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To cite this article: Marcel Wissenburg (2001) The 'third way' and social justice, Journal of Political Ideologies, 6:2, 231-235, DOI: [10.1080/13569310120053876](https://doi.org/10.1080/13569310120053876)

To link to this article: <https://doi.org/10.1080/13569310120053876>



Published online: 04 Aug 2010.



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COMMUNICATION

The 'third way' and social justice

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ABSTRACT *In reaction to Steve Buckler's and David Dolowitz's earlier contribution to this journal, I argue that New Labour's 'third way' cannot be founded on John Rawls's theory of justice. 'Third way' practice contradicts Rawls's ideas about both redistributive justice and social justice in a broader sense.*

Rawlsian output justice

Social democracy was the first to emerge out of the ideological ruins of 1989 with a new perspective on a changing world: the 'third way'. Recently, Steve Buckler and David Dolowitz¹ argued that more can be said in defence of New Labour's 'third way' than has been said so far. With this 'so far', one can refer both to writings of the British and other 'third way' parties' politicians,² and to those of 'third way's academic defenders like Miliband and Giddens.³ What all these texts have in common is, after all, that they mix two elements where three would be needed. 'Third way' advocates offer analyses of empirical data and normative claims. What is missing is a theoretical foundation justifying the passage from *is* to *ought*.

The thesis Buckler and Dolowitz defend is that John Rawls's theory of justice may offer such an underpinning, that in fact 'third way' principles and policy already reflect Rawls's ideas. I shall argue instead that the 'third way' as we know it fits neither the more familiar part of Rawls's work, the theory of the just distribution of the benefits and burdens of social co-operation ('output justice'), nor criteria of social justice in a broader sense. In the end, Buckler, Dolowitz and I might very well agree that the 'third way' is an *approximation* of Rawls's theory. Yet for now I believe that the principles of the 'third way' need serious revision before there can be any talk of an *equilibrium* between the philosophy of social justice and the practices of the 'third way'.

One reason for Buckler and Dolowitz to believe in a convergence between Rawls and the 'third way' is that the latter would reflect Rawls's conviction that there is an irresolvable disagreement on the definition of the good.⁴ This brought Rawls to the conclusion that a theory of social justice needs to be founded on

an impartial conception of the right. It is true that we find, for instance, Blair and Schröder saying similar things—that governments cannot and should not prescribe what kinds of lives people should lead and what kinds of things they should value. Yet the practice of the ‘third way’ deviates considerably from the promise, as I hope to show when I reach my fourth point.

A second indication of convergence would lie in the Rawlsian Difference Principle, which Buckler and Dolowitz reformulate as ‘the arranging of social and economic inequalities such that they are to the benefit of all under conditions of fair equality of opportunity’. The test for whether inequality benefits all is that the social system ‘must enhance the long-term interests of the least well off groups in society’.⁵ This description certainly fits Blair’s and Schröder’s belief that perfect equality is not a desirable objective for the ‘third way’; we should accept that some inequality is justified.⁶ But the description does not fit Rawls: Rawls’s true position on inequality is one of ‘equality unless’, not ‘inequality so that’: ‘... there are conceptions of justice that are recognizably egalitarian, even though certain significant disparities are permitted. The two principles of justice fall, I assume, under this heading’.⁷ Buckler and Dolowitz go so far as to claim that Rawls accepts inequality because it contributes ‘to efficient wealth creation in a system where the prospects of all are potentially enhanced’,⁸ which may be or may not be empirically true for a ‘third way’ society. However, for Rawls efficiency and justice are distinct *desiderata*:⁹ a slave society where freedom is ‘potentially’ attainable can be perfectly efficient but will never be just. In addition, Rawls rejects the notion of desert or merit as a basis for the unequal distribution of (say) income: it betrays an inadmissible partiality to a particular theory of the good.¹⁰

