulfilment of these principles in the future must not be achieved through violations of the principles here and now, for example, by denying basic liberties to all those who oppose Rawlsian justice, thus trying to facilitate political change towards it.⁹

Thus, unlike the non-necessity charge, Sen's insufficiency charge is successful; but this is not as yet a reason to abandon TI. For this, there would have to be a better alternative, which yields practically implementable proposals for improvements in justice here and now even in the face of disagreement about fundamental principles.¹⁰ Is RFC up to the job? The next section will argue that it is not.

'REALIZATION-FOCUSED COMPARISON' TESTED

An Outline of RFC

As mentioned in Section 1, RFC aims at individuating improvement in justice with the help of social choice theory-based aggregation of individual rankings of alternative social scenarios and proposals for improvement, thus seeking to identify the proposals on which there is collective partial agreement:

"[P]ersistent incompleteness may be a hardy feature of judgments of social justice. This can be problematic for the identification of a perfectly just society, and make transcendental conclusions difficult to derive. And yet, such incompleteness would not prevent making comparative judgments about justice in a great many cases—where there might be fair agreement on particular pair-wise rankings—about how to enhance justice and reduce injustice" (p. 105).

The quality and acceptability of results of social choice aggregations hinges crucially on the quality of the input, that is, individual beliefs about justice. If the input consisted only of unspecified individual preferences for or against different social states of affairs, it would not be clear why a ranking of them should give any reason to accept the result. Accordingly, Sen is clear not only that the inputs have to be individual judgments of justice that underlie constraints of impartiality and objectivity (Chapters 1 and 5), but also that individuals have to have ample opportunity to test, revise, and refine their judgments in open public deliberation and discussion with

others (Chapters 15 and 16). Furthermore, he stresses that, for such orderings to be sensible, they do not only have to be judgments of justice that aspire to be impartial and objective, but have to share a common informational basis regarding improvements of which features of individuals, or the world, they are about. Accordingly, he proposes individual capabilities as this informational basis (p. 232).¹¹

RFC thus understood is successful as an alternative methodology for theorizing justice if it is able to generate proposals for justice reform on issues that are subject to disagreement of the principle, thereby circumventing the problem that leads adherents of TI to debates of principle. Unfortunately, Sen delivers no in-depth discussion of any real cases where RFC is able to do so. To be sure, a full demonstration would require actually doing an aggregation and ranking of the justice judgments of real (and reasonable) people, and would hence involve a significant empirical component, which may not fairly be expected in a book about the fundamentals of theorizing justice. However, Sen does not even illustrate the case for RFC by discussing a stylized example. He does mention a whole array of cases where agreement on improvement in justice, or “removal of manifest injustice”, could be plausibly expected, such as on the removal of “illiteracy, torture, racism, female subjugation, [and] arbitrary incarceration” (p. 96). Yet, a supporter of TI can retort that these are cases where we hardly need to do any political theory at all, precisely because all reasonable theories of justice agree on their injustice.¹² Indeed, this is what Sen himself seems to imply when he calls cases such as these cases of *manifest* injustice (pp. 7, 259). Rawls, for example, takes convictions such as that of the injustice of racial discrimination as “provisional fixed points”, from which his inquiry of justice starts, in order to see whether, through theoretical construction on the basis of these fixed points, we can arrive at secure convictions of justice regarding other issues on which currently no certainty exists, such as the “correct distribution of wealth” (Rawls, 1999a, p. 18).

RFC and the Flute Example

The superiority of RFC must, therefore, emerge in contested cases, where TI seems to be able to offer no solution, such as Sen’s own flute example explained above. Since Sen uses it to illustrate the problems of TI, it seems appropriate to examine whether RFC is able to individuate at least one practical proposal that the utilitarian, the economic egalitarian, and the libertarian could plausibly agree on regarding what is to happen with the flute. Now, the problem is that it is hard to imagine what such a proposal could be. Sharing the flute, for example, so that Anne, Bob, and Carla could take turns in using it would not work: a utilitarian case for this proposal could possibly be made, and the economic egalitarian might be expected to agree with it at least insofar as it reduces Bob’s poverty, and the inequality between him and the other two, to some degree. But the libertarian would not agree with the proposal; forcing Carla to share the flute with the others would, in her view, constitute a violation of Carla’s right to the products of her own labour. That Carla could still use the flute for one-third of the time available would not placate her. Restricted use rights do not constitute adequate compensation for the violation of that prior, more important right.

