Justice as a Larger Loyalty[1]

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Let me begin by asking you to consider some thought experiments. Suppose that you are being pursued by the police and you go to your family home and ask them to hide you. You would expect that they would do so. It would be abnormal if they did not. Consider again the reverse situation. You know that one of your parents or one of your children is guilty of a sordid crime and nonetheless he or she asks for your protection, asks to be hidden from police inquiries. Many of us would be willing to perjure ourselves in order to supply such a child or parent with a false alibi. But if an innocent person would then be wrongly convicted as a result of our perjury, most of us would be torn by a conflict between loyalty and justice.

Such a conflict will be felt, however, only to the extent that we can identify with the innocent person whom we have harmed. If the person is a neighbour the conflict will probably be intense. If a stranger, especially of a different race or class or nation, it may be considerably weaker. There has to be *some* sense that the victim is one of us before we start being tormented by the question of whether we did the right thing when we committed perjury. So it might be equally appropriate to describe us as torn between conflicting loyalties — loyalty to our family and loyalty to some group large enough to include the victim of our perjury, rather than torn between loyalty and justice.

Our loyalty to such larger groups will however weaken or perhaps vanish when things get really tough. Then people whom we once thought of as like ourselves will be excluded. Sharing food with impoverished people down the street is natural and right in normal times but perhaps not in a famine when doing so would amount to disloyalty to one's own family. The tougher things get, the more ties of loyalty to those near

at hand tighten and those to everyone else slacken.

Consider another example of expanding and contracting loyalties: our attitude toward other species. Most of us are at least half convinced that the vegetarians have a point that animals do have some sort of rights. But suppose that the cows or the kangaroos turn out to be carriers of a newly mutated virus which, harmless to them, is fatal to humans. We would then, I think, shrug off accusations of 'speciesism' and we would participate in the necessary massacre. The idea of justice between species would then become irrelevant, because things have gotten very tough indeed and our loyalty to our own species must come first. Loyalties to a larger community — that of all living creatures on our home planet — under such circumstances, would quickly fade away.

As a final example consider the tough situation created by the accelerating export of jobs from the first world to the third world. There is likely to be a continuing decline in the average real income of most American and European families. Much of this decline can be attributed to the fact that you can hire a factory worker in Thailand for a tenth of what you would have to pay in Ohio or in Brabant. It has become the conventional wisdom of the rich that United States and European labour is over-priced on the world market. When American business people are told that they are being disloyal to the United States by leaving whole cities without work or hope, they reply that they place justice over loyalty.[2] They argue that the needs of humanity as a whole take moral precedence over the needs of their fellow citizens and override national loyalties. Justice, they say, requires that they act as citizens of the world.

Consider now the plausible hypothesis that

democratic institutions and freedoms are viable only when supported by an economic affluence which is achievable regionally but impossible globally. If that hypothesis is correct, democracy and freedom in the first world will not be able to survive a complete globalization of the labour market. So the rich democracies face a choice between perpetuating their own democratic institutions and traditions, and dealing justly with the third world. Doing justice to the third world would require exporting capital and jobs until everything is leveled out, until an honest day's work in a ditch or at a computer earns no higher a wage in Cincinnati or Brussels than in a small town in Botswana. But then it can plausibly be argued there will be no money in the first world to support free public libraries, competing newspapers and networks, widely available university education and all the other institutions so necessary to produce enlightened public opinion and thus to keep the government more or less democratic.

What on that hypothesis is the right thing for the rich democracies of the first world to do: be loyal to themselves and each other, keep free societies going for a third of humankind at the expense of the remaining two thirds, or sacrifice the blessings of political liberty for the sake of egalitarian economic justice?

These questions I think parallel those that could be confronted by the parents of a large family after a nuclear holocaust. Should they share the food supply they have stored in their basement with their neighbours, even though the stores will then only last a day or two, or do they fend those neighbours off with guns. Both moral dilemmas bring up the same question: should we contract the circle for the sake of loyalty or expand it for the sake of justice?

I have no idea what the right answer to these questions is — either about the right thing for parents to do or for the first world to do. I pose these moral dilemmas merely to bring a more

abstract, merely philosophical question into focus. The question is: should we describe such moral dilemmas as conflicts between loyalty and justice or, as I might suggest, as conflicts between loyalty to smaller groups and loyalty to larger groups.

This amounts to asking the question: would it be a good idea to treat the word 'justice' as the name for loyalty to a certain very large group — the name for our largest current loyalty, rather than the name of a virtue distinct from loyalty. Could we place the notion of justice with that of loyalty to that largest group — for example, one's fellow citizens or the human species or all living things. Would anything be lost by that replacement?

Moral philosophers who remain loyal to Kant are likely to think that a *lot* would be lost. Kantians typically insist that justice springs from reason and loyalty from sentiment. Only reason they say can impose universal and unconditional moral obligations, and our obligation to be just is unconditional. It is on another level from the sort of affectional relations which create loyalty. Jürgen Habermas is the most prominent contemporary philosopher to insist on this Kantian way of looking at things. He is the thinker least willing to blur either the line between reason and sentiment or the line between universal validity and temporary historical consensus. But contemporary philosophers who depart from Kant either in the direction of Hume, like Annette Baier, or in the direction of Hegel, like Charles Taylor, or in the direction of Aristotle, like Alisdair MacIntyre, are not so sure.