Thirdly, Buckler and Dolowitz claim that Rawls is concerned about procedures not outcomes: unlike many theories of social justice, his does not call for an equal distribution of the benefits and burdens of social co-operation, or for a distribution mechanism that satisfies some other criterion for a just state of affairs, an outcome. What matters for Rawls is that his two principles are followed, ‘whatever [the] outcome happens to be’.¹¹ The result may be equality one day, inequality the next. Again, this reflects Schröder’s and Blair’s idea that equality of outcome is not intrinsically valuable but disregards people’s efforts. And again, it does not reflect Rawls. Apart from rejecting desert, Rawls *does* care about outcomes: the point about the Difference Principle is that it should be applied so as to bring the worst off as close to equality as possible. For Rawls, there can be no justification for social inequality in itself: inequality is the result of systems and institutions that differently reward people on the basis of their natural or social differences, differences which are (in accordance with the is-does-not-imply-ought rule) *morally indifferent*. Rawls’s commitment to outcomes also becomes clear in his brief discussion of Amartya Sen’s suggestion to replace primary social goods as a distribution criterion by ‘basic capabilities’, i.e., by what individuals in their particular situations can actually do with their primary social goods. Rawls rejects Sen’s suggestion, not because outcomes do not matter but because Sen’s criterion is impractical.¹²

Fourthly, Rawls and the 'third way' would converge in applying the Difference Principle to *opportunities*.¹³ Yet even if 'opportunities' and 'primary social goods' were interchangeable (which they are not), Rawls's opportunities are not those of Blair and Schröder. In 'third way' practice, opportunities are opportunities for self-sufficiency given a free market society, which comes down to creating incentives for finding work and for becoming flexible workers able even to take jobs they would not dream of desiring—and to creating disincentives for those who will not co-operate. Think of the British New Deal programmes established to 'cater to the needs of [disadvantaged] groups by offering them packages of support and advice designed to ensure that they are aware of and can take advantage of employment opportunities where appropriate'.¹⁴ All this deviates from Rawls's theory in two respects: it lacks impartiality with regard to the individuals' theories of the good (forcing them to subject to the dictates of the labour market), and it takes the present free market society for granted, whereas Rawls sees it as one possible context for social justice among many.

Finally, Buckler and Dolowitz point out that in providing opportunities, the 'third way' wishes to pay special attention to 'groups that are [...] marginalized due to arbitrary factors'.¹⁵ This could be interpreted as a reflection of Rawls's principle of Fair Equality of Opportunity, but looks are deceiving. As we have just seen, the 'third way' defines equal opportunity not as equal opportunity to attain a particular position *or not try at all* (thus respecting the individual's theory of the good and plan of life), but as an equal opportunity to attain any position the labour market cares to offer *and no other*.

Social justice

Social justice is more than distributive output justice: it also relates to the input side, i.e., the distribution of *access to the creation* of the benefits and burdens of social co-operation (hence fair equality of opportunity), and to commutative justice, i.e., justice among individuals.¹⁶ Although Buckler and Dolowitz do not discuss them, it is worthwhile noting that 'third way' theory and practice cannot meet standards for these aspects of social justice either.

First of all, the 'third way' disregards justice in the input sphere. One of the most distinguishing features of socialism and social democracy used to be that they questioned the existing system or mode of production; the 'third way', however, lets supply rule. It is as if the 'third way' has thrown away the baby with the bath water: in relinquishing its resistance to market mechanisms, it has also abandoned its objections to capitalistic ownership relations and to the expression of uncritical, potentially harmful preferences that market mechanisms thrive on. On the one hand, employers continue to rule the labour market and dictate which jobs are offered, which qualities are desired, and by implication which human beings are useful; on the other, producers dictate which products are offered and are considered desirable or valuable. The 'third way's' interpretation of 'opportunities' in the field of labour relations at the very least fails to encourage, but probably directly discourages, the development and expression of

plans of life and theories of the good that deviate from the ideal of the useful drone. In this respect, the ‘third way’ silences social, political and moral critique before it can even be expressed.

