

CONGLUOKEHEMIERDAO
BOLINHELUOERSI

自由主义

从洛克和密尔到伯林和罗尔斯

政治自由主义 发展的逻辑

——从洛克和密尔到伯林和罗尔斯

逻辑

刘永红 著

Zhengzhiziyouzhuizhuyifazhandeluoji

湖北长江出版集团
湖北人民出版社

刘永红 著

政治自由主义 发展的逻辑

——从洛克和密尔到伯林和罗尔斯

湖北长江出版集团
湖北人民出版社

鄂新登字 01 号

图书在版编目(CIP)数据

政治自由主义发展的逻辑/刘永红著.

武汉:湖北人民出版社,2007.1

ISBN 7-216-05001-0

I. 政…

II. 刘…

III. 自由主义—研究

IV. D091.5

中国版本图书馆 CIP 数据核字(2006)第 157914 号

政治自由主义发展的逻辑

刘永红 著

出版发行: 湖北长江出版集团
湖北人民出版社

地址:武汉市雄楚大街 268 号
邮编:430070

印刷:武汉市楚风印刷有限公司

经销:湖北省新华书店

开本:850 毫米×1168 毫米 1/32

印张:8.75

字数:217 千字

插页:1

版次:2007 年 1 月第 1 版

印次:2007 年 1 月第 1 次印刷

印数:1-1 800

定价:26.00 元

书号:ISBN 7-216-05001-0/D·735

本社网址:<http://www.hbpp.com.cn>



刘永红 生于1968年7

月，湖北汉川人。1991年毕业于华中师范大学政治系，获得法学学士学位，1996年毕业于中国人民大学哲学系，获得哲学硕士学位，2005年毕业于中国人民大学哲学系，获得哲学博士学位。现工作于中共北京市委党校哲学教研部，主要研究方向是当代西方政治哲学。主要学术成果有：译著《劳特奇哲学史》第二卷（合译），论文《论密尔对功利主义的证明》、《论罗尔斯对功利主义的批判》、《自由主义的普遍主义与多元主义的矛盾》等。

责任编辑：罗丁湘

封面设计：董 昀

摘 要

本书以历史和逻辑发展的线索,从政治自由主义发展的四个代表人物的思想发展的脉络展示其中发展的逻辑,贯穿于文章的始末的主线是政治自由主义的多元主义和普遍主义的产生、发展和解决这一对矛盾的种种方案,以及它们在一些具体的概念、范畴的逻辑演进过程。

本书对自由主义的发展的论述分四个阶段进行论述,这就是17世纪自由主义制度的确立以及相伴随的政治自由主义理论,以洛克的思想为代表;第二阶段是18—19世纪自由主义制度已经确立,对它的理论进行修正和证明,这主要是以密尔为代表;第三阶段是在20世纪由于对纳粹德国和苏联的“极权主义”的分析和批判,对自由主义原则的重新认识和反思而提出的奠基于多元主义基础上的自由主义,这以伯林的思想为代表;第四阶段是对自由主义在一种正义原则基础上的新的综合,特别是在理性多元论基础上的重叠共识的综合而产生的协调多元主义和普遍主义的政治自由主义,这以罗尔斯的思想为代表。

本书把约翰·洛克作为自由主义的奠基人,主要在于他的学说首先确立了一种自由主义普世方案,这就是对个人权利、国家制度、法治政府、人民主权等方面对所有社会来说是最好的、最完美的方案,这也是所有自由主义者都一直信奉的自由主义普遍主义方案,对这一方案的最好、最完整和最早的阐述,一般都归之于洛

克,尽管在这一传统中,也有马基雅维利、霍布斯以及近代法国的启蒙主义者和德国的思想家等的阐述,但本书只是把洛克作为这一时期的代表来阐述自由主义的基本原则。洛克的多元主义思想源于他的宗教宽容的思想,在他那里是政府和宗教之间的宽容、多元主义问题,而对人的思想、个性乃至不同的价值观和不同文化之间的宽容、多元主义思想,洛克限于历史的局限性,则没有提出。

密尔作为 19 世纪杰出的自由主义者,功利主义的最大捍卫者,他的自由主义是立足于功利主义的自由主义,他对代议制政府的阐释,无疑代表了 19 世纪自由主义启蒙方案发展的最完整的阐述,在这一方案中,密尔体现了近代启蒙运动所倡导的有关人类社会发展的完美、普遍方案,他的论述和论证更为精细、更为严密,因此把它作为第二个阶段的代表人物,在这一时期许多其他的思想家的思想我们只是通过密尔思想