Michael Walzer is at the other extreme from Habermas. He is wary of terms like 'reason' and 'universal moral obligation'. In his book *Thick and Thin,* he claims that we should reject an intuition which Kant took to be central, the intuition that "men and women everywhere begin with some common idea or principle or set of ideas and principles, which they then work up in many different ways." Walzer thinks that this picture of morality as starting thin and thickening

with age should be inverted. He says "morality is thick from the beginning, culturally integrated, fully resonant, and it reveals itself thinly only on special occasions, when moral language is turned to special purposes".[3] Walzer's inversion suggests, though it does not entail, the neo-Humean picture of morality sketched by Annette Baier in her book *Moral Prejudices.* On Baier's account, morality starts out not as an obligation but as a relation of reciprocal trust among a closely knit group such as a family or a clan. To behave morally is to do what comes naturally in one's dealings with parents, children or fellow clan members. It amounts to respecting the trust which they place in you. Obligation as opposed to trust enters the picture only when your loyalty to a smaller group conflicts with your loyalty to a larger group.[4]

When, for example, families confederate into tribes or tribes confederate into nations, you may feel obliged to do what does not come naturally, to leave your parents in the lurch by going off to fight in the wars, or to rule against your own village in your capacity as a federal administrator or judge. What Kant would describe as the resulting conflict between moral obligation and sentiment, or between reason and sentiment, is on a non-Kantian account of the matter a conflict between one set of loyalties and another set of loyalties. The idea of a *universal* human obligation to respect human dignity gets replaced by the idea of loyalty to a very large group: the human species. The idea that moral obligation extends beyond that species to an even larger group becomes the idea of loyalty to all those who, like yourself, can experience pain, even the cows and kangaroos, or perhaps to all living things.

This non-Kantian view of morality can be rephrased as the claim that one's moral identity is determined by the group or groups with which one identifies, the group or groups to which one cannot be disloyal and still like oneself. Moral dilemmas are not on this view the result of a conflict between reason and sentiment but be-

tween alternative selves, alternative self-descriptions, alternative ways of giving a meaning to one's life. Non-Kantians do not think we have a central true self by virtue of our membership in the human species, a self which responds to the call of reason. They argue instead, with the American philosopher of mind Daniel Dennett, that a self should be considered as a centre of narrative identity. In non-traditional societies most people have several such narratives at their disposal and hence several different moral identities. It is this plurality of identities which accounts for the number and variety of moral dilemmas, moral philosophers and psychological novels in non-traditional societies.

Walzer's contrast between thick and thin morality is, among other things, a contrast between the detailed and concrete stories you can tell about yourself as a member of a smaller group and the relatively abstract and sketchy story you can tell about yourself as a citizen of the world. You know more about your family than about your village, more about your village than about your nation, more about your nation than about humanity as a whole, more about being human than simply about being a living creature. So you are in a better position to decide what differences between individuals are morally relevant when dealing with those whom you can describe thickly, and in a worse position when dealing with those whom you can only describe thinly. This is why, as groups get larger, law has to replace custom and abstract principles have to replace *phronesis*. So Kantians, on this view, are wrong to see *phronesis* as a thickening up of thin abstract principles. Plato and Kant were misled by the fact that abstract principles are designed to trump parochial loyalties into thinking that the principles are somehow prior to the loyalties, that the thin is somehow prior to the thick.

Walzer's thick-thin distinction can be aligned with John Rawls's contrast between what Rawls calls a shared *concept* of justice and various conflicting *conceptions* of justice. Rawls sets out

his contrast in the following passage: "the concept of justice, applied to an institution means, say, that the institution makes no arbitrary distinctions between persons in assigning basic rights and duties, and that its rules establish a proper balance between competing claims. ... [A] conception [— as opposed to a concept —] includes, besides this, principles and criteria for deciding which distinctions are arbitrary and when a balance between competing claims is proper. People can agree on the meaning of justice and still be at odds since they affirm different principles and standards for deciding these matters".[5] Phrased in Rawls's terms, Walzer's point is that thick, fully resonant *conceptions* of justice, complete with the distinctions between the people who matter most and the people who matter less, come first. The thin concept, and its maxim, "do not make arbitrary distinctions between moral subjects", is articulated only on special occasions. On those occasions, the thin concept can often be turned against any of the thick conceptions from which it originally emerged in the form of critical questions about whether it may not have been merely arbitrary to think that certain people matter more than others.