A second problem is that the ‘third way’, in the sphere of output social justice and particularly in the field of labour, fails to guarantee distributive justice as such. Justice is a remedial virtue, a virtue for an imperfect world of scarcity and egoism.¹⁷ With its interpretation of social justice as attainable by commutative means, the ‘third way’ offers this remedial virtue to the ideal participant in market procedures: self-sufficient, self-conscious, responsible individuals. Justice is meted out in the market place, and (ideally) given to those who qualify for the criteria of the market place: those who work harder or perform better receive more than those who do not. Obviously, without further remedial measures this would lead to the exclusion of those who do not qualify: the lazy, politically motivated defectors, and people who *cannot* qualify as easily. The last category consists of all those parties for whom the redistributive welfare state was invented in the first place. In other words, it is still up to old welfare state institutions to deal with these sources of injustice, not the new institutions introduced (and given political priority) by the ‘third way’.

Thirdly, the ‘third way’ embraces the market without warranting commutative justice. Ideally, following Aristotle, the market is a place where free and (therefore) equally powerful individuals meet and voluntarily exchange goods (or anything else). In real life in modern society, supply and demand are seldom equally powerful, and therefore seldom in equal negotiating positions. In purely formal terms, a market is just when both parties receive what in their individual eyes is the equivalent of what they gave. Given unequal starting positions, the more powerful party is by definition capable of dictating what is on offer on the market, and of raising the price of its product.

A final reason to question the possibility of reconciling the ‘third way’ with social justice is that by refusing to create a completely free market, ‘third way’ politics contradicts its own commitment to moral pluralism and to a reduction of state interference in civil society. This objection relates in particular to the privatisation of public services practised in ‘third way’ countries: it is usually the *institution* providing the service that is privatised, not the product itself. Citizens are still legally obliged to insure themselves against illness, unemployment, old age, and so on—nowadays, they just have to get it elsewhere than at a government agency, and they can (usually) choose between (hopefully) competing social security providers or job mediators. Citizens may not be legally obliged to use electricity, water and gas, garbage disposal, telephone, television, radio and public transport, yet in practice most of these early twentieth-century luxuries have become unavoidable basic needs for virtually every twenty-first century European. As long as there is demand for a product, supplying it can be profitable; as long as there is no alternative to the product, the market for it is safe.

Obviously, obliging citizens to consume services, or not enabling them to consume alternatives, matches with the ‘third way’ intention of keeping the

welfare state alive at lower costs (in public spending, though not necessarily from the point of view of the individual citizen's wallet). But it does not match with the idea of a free market, nor with the intention of offering 'opportunities' (in the broad sense), of moving away from a paternalistic prescription of the terms of a good life towards an impartial respect for the existence of a plurality of life-styles and theories of the good. Thus, there appear to be limits to the degree to which the 'third way' is willing to grant responsibility to individuals. What is more, the 'third way's' privatisation strategy does not result in a reduction of government interference in civil society. By obliging citizens to consume certain services, they also take on a duty to see to it that these services are provided at affordable prices. Hence, they still have to control and regulate the market for public services.

The 'third way' unlocked a potential source of support for the welfare state never thought of before, at a moment when it was needed more than ever before. As an alternative to the increasing opposition between the public and private spheres, between state and free enterprise, it proved that there could be business and profit in supplying public services. But everything has a price. Rather than obliterating the worst of socialism and replacing it by the best of liberalism, it seems that as far as social justice is concerned, the 'third way' has replaced the best part of socialism, distributive justice, by the worst part of liberalism, the survival of the fittest.

Acknowledgements

The author is grateful to Michael Freeden and two anonymous referees of this journal, to Kees van Kersbergen, Grahame Lock, and Anna van der Vleuten at the Faculty of Policy Sciences, and to members of the Chinese Academy of Social Sciences, for their most helpful comments.

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