One may think that the fact that RFC does not seem to be able to offer a plausible resolution of the flute case is not particularly telling, since it is merely contingent on the particulars of the example: there is just one flute here, so that three different fundamental principles for the allocation of resources are made to clash on just one object. No wonder then that no solution appears on the horizon. This is true—Sen has designed the case that way. But the problem for RFC cuts deeper: note that the disputants could not even agree on the subject of the debate at a sufficient degree of depth in order for RFC to arrive at a plausible partial ranking. Sen claims that the different “justificatory arguments do not represent divergences about what constitutes individual advantage”, namely “getting the flute” (p. 15). But it is different aspects of “getting the flute” that matter for each theory. Recall that Sen proposed assessment of individual *capabilities* as the metric for the individual justice judgments that function as input into RFC’s aggregation and ranking procedure. To have a capability is to have secure access to a set of functionings that individuals may take an interest in. Yet, in the example, there is no agreement on what the respective functionings are, or, indeed, on whether functionings matter at all. For the utilitarian and the economic egalitarian, the relevant functionings are playing the flute, or simply playing with it in other ways. But for the libertarian, it seems that functionings are simply irrelevant: it does not matter whether Carla wants to play the flute, play with it, or not do anything with it at all. Of course, it is conceptually possible to formulate the libertarian concern in terms of capabilities. But a capability referring to the functioning of simply “keeping the flute”, would be, in Nozick’s terms, “gimmicky” (Nozick, 1974, p. 157n.): its only purpose would be to conceal the substantive disagreement of principle that is at stake here. For libertarians, it is not functionings that matter, but property rights; in this case, to objects produced by oneself.

But am I not making too much of the dissent of the libertarian? Could one not object that at least the utilitarian and the economic egalitarian have some common ground here, and that the libertarian’s insistence on absolute property rights is unreasonable? Perhaps it is. However, recall that Sen has decreed all theories of justice involved in the example to be reasonable, and has used it as an argument against TI; so it is fair to use it against RFC, as well. Sen cannot claim that continued public discussion of the case among the three would eventually make the unreasonableness of libertarianism emerge *at the level of principle*.¹³

Hence, the take-away lesson from this case is that, since in truly contested cases, disagreements about what would constitute an improvement in justice often go directly “all the way down” to disagreements of fundamental principle, the focus of TI on these principles is warranted.¹⁴ TI ascends from disagreements in particular cases to the formulation of higher principles in the hope that it is possible to either a) discern areas on agreement on higher principles, which, in turn can be used to relocate and render more tractable the particular disagreement as, for example, one of different empirical assessment, or b) show the implausibility of one or more of the principles involved, by considering the implications of their general application—for example, by way of a *reductio ad absurdum*.¹⁵ In doing so, it must also specify what

the *concept* of justice is that different proposed principles draw upon, because the disagreements that such a procedure aims at eliminating need not always be first-order disagreements about the normative content of said principles; they may also be higher-order disagreements about the kind of problem that these are supposed to solve. Rawls, for example, defines the problem of (social) justice as that of specifying just ground rules for societal interaction and cooperation producing basic goods. Libertarians do not agree; for them, justice requires respect for a set of fundamental individual rights across all contexts, collective cooperation or not; and for utilitarians, such questions of context will be of empirical importance for what, as a matter of fact, maximizes utility, but do not enjoy any fundamental theoretical standing. So, is justice fundamentally a matter of what individuals are entitled to get, independently of the collective context that they find themselves in? Or is it a matter of how they treat each other in specified collective contexts, like that of societal cooperation? Or are these two different contexts of justice, each posing a different kind of problem to be solved, and hence requiring a different theory?

Since questions such as these may re-emerge in cases of debate over what constitutes a justice improvement here and now, even a proposed non-transcendental methodology like RFC must have something more to say on them than Sen offers in the *Idea of Justice*. For a book of this title, it contains very little analysis of what justice actually is, and what normative problem it is supposed to solve. Sen proposes to approach the question of the definition of justice through an analysis of fairness, professing to follow Rawls. However, his definition of fairness only notes that it “can broadly be seen as a demand for impartiality” (p. 54), and thus fails to answer the question: impartiality in which context, with regard to which problem? Sen wants to be maximally inclusive and pluralist on questions such as these. But, as seen, the flute example gives reason to doubt that this strategy works. Furthermore, problems may not only arise regarding different concepts and contexts of justice, but also regarding the delineation of justice from other moral virtues, such as beneficence. For example, a reformed libertarian perspective may hold that, while Carla is entitled to the flute as a matter of justice, she nevertheless has a duty of *humanity* to give it to Bob.