Neither Rawls nor Walzer thinks, however, that unpacking the thin concept of justice will by itself resolve such critical questions by applying a criterion of arbitrariness. They do not think we can do what Kant hoped to do: derive solutions to moral dilemmas from the analysis of moral concepts. To put the point in the terminology I am suggesting, we cannot resolve conflicting loyalties by turning away from them all towards something categorically distinct from loyalty, namely the universal moral obligation to act justly. So we have to drop the Kantian idea that the moral law starts off pure but is always in danger of being contaminated by irrational feelings which introduce arbitrary discriminations among persons. We have to substitute the Hegelian-Marxist idea that the so-called moral law is, at best, a handy abbreviation for a concrete web of social practices. This means dropping Habermas's claim that what he calls "discourse ethics" articulates a transcendental presupposition of the use of language, and accepting Habermas's critics' claim that it articulates only the customs of contemporary liberal societies.[6]

Now I want to raise, in a more concrete way, the question whether to describe the various moral dilemmas with which I began as conflicts between loyalty and justice, or rather as conflicting loyalties to particular groups. Consider the question of whether the demands for reform made on the rest of the world by Western liberal societies are made in the name of something not merely Western — something like humanity or morality or rationality — or whether they are simply expressions of loyalty to local Western conceptions of justice. Habermas would say that they are the former; I would say that they are the latter, but none the worse for that. I think it is better not to say that the liberal West is better informed about rationality and justice, and instead to say that, in making its demands on traditional societies, it is simply being true to itself.

In a recent paper called 'The Law of Peoples', Rawls discusses the question of whether the conception of justice which he develops in his book *A Theory of Justice* is something peculiarly Western and liberal, or rather something universal. He would like to be able to claim universality. He says that it is important to avoid what he calls 'historicism,' and he believes he can do so if he can show that the conception of justice suited to a liberal society can be extended beyond such societies through formulating what he calls 'the law of peoples.'[7] He outlines in this paper an extension of the constructivist procedure proposed in his book, an extension which, by continuing to separate the right from the good, lets us encompass liberal and non-liberal societies under the same law.

As Rawls develops this constructivist proposal, however, it emerges that this law will apply only

to what he calls *reasonable* peoples, in a quite specific sense of the term 'reasonable.' The conditions which non-liberal societies must honour in order to be "accepted by liberal societies as members in good standing of a society of peoples" include the following: "its system of law must be guided by a common good conception of justice ... that takes impartially into account what it sees not unreasonably as the fundamental interests of all members of society".[8]

Rawls takes the fulfilment of that condition to rule out violation of basic human rights. These rights include "at least certain minimum rights to means of subsistence and security (the right to life), to liberty (freedom from slavery, serfdom and forced occupations) and (personal) property, as well as to formal equality as expressed by the rules of natural justice (for example, that similar cases be treated similarly)."[9] When Rawls spells out what he means by saying that the admissible non-liberal societies must not have unreasonable philosophical or religious doctrines, he glosses the term 'unreasonable' by saying that these societies must "admit a measure of liberty of conscience and freedom of thought, even if these freedoms are not in general equal for all members of society". Rawls's notion of what is reasonable, in short, confines membership of the society of peoples to societies whose institutions encompass most of the hard-won achievements of the West in the two centuries since the Enlightenment.

It seems to me that Rawls cannot both reject historicism and invoke this notion of reason, for the effect of that invocation is to build most of the West's recent decisions about which distinctions between persons are arbitrary into the conception of justice which is implicit in the law of peoples. The differences between different *conceptions* of justice, you will recall, are the differences between what features of people are seen as relevant to the adjudication of their competing claims. There is obviously enough room for manoeuvre in phrases like "similar cases should be treated similarly" to allow for arguments that

believers and infidels, men and women, blacks and whites, gays and straights should be treated as relevantly *dis*similar. So there is room to argue that discrimination on the basis of such differences is *not* arbitrary. If we are going to exclude from the society of peoples societies in which infidel homosexuals are not permitted to engage in certain occupations, those societies can quite reasonably say that, in excluding them, we are appealing not to something universal but to very recent developments in Europe and America.

I agree with Habermas when he says, "What Rawls in fact prejudges with the concept of an 'overlapping consensus' is the distinction between modern and premodern forms of consciousness, between 'reasonable' and 'dogmatic' world interpretations." But I disagree with Habermas, and I think Walzer would also disagree, when he goes on to say that Rawls "can defend the primacy of the right over the good with the concept of an overlapping consensus only if it is true that post-metaphysical worldviews that have become reflexive under modern conditions are epistemically superior to dogmatically fixed, fundamentalistic worldviews — indeed, only if such a distinction can be made with absolute clarity". Habermas's point is that Rawls needs an argument from transculturally valid premises for the superiority of the liberal West. Without such an argument, he says, "the disqualification of 'unreasonable' doctrines that cannot be brought into harmony with the proposed 'political' concept of justice is inadmissible".[10]

These passages, I think, make clear why Habermas and Walzer are at opposite poles. Walzer is taking for granted that there can be no such thing as a non-question-begging demonstration of the epistemic superiority of the Western idea of reason. There is, for Walzer, no tribunal of transcultural reason before which we might try the question of superiority. Walzer is presupposing what Habermas calls "a strong contextualism, for which there is no single 'rationality'". Given this contextualism, Habermas continues, "individ-

ual 'rationalities' are correlated with different cultures, worldviews, traditions, or forms of life. Each of them is viewed as internally interwoven with a particular understanding of the world".[11]

