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**COMMENTARY**

# Justice and Inequality

 By **DAVID LEWIS SCHAEFER**
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Judging from the rhetoric of leading Democratic candidates Hillary Clinton, Barack Obama and John Edwards, a major domestic issue in the 2008 presidential campaign is the supposed problem of rising economic inequality.

What is striking is that problem is being debated amid substantial evidence that the steady improvement in the economy since 9/11 -- largely under the impetus of the much-derided Bush tax cuts -- has benefited Americans of all income levels, and that the rich are paying a higher share of total taxes than ever before. But as Lawrence Mishel, president of the left-leaning Economic Policy Institute, revealingly acknowledged last year as an expression of the left's current economic thinking, "it's a distraction [from the actual situation of middle-class Americans] to debate whether we have a higher standard of living now [compared to 1979] or not. We probably do. But so what? Middle-class Americans are not getting their fair share."

In other words, the absolute economic well-being of most Americans matters less than their relative position.

Legitimizing this spirit of envy is the work of philosophers unknown to the vast majority of Americans. One of the most influential was John Rawls, longtime professor of philosophy at Harvard, who died almost five years ago. In his most widely read book, "A Theory of Justice" (1971), Rawls professed to summarize the requirements of institutional justice in two principles. The first principle mandated that the "equal basic liberties" of all citizens be maximized. The second (the "difference principle") ordained that inequalities in social and economic goods were allowable only to the extent that they improved the condition of the "least advantaged" members of society.

Conferring the National Humanities Medal on Rawls in 1999, then-President Bill Clinton applauded the professor's having "placed our rights to liberty and justice upon a strong and brilliant new foundation of reason," thereby helping "a whole generation of learned Americans revive their faith in democracy itself."

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Rawls's writings have played a major role in tilting the academic debate in favor of such policies as increasing inheritance taxes and narrowly restricting campaign contributions, so as to limit the supposedly unfair influence of the rich. Yet few of those influenced by Rawls have given his arguments a properly critical look, or recognized how far his doctrine strayed from liberalism as it has traditionally been understood.

Unlike the great political philosophers of the Western tradition from Aristotle to Locke to Rousseau, Rawls did not ground his account of justice in an empirical examination of human nature or political life. He also left his principles of justice at such an extreme level of generality that they pointed to no specific political conclusions, certainly not the ones attributed to them by his followers. Rawls's precept that "liberty may be restricted only for the sake of liberty" offered no guidance as to how different forms of liberty (say, Americans' right to freedom from terror attacks compared with the ostensible right to privacy) should be balanced against one another. Nor could Rawls demonstrate that any particular level of economic inequality violated his difference principle: If (as may well be the case) allowing corporate executives to earn annual incomes of tens of millions of dollars helps to generate the economic dynamism that raises Americans' living standards, including those of the poor, such inequalities are allowable.

What Rawls contributed to the political education of American intellectuals was not any sort of rigorous analysis, but an overall spirit or outlook detrimental to freedom. He coined a doctrine of what he called "excusable envy," according to which it is rational to envy people whose superiority in wealth exceeds certain (unspecified) limits, and to act on that passion. He cancelled out his ostensible prioritization of liberty by holding that liberty must first be given its "fair value," meaning that political liberties, including freedom of the press, may need to be restricted so as to ensure that the political process yields legislation that is "fair" to the poor. In his later writings, increasingly deferential to the Marxist critique of liberalism, Rawls wrote that securing people's equal rights and liberties must be preceded by government's first having ensured that their "basic needs" for economic goods were met -- thus sanctioning the alibis offered by assorted despots for violating their subjects' elemental rights to free speech, the freedom from arbitrary arrest, and the security of individual life and property.

John Rawls's intellectual legacy for American politics was an unfortunate one. Then again, he disparaged our political regime as only an "allegedly" democratic one anyway, and grew increasingly bitter in his last years, according to his closest associates, over our failure to institute the policies he happened to favor -- such as severe campaign-finance restrictions and universal health insurance. Whatever one's views on such issues, neither Rawls's principles nor his spirit offer a promising approach for addressing them.

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