Possible Rejoinders on the Part of RFC

Now, one might think about a version of RFC that deliberately overlooks these kinds of disagreements on the concept of justice and its delineation from different moral concerns in favour of seeking to identify agreement on what would constitute an improvement of social states of affairs, whether that be in terms of justice or not. The broad kind of impartiality that Sen draws on would then be the impartiality that morality generally demands, not that of justice in particular. Hard-nosed consequentialists may be sympathetic to such a proposal; however, I take it that Sen would not be.¹⁶ There is a reason why the book is not entitled *The Idea of Improving Social States of Affairs*; Sen does want to draw on the particular force that the concept of justice possesses in our moral vocabulary, with the attached moral psychology of indignation in the face of (perceived) injustice that it entails, as he makes clear in the very opening sentences of the book (p. vii).

A different kind of rejoinder on the part of RFC has better chances of success: this rejoinder admits that RFC has to be supplemented with a more fine-grained analysis of what justice is and what the problems to which it applies are. But, it argues, such an analysis need not go all the way down to trying to identify a unique set of principles of justice. Once the philosophical groundwork of delineating justice is done, we can proceed to identifying partial rankings of proposed justice improvements on the basis of the plurality of principles of justice permitted by reason and objectivity. This may look like a promising proposal. However, it overlooks the epistemological connection between settling on the concept of justice and putting forward reasonably precise proposals for principles of justice. It is by examining what principles a particular construal of justice may lead to that we attain the position of being able to evaluate the basic construal itself. Arguably, we are not in a position to agree what justice is—giving people what they are due in terms of utility or capabilities, or treating them with respect, etc.—and in which context it operates, without having a reasonably precise idea as to what each particular construal of justice may lead to, in practical terms. This requires working out conceptions of justice and putting them to the test on contested issues. In Rawls's words, “[O]ne task of political philosophy—its practical role, let’s say—is to focus on deeply disputed questions and to see whether, despite appearances, some underlying basis of philosophical and moral agreement can be discovered.” (Rawls, 2001, p. 2).

But wasn’t the starting point of Sen’s critique that such agreement seems precisely *not* to be forthcoming? This is correct; but, I argue, we are now in a position to see that this is not a reason for particular concern. The political philosopher’s primary task remains to try her best and *seek* such agreement, putting forward the principles of justice that she regards as best justified while elucidating their connection with both the general set-up of her theory and our considered convictions of justice. These principles will then be subject to attack, and, given that we are discussing “deeply disputed questions”, will probably not succeed in establishing general agreement. In this respect, the task of the political philosopher is hence like that of the mythological figure Sisyphus, who is eternally condemned to rolling a rock up a hill, before it rolls down again and he has to start all over. This kind of procedure is justified if we may have the reasonable hope that, in the long term, it will enable us to achieve at least negative agreement about the kinds of proposals and principles that we should regard as *unreasonable*. Apart from obvious cases such as those of undisguised partiality, contradiction, etc., such agreement about unreasonableness cannot be discovered by scrutinizing our notion of reason alone. Non-obvious unreasonableness emerges by comparison to better alternatives.

To use Rawls' terms once more, the reasonable hope mentioned above must then be that of establishing, through this constant work of making proposals and testing them, a collective body of knowledge in political theory that will, over time, seep into the general “background culture” (Rawls, 2007, pp. 3, 5), from where it may inform political discussions of the kind that Sen rightly celebrates and demands. Therefore, this task is worth pursuing only if there is reasonable hope that, even if all, or at least most, political philosophers are like Sisyphus individually, the discipline, as such, is not.