I think that Rawls's constructivist approach to the law of peoples can work if he adopts what Habermas calls a strong contextualism. Doing so would mean giving up the attempt to escape historicism, as well as the attempt to supply a universalistic argument for the West's most recent views about which differences between persons are arbitrary. The strength of Walzer's book, *Thick and Thin*, seems to me to be its explicitness about the need to do that. The weakness of Rawls's account of what he is doing lies, I think, in an ambiguity between two senses of the term 'universalism'. When Rawls says that "a constructivist liberal doctrine is universal in its reach, once it is extended to ... a law of peoples,"[12] he is not saying that it is universal in its validity. Universal reach is a notion which sits well with constructivism, but universal validity is not. It is the latter that Habermas requires. That is why Habermas thinks that we need really heavy philosophical weapons, modelled on Kant's, and that is why he insists that only transcendental presuppositions of any possible communicative practice will do the necessary job.[13] To be faithful to his own constructivism, Rawls has to agree with Walzer that that job does not need to be done.

Rawls and Habermas often invoke, and Walzer almost never invokes, the notion of reason. In Habermas, this notion is almost always bound up with the notion of context-free validity. In Rawls, however, things are more complicated. Rawls distinguishes the reasonable from the rational, using the latter to mean simply the sort of means-end rationality which is employed in engineering or in working out a Hobbesian *modus vivendi*. But Rawls often invokes a third notion: that of 'practical reason.' He says, for example, the authority of a constructivist liberal doctrine "rests on the principles and conceptions of practical reason."[14] Rawls's use of this Kantian term may make it sound as if he agrees with Kant and Habermas that there is a universally distributed human faculty, called practical reason, existing prior to, and working quite independently of the recent history of the West. This faculty tells us what counts as an arbitrary distinction between persons and what does not. Such a faculty would do the job that Habermas thinks needs doing: detecting transcultural moral validity.

But I think that cannot be what Rawls intends by his use of the term 'practical reason.' For Rawls also says that his own constructivism differs from all philosophical views which appeal to a source of authority, and in which "the universality of the doctrine is the direct consequence of its source of authority." As examples of sources of authority he cites "(human) reason, or an independent realm of moral values, or some other proposed basis of universal validity."[15] So I think we have to construe Rawls's phrase, "the principles and conceptions of practical reason", as referring to *whatever* principles and conceptions are in fact arrived at in the course of creating a community.

Rawls emphasizes that creating a community is not the same thing as working out a Hobbesian *modus vivendi*. The latter task requires only means-end rationality, not practical reason. A principle or conception belongs to practical reason, in Rawls's sense, if it emerged in the course of people starting thick and getting thin, thereby developing an overlapping consensus and setting up a more inclusive moral community. It would not so belong if it had emerged under the threat of force. Practical reason for Rawls is, so to speak, a matter of procedure rather than of substance, of how we agree on what to do rather than of what in particular we agree on.

This definition of practical reason suggests that there may be only a verbal difference between Rawls's and Habermas's positions. For Habermas's own attempt to substitute what he calls communicative reason for subject-centred reason is itself a move toward substituting how

for what. Subject-centred reason is a source of truth, a truth somehow coeval with the human mind; communicative reason is not a source of anything, but simply the activity of justifying things by offering arguments rather than threats. Like Rawls, Habermas focuses on the difference between persuasion and force rather than, as Plato and Kant did, on the difference between two parts of the human person: the good rational part and the dubious passionate, or animal, part. Both would like to de-emphasize the notion of the *authority* of reason, the idea of reason as a faculty which issues decrees. They would like to substitute the notion of rationality as something which is present whenever people communicate, whenever they try to justify their claims to one another rather than simply threatening each other.

The similarities between Rawls and Habermas seem even greater in the light of Rawls's endorsement of Thomas Scanlon's answer to what Scanlon calls "the fundamental question why anyone should care about morality at all". Scanlon's answer is that "we have a basic desire to be able to justify our actions to others on grounds that they could not reasonably reject — reasonably, that is, given the desire to find principles that others similarly motivated could not reasonably reject".[16] This suggests that Rawls and Habermas might agree on the following claim: the only notion of rationality we need, at least in moral and social philosophy, is that of a situation in which people do not say "your own interests dictate that you agree to our proposal" but instead say "your own central beliefs, the beliefs which are central to your own moral identity, suggest that you should agree to our proposal".

This notion of rationality can be delimited using Walzer's terminology by saying that rationality is found whenever people envisage the possibility of getting from different thicks to the same thin. To appeal to interests rather than beliefs is to urge a *modus vivendi* of the sort the Athenian ambassadors urged on the inhabitants of Milos in Thucydides's *History*. But to appeal to

your enduring beliefs as well as to your current interests is to suggest that what gives you your *present* moral identity, your thick and resonant complex of beliefs, may make it possible for you to develop a new, supplementary, moral identity.[17] It is to suggest that what makes you loyal to a smaller group may give you reason to cooperate in constructing a larger group, a group to which you may, in time, become equally loyal or perhaps even more loyal. The difference between the presence and absence of rationality, on this account, is the difference between a threat and an offer, the offer of a new moral identity and thus of a larger loyalty, a loyalty to a group formed by unforced agreement among human beings.

In the hope of minimizing the contrast between Habermas and Rawls even further, and of rapprochement between these two and Walzer, I want to suggest a way of thinking of rationality which might help to resolve the problem I posed earlier, the problem of whether justice and loyalty are different sorts of things, or whether the demands of justice are simply the demands of a larger loyalty. I said that that question seemed to boil down to the question of whether justice and loyalty have different sources, reason and sentiment respectively. If the latter distinction disappears, the former distinction will not seem particularly useful. But if by rationality we mean simply the sort of activity which Walzer describes as a thinning out process, the sort that, with luck, achieves the formulation and utilization of an overlapping consensus, then the idea that justice has a different source than loyalty no longer seems plausible.[18]

For on this account of rationality, being rational and acquiring a larger loyalty are two descriptions of the same activity. This is because *any* unforced agreement between individuals and groups about what to do will create a form of community. It will, with luck, be the initial stage in expanding the circles of those whom each party to the agreement had previously taken to be 'people like ourselves'. The opposition between

rational argument and fellow feeling thus begins to dissolve, for fellow feeling may, and often does, stem from the realization that the people whom one thought one might have to go to war with, use force on, are in Rawls's terms 'reasonable'. They are, it turns out, enough like us to see the point of compromising differences in order to live in peace and of abiding by the agreement that has been hammered out between them. They are to some degree trustworthy.

From this point of view, however, Habermas's distinction between a strategic use of language and a genuinely communicative use of language begins to look like the difference between positions on a spectrum, a spectrum of degrees of trust. Annette Baier's suggestion that we take trust rather than obligation to be our fundamental moral concept would thus produce a blurring of the line Habermas draws between rhetorical manipulation and genuine validity-seeking argument. I think Habermas draws this line too sharply. If we cease to think of reason as a source of authority, and think of it simply as the process of reaching agreement by persuasion, then the standard Platonic and Kantian dichotomy between reason and feeling begins to fade away. That dichotomy can be replaced by a continuum of degree of overlap of beliefs and desires.[19] When people whose beliefs and desires do not overlap very much disagree, they tend to think of each other as crazy or, more politely, as irrational. When there is considerable overlap, on the other hand, they may agree to differ, and regard each other as the sort of people one can live with, and eventually perhaps the sort one can be friends with, intermarry with, and so on.[20]

To advise people to be rational is, on the view I am offering, simply to suggest that somewhere among their shared beliefs and desires there may be enough resources to permit agreement on how to coexist without violence. To conclude that somebody is irredeemably irrational is not to suggest that she is not making proper use of her God-given faculties; it is rather to realize that she

does not seem to share enough relevant beliefs and desires with us to make possible fruitful conversation with us about the issues in dispute. So, we reluctantly conclude, we have to give up on the attempt to get her to enlarge her moral identity, and we have to settle for working out a *modus vivendi*, one which may involve the threat, or even the use, of force.

A stronger, more Kantian, notion of rationality will be invoked if we say that being rational guarantees a peaceful resolution of conflicts, that if people are willing to reason together long enough, what Habermas calls "the force of the better argument" will lead them to concur.[21] This stronger notion of rationality seems to me to be useless. I see no point in saying that it is more rational to prefer one's neighbours to one's family in the event of a nuclear holocaust, or more rational to prefer a levelling off in incomes around the world to preserving the institutions of Western liberal societies. To use the word 'rational' to commend one's own solution to such a moral dilemma, or to use the phrase "yielding to the force of the better argument" to characterize how one made up one's mind, is, I think, to pay oneself an empty compliment.

More generally, the idea of "the better argument" makes sense only if one can identify a natural, transcultural relation of relevance which connects propositions with one another so as to form something like Descartes's natural order of reasons. Without such a natural order, one can only evaluate arguments by their efficacy in producing agreement among particular persons or groups. But the required notion of natural intrinsic relevance, relevance dictated not by the needs of any given community but by human reason as such, seems to me no more plausible or useful than that of a God whose will can be appealed to in order to resolve conflicts between communities. It is, I think, merely a secularized version of the divine will.

Non-Western societies in the past were rightly sceptical of Western conquerors who explained

that they had invaded in obedience to divine commands. More recently, they have been sceptical of Westerners who suggest that non-Western societies should adopt Western ways in order to become more rational. This suggestion has been abbreviated by the Canadian philosopher Ian Hacking in the phrase, "me rational, you Jane". On the account of rationality I am recommending, both forms of skepticism are equally justified. This is not to deny that these non-Western societies *should* adopt recent Western ways by, for example, abandoning slavery, practising religious toleration, educating women, permitting mixed marriages, tolerating homosexuality, tolerating conscientious objection to war, etc. As a loyal Westerner, I think they should indeed do all these things. I agree with Rawls about what it takes to count as reasonable, and about what kind of societies we Westerners should accept as members of a global moral community.