Is this a reasonable hope? Optimists argue that, for example, political theory has contributed to establishing the unreasonableness of hierarchical societies based on rigid notions of estate by developing positive proposals for principles that could govern estate-less societies, and regard this as one of the main achievements of the social contract tradition (think only of Rousseau). They claim that this would not have been possible had political theory focused merely on proposals as to how to remove the most egregious shortcomings of estate-based societies, in the hope of securing short-term agreement on these. Pessimists about reason will disagree that political theory can play a contributory role in such processes of long-term political change. However, Sen, as seen above, is not a pessimist about reason. His claim is one of optimism regarding the capacity of political theory to deliver reasoned agreement on improvements in justice, and of pessimism regarding reasoned agreement on principle. If the argument of this paper is correct, his insistence on this distinction does not stand up to scrutiny.

To be sure, putting into practice this hope requires more than debating details of principles of justice in highly specialized journals; as the number of political theorists and their journals have grown over the last decades, specialization has tended to pay more for academic careers, just like in other academic disciplines. This is an important point; but it has little to do with the social contract tradition, and only incidentally with Rawls' work. It is a point about the sociology and economics of contemporary academia.¹⁷

Hence, Sen has failed to show that political theory of the 'transcendental' kind should be given up in favour of a comparative approach. His disagreement-based criticism of 'transcendental' theory is correct. However, I have argued that the failure of his proposed alternative shows that it is not much of a criticism, but rather simply the condition of fundamental political theory: to be an individual Sisyphus in the hope of collective progress.

CONCLUSION: FROM RAWLSIAN POLITICAL THEORY TO POLITICAL PRACTICE?

If the argument of this paper is correct, Sen's criticism of 'transcendental' theory and his own alternative proposal are not successful. However, this does not imply that there are no ways in which theorists of justice of the Rawlsian bent can make contributions that are more directly relevant to the present political state of affairs than fundamental debates of principle often are. On the one hand, a methodology akin to Sen's proposed comparative approach may supplement theories of justice by individuating proposals which, by commanding agreement, are either more feasible than others, or more democratically legitimate, or both.¹⁸ On the other hand, the distance between fundamental political theory of justice itself and the elaboration of practical proposals may, in significant respects, be shorter than what the over-specialization of much contemporary political theory on fine-grained disagreement on matters of principle suggests. In the previous section, it was argued that working out the circumstances and background conditions for the operation of specific principles

of justice is necessary to make sense of fundamental disagreements about justice. At the same time, such a kind of inquiry into the specific problems and circumstances of justice can establish a connection with both empirical social science and political practice that facilitates the elaboration of practical proposals.

The insight that theories of justice must rest on an analysis of the problem that they are supposed to solve is stressed by the 'practice-dependent approach' to justice, which is gaining currency in the recent debate about justice (see James, 2005; Sangiovanni, 2008). Such an approach couples the analysis and interpretation of specific problems of justice, such as those raised by interaction and cooperation within domestic societies, by the absolute deprivation faced by a great part of the world's population, or by specific international institutions and actors, like the World Trade Organization (WTO), with the development of range-restricted principles of justice, which claim to be valid only within the specified context.¹⁹ Given its inherent range restriction and reference to a particular problem, it is easier for such an approach to establish connections with both empirical social science and political practice. Thomas Pogge's recent work on global justice may serve as an example here: Pogge seeks to develop proposals for political reform based not only on their normative desirability, but also on an analysis of how they may be incentive-compatible from the point of view of the presently powerful actors.²⁰

To be sure, such proposals will then be subject not only to normative disagreement of principle, but also to additional disagreements about the correctness of the specification of the problem, and about the feasibility of the proposed improvement as well. Thus, there is no escaping Sisyphus, task. But the point that this paper has sought to make holds here, as well—this is not a reason not to try.

NOTES

1. For some prominent contributions to this debate, see Mills, 2005; Farrelly, 2007; Swift and Robeyns, 2008; Valentini, 2009; Simmons, 2010.
2. See, for example, Geuss, 2008.
3. Henceforth, references in this paper refer to *The Idea of Justice* unless marked otherwise.
4. For example: to which extent it is adequate to regard Hobbes as first and foremost a theorist of *justice* is an open question. Similarly, to claim that he is less interested in the 'actual behaviour' of people than in institutions seems questionable, when his whole account of the necessity of institutions of political authority is based on an analysis of how people behave under conditions of their absence. Another example: the revolutionary aspirations of Marxist communism can hardly be said to aim merely at 'improving' the justice of society, or at 'removing manifest injustice'.
5. For Rawls' final statement of the principles and the case for them, see Rawls, 2001, Parts II and III.
6. Sen recognizes that, in *Political Liberalism* (Rawls 1996), Rawls shifts the focus from the justification of these principles to the more general one of how public reason can identify at least a family of reasonable conceptions of justice, of which he regards "justice as fairness" as the best justified member. But he claims that Rawls admission of reasonable pluralism is incoherent – he should have stuck to reasonable pluralism, and abandoned "justice as fairness" (p. 58). However, Rawls actually argues that all members of this family agree on equal liberties and their priority, and on a version of equality of opportunity, and merely come apart on the question of whether