But I think that the rhetoric we Westerners use in trying to get everybody to be more like us would be improved if we were more frankly ethnocentric and less professedly universal. It would be better to say, "here is what we in the West look like as a result of ceasing to hold slaves, beginning to educate women, separating church and state, and so on. Here is what happened after we began treating certain distinctions between people as arbitrary rather than fraught with moral significance. If you would try treating them that way, you might like the result". Saying that sort of thing seems preferable to saying, "look at how much better we Westerners are at knowing what differences between persons are arbitrary and which not, how much more *rational* we are". If we Westerners could get rid of the notion of universal moral obligation created by membership in the species, and substitute the idea of building a community of trust between ourselves and others, we might be in a better position to persuade non-Westerners of the advantages of joining such a community. We might be better able to construct the kind of global moral community which Rawls describes in 'The Law of Peoples'.

In making this suggestion, I am urging, as I have in other writings, that we should peel apart Enlightenment liberalism from Enlightenment rationalism. I think that discarding the residual rationalism which we inherited from the Enlightenment is advisable for many reasons, some of which are theoretical and of interest only to philosophy professors, for example the apparent incompatibility of the correspondence theory of truth with the naturalistic, Darwinian account of the origin of the human mind.[22] But others are more practical. One more practical reason is that getting rid of rationalistic rhetoric would permit the West to approach the non-West in the role of someone with an instructive story to tell, rather than in the role of someone purporting to make better use of a universal human capacity.

Notes

1. Paper read to the *Erasmus Conference* on 'The Self, the Other and Community' on April 25th, 1997, Institute of Philosophy, Katholieke Universiteit Leuven. This article will appear in *Justice and Democracy*, edited by Ron BONTEKOE and Marietta STEPHANIANTS. Honolulu, Hawaii University Press. With permission of the copyright holder.

2. Donald Fites, the CEO of the Caterpillar tractor company, explained his company's policy of relocation abroad by saying that "as a human being, I think what is going on is positive. I don't think it is realistic for 250 million Americans to control so much of the world's GNP." Quoted in Edward LUTTWAK, *The Endangered American Dream*. New York, Simon & Schuster, 1993, p. 184.

3. Michael WALZER, *Thick and Thin: Moral Argument at Home and Abroad*. Notre Dame, Notre Dame University Press, 1994, p. 4.

4. Baier's picture is quite close to that sketched by Wilfrid Sellars and Robert Brandom in their quasi-Hegelian accounts of moral progress as the expansion of the circle of beings who count as 'us'.

5. John RAWLS, *Political Liberalism.* New York, Columbia University Press, 1993, p. 14n.

6. This sort of debate runs through a lot of contemporary philosophy. Compare, for example, Walzer's contrast between starting thin and starting thick with that between the Platonic-Chomskian notion that we start with meanings and descend to use, and the Wittgensteinian-Davidsonian notion that we start with use and then skim off meaning as needed for lexicographical or philosophical purposes.

7. John RAWLS, 'The Law of Peoples' in *On Human Rights: The Oxford Amnesty Lectures, 1993*, Stephen SHUTE and Susan HURLEY, (eds.). New York, Basic Books, 1993, p. 44. I am not sure why Rawls thinks historicism is undesirable, and there are passages, both early and recent, in which he seems to throw in his lot with the historicists. (See the passage quoted in note 10 below from his recent 'Reply to Habermas'). Some years ago I argued for the plausibility of an historicist interpretation of the metaphilosophy of Rawls' *A Theory of Justice* in my 'The Priority of Democracy to Philosophy' reprinted in my *Objectivity, Relativism and Truth*. Cambridge, Cambridge University Press, 1991.

8. 'The Law of Peoples', p. 81 & 61.

9. *Ibid.*, p. 62.

10. All quotations in this paragraph are from Jürgen HABERMAS, *Justification and Application: Remarks on Discourse Ethics*. Cambridge, MIT Press, 1993, p. 95. Habermas is here commenting on Rawl's use of 'reasonable' in writings earlier than 'The Law of Peoples', since the latter appeared subsequent to Habermas' book.

When I wrote the present paper, the exchange between Rawls and Habermas published in *The Journal of Philosophy* 92(1995)3, had not yet appeared. This exchange rarely touches on the question of historicism versus universalism. But one passage in which this question emerges explicitly is to be found on p. 179 of Rawls' 'Reply to Habermas': "Justice as fairness is substantive ... in the sense that it springs from and belongs to the tradition of liberal thought and the larger community of political culture of democratic societies. It fails then to be properly formal and truly universal, and thus to be part of the quasi-transcendental presuppositions (as Habermas sometimes says) established by the theory of communicative action."

11. *Loc. cit.*

12. 'The Law of Peoples', p. 46.

13. My own view is that we do not need, either in epistemology or in moral philosophy, the notion of universal validity. I argue for this in 'Sind Aussagen Universelle Geltungsanspruche?' in *Deutsche Zeitschrift für Philosophie* 42(1994)6, pp. 975-88. Habermas and Apel find my view paradoxical and likely to produce performative self-contradiction.

14. 'The Law of Peoples', p. 46.

15. Both quotations are from 'The Law of Peoples', p. 45.

16. I quote here from Rawls' summary of Scanlon's view at *Political Liberalism*, p. 49n.

17. Walzer thinks it is a good idea for people to have lots of different moral identities. "[T]hick, divided selves are the characteristic products of, and in turn require, a thick, differentiated, and pluralistic society" (*Thick and Thin*, p. 101).

18. Note that in Rawls' semitechnical sense an overlapping consensus is not the result of discovering that various comprehensive views already share common doctrines, but rather something that might never have emerged had the proponents of these views not started trying to cooperate.

19. Davidson has, I think, demonstrated that any two beings that use language to communicate with one another necessarily share an enormous number of beliefs and desires. He has thereby shown the incoherence of the idea that people can live in separate worlds created by differences in culture or status or fortune. There is always an immense overlap — an immense reserve army of common beliefs and desires to be drawn on at need. But this immense overlap does not, of course, prevent accusations of craziness or diabolical wickedness. For only a tiny amount of nonoverlap about certain particularly touchy subjects (the border between two territories, the name of the One True God) may lead to such accusations, and eventually to violence.

20. I owe this line of thought about how to reconcile Habermas and Baier to Mary Rorty.

21. This notion of 'the better argument' is central to Habermas' and Apel's understanding of rationality. I criticize

it in the article cited above in note 15.

22. For a claim that such a theory of truth is essential to "the Western Rationalist Tradition," see John SEARLE, 'Rationality and Realism: What Difference does it Make?' in *Daedalus* 122(1992)4, pp. 55-84. See also my reply to Searle in 'Does Academic Freedom Have Philosophical Presuppositions?' in *Academe* 80(1994)6, p. 52-63. I argue there that we should be better off without the notion of "getting something right" and that writers such as Dewey and Davidson have shown us how to keep the benefits of Western rationalism without the philosophical hangups caused by the attempt to explicate this notion.

DISCUSSION FOLLOWING RORTY'S LECTURE

Rudi Visker : At a certain point in your paper you talked about loyalties that one cannot give up and still like oneself, and you didn't really comment on that notion. What does it mean that there are such loyalties one cannot give up and still stay the same or still like oneself? I would like you to expand on that, because clearly the notion "and still like oneself" can be taken in various directions. If this would be just a sort of sentimental relationship of myself to myself, I could imagine people like Habermas saying, "well you should put some pressure on that". But if one would make the claim that there can be loyalties so fundamental and so deeply attached to our notion of self that to give up these loyalties means almost self-annihilation, for example as happens to Winston in George Orwell's *1984*, when Winston cries out "do it to Julia": he is betraying a certain sort of loyalty and after that betrayal he is no longer the man he was. He has turned into some sort of robot or animal. If I can take your expression about loyalties which one cannot give up and still like oneself in that deeper sense, I wonder whether there do not follow certain consequences on the level of obligation and justice. One could for example propose the following rule: act in such a way that you never bring the other to the point where he is forced to give up loyalties of such a kind that if he would give them up he would no longer like himself. That would mean that a notion of freedom, in a broad political sense, and a free society would be one which makes sure that those differences between people, between people's loyalties, are treated on the public scene in such a way that none of the

participants will be forced to lose face. Losing face could be a good synonym for giving up loyalties in such a way that you will no longer be able to like yourself. Loyalties, that is, which we don't have but which have us, which are stronger than ourselves.

Richard Rorty: I should perhaps explain that Professor Visker and I have had this argument before,[1] particularly in connection with this example of "do it to Julia" in *1984*, and I am never quite sure how to approach the matter, because I think we mean something different by being unable to like oneself or being unable to live with oneself. Consider the example used by Michael Sandel of the American army officers in 1861 who had to decide whether to fight for the Confederacy or for the Union[2]: that is they were members of the Army of the United States, commanded by Lincoln as President. The question was, was their loyalty to the State of Virginia, for example, greater than their loyalty to the country? General Lee famously decided for Virginia. Other generals for the Union. You can imagine a general who killed himself (I am not sure there actually was one), a general who found the situation utterly impossible — who could not do either one, either fight against Virginia nor against the United States. I think of such a person as being in the situation of Winston in Orwell's *1984*: being unable to put their lives back together again. I am not sure that you can make it a rule of society, of a free society, never to put people in that situation. It would be great if you could arrange it that no one was ever torn in a way that made it impossible for him to live with himself on either

choice. But I suspect that one way or another it will always happen. Let me change Orwell's story. Suppose that in fact Winston in 1984 had fallen out of love with Julia because he had fallen in love with someone else and the phrase "do it to Julia" did not mean what it meant in the book. The point I want to make by suggesting the change is that I think Prof. Visker thinks of a kind of deep identity with oneself, which is a notion I can't really use. I think of oneself as changing as the years go by, as the story one tells about oneself changes, as one shifts from one nation to another, from one lover to another, and so on. I think the way you look at it is as if some choices are external to the self and some, as it were, affect the self itself, and I don't think there is such a thing as the self itself. I think all we are is our story about ourselves including our stories about our various loyalties.