- justice demands a distributive principle as stringent as the difference principle (Rawls 1996, p. 6). In comparison with the plurality of principles that Sen wants to allow—see Section 2—they are better construed as different interpretations of the *same* conception, and Rawls's increasing modesty regarding "justice as fairness" is better interpreted as modesty in terms of *scope*. In *Political Liberalism*, he makes clear that the conception is supposed to apply only to a very specific kind of society, namely Western liberal democracies characterized by pluralism about conceptions of the good. For the advantages of such a method of range-restriction over Sen's justice pluralism, see Section 3 and the concluding remarks of this paper.
7. Hannah Arendt argues that both aesthetics and political philosophy do not admit of general principles, but require first and foremost the virtue of judgment in particular cases (Arendt, 1992). The extent to which there may be an unexpected overlap between her and Sen's position would be an interesting topic for further investigation.
 8. For Rawls' own attempt in non-ideal theory of social justice, see his discussion of civil disobedience in Rawls, 1999a, Chapter 6. For his discussion of non-ideal theory of international justice, see Rawls, 1999b, Part III.
 9. For a sophisticated argument regarding the policies of affirmative action that are required and permitted by the principle of fair equality of opportunity, here and now, see Taylor, 2009.
 10. However, not all political philosophers believe that political philosophy must have a practical point, and be action-guiding in our real world. Jerry Cohen argues that "the question for political philosophy is not what we should do but what we should think, even when what we should think makes no practical difference" (Cohen, 2008, p. 268). Cohen and Sen attack Rawls from altogether opposite quarters.
 11. For Sen's seminal development of the concept of capabilities, see Sen, 1979, where it makes its first appearance, and Sen, 1999.
 12. For further discussion on this point, see Swift and White, 2008, pp. 51ff.
 13. Recently, adherence to libertarian principles arguably played a major role in the resistance of a sizeable share of the US population to President Obama's healthcare plan; these people just did not share the belief that "medical exclusion" is a "social feature [...] that need[s] remedying" (p. 96).
 14. To be sure, TI as defined by Sen focuses on them in the particular way of seeking to secure agreement in the form of a social contract, which may make it vulnerable to other objections, such as that it unduly excludes outsiders, see Section 1. But these objections do not touch the point made above.
 15. For two examples of such attempted *reductions* of libertarianism, see Rawls, 1996, Lecture VII, which aims at demonstrating that the application of libertarian principles over time would not preserve the individual freedom on whose appeal the case for them rests; and Okin, 1988, Chapter 4, which argues that a consistent application of the libertarian principle of self-ownership would imply that children are the property of their mothers, as products of their labour.
 16. For Sen's own, inclusive variant of consequentialism, which aims at taking both states of affairs and the processes bringing them about into account, see Chapter 10.
 17. However, specialization should not, just by itself, keep political philosophers from seeking a broader impact through active participation in public debates; here, Sen has been among the laudable exceptions during the last decades.
 18. Sen's emphasis on the importance of public reasoning and discussion likens his model to theories of deliberative democracy, which have abounded during the last three decades. The extent to which it is able to add to these would be an interesting subject for further inquiry. As it stands, it is insufficiently worked out: democratic legitimacy is not only a matter of agreeing on the content of specific proposals, but of the political procedure that settles how these are put on the agenda and discussed, and of how power and the opportunity to participate in such political processes are distributed.
 19. Many contributions on practice-dependence have been overly state-focused, against which Sen rightly counsels, p. 25. For an exploration of the applicability of the practice-dependence approach

to matters of global justice, see Ronzoni, 2009. For an application to the specific case of the WTO, see Brandi, 2011.

20. See especially Pogge, 2008, Chapter 8 on a “global resource dividend”, and Chapter 9 on a “global health fund”.

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