Rudi Visker: I can't believe that you really don't think so, because part of the argument in *Contingency, Irony, Solidarity* refers to the liberal ironist's realization that he can humiliate people about certain things that are crucial to them: final words, holy words, etc. In that book you also conclude that, for each of us, anything at all can become an obligation so deep and fundamental that to go against that obligation would be to annihilate the self. So implicitly you and I share a certain notion of the self that I wouldn't call a deep self but a very complicated notion of self that comes up again in this lecture in a lack of determination of the formula: loyalties that you cannot give up and still like yourself. In your Freud chapter in *Contingency, Irony, Solidarity* you seem to imply that these are loyalties that are so deep to the self that the self, as it were, didn't choose these loyalties.

Richard Rorty: That's what I can't see. It seems to me that we go through life not exactly choosing, not exactly falling into situations. You don't choose whom to fall in love with. You don't choose whether to be raised in Virginia. You find yourself in situations and you try to make sense of those situations by relating them to the rest of your life. And sometimes you fail. The question of whether you fail or not does not seem to me to be a matter of whether you chose the loyalty or not, it seems to me to be just a matter of inability to see your way out. Some people can see their way out of anything. They, as we say, aren't deep enough to ever be in a tragic situation. Other people are too likely to be in a tragic situation. That is, they are too likely to commit suicide, because they simply can't manage to relate the new thing that has happened to the previous story that they told about themselves. It seems to me that we seek a mean between lack of depth and oversensitivity. Working out such a mean seems to me to be difficult. Freud helps us to see how difficult it is. But the way that you write about the situation, drawing on people like Lacan and Levinas, strikes me as being somehow an overphilosophication of the issue. People like Lacan and Levinas are always drawing on the notion of infinity, and I prefer to keep everything finite.

Herman De Dijn: I think that the way you present the problem as a choice between loyalty and justice or of obligation is mainly determined by the fact that justice is now in the philosophical discussion related to the universality problematic. But if you take a Humean standpoint, and I feel that you have an affinity with that, it is astonishing to see that Hume, who of course is at the opposite pole from Kant and Habermas, makes precisely a very sharp distinction between loyalty, trust, virtues like that, and justice. The first virtues he calls natural virtues. They belong to the natural setting of the group structure. But justice is related to modern society, and he calls that an artificial virtue. That is a problem totally independent from the problem of universality, and I think that it would be a mistake not to take that into account, in other words to lose the difference between trust and justice, even in a particularistic setting. For example, there are no more passion-

ate fights about property than in a family, over their share of a legacy.

Richard Rorty: I certainly have no problem with Hume's distinction between natural and artificial virtues, because it seems to me that that again can be thought of as a matter of degree. It seems to me natural if the process of socialization of the youth naturally leads to the acquisition of the virtue. It is artificial just insofar as socialization may not be enough and custom has to give place to law and conflicts between law and custom arise. But I am not sure that changes anything. It eliminates the reference to universality, but your point is that you still want a distinction between loyalty and justice. I am prepared to have a sociological distinction but not a philosophical distinction or a phenomenological distinction.

Robert Vallee: You seem to suggest that the third world should try to become more like the first world. Leaving aside the question as to whether they really need MTV, Madonna and overpaid baseball players, there is still a problem regarding justice and economics. Given the fact that the first world uses more than its share of the world's natural resources, it would seem that if the third world were to become more like us, then we could no longer be who we are. If you broaden justice too far it turns into a sort of charity, and the whole thing explodes.

Richard Rorty: I don't think it explodes. I think the political question is "can the first world and the third world live together without destroying the identity of either?" This seems to be the kind of question that everyone faces when they get married, for instance. You don't know in advance whether this is going to work or whether it will be destructive to one or both of the partners. Apart from that, the only thing I have doubts about is this distinction between charity and justice. I don't see any way of telling whether it's justice or charity, and I don't see that it greatly matters one way or the other.

Robert Vallee: Is it not the case that we in the West do not really want such an extension of the kind of loyalties that one finds in a family for instance?

Richard Rorty: Some of us do. We have this longstanding rationalist tradition in the West and I am trying to suggest that it would help the prospects of a possible marriage between the first and the third world if we got rid of it. Think of an analogous situation where one says, "these two people will have a better chance of a happy marriage if the one loses some of his or her religious convictions because at the moment they are so stringent that it is going to make trouble". I think of Western rationalism on the model of a set of religious convictions, which one partner in the marriage would do better to try to put aside.

Notes

1. Cf. R. VISKER, 'Garder l'Etre. Comment partager Rorty entre ironie et finitude' in G. HOTTOIS, M. WEYEMBERGH (eds.), *Richard Rorty. Ambiguïtés et limites du postmodernisme.* Paris, 1994, p. 265-95.
2. M. SANDEL, *Democracy's Discontent. America in Search of a Public Philosophy.* Harvard, Belknap Press, 1996, p. 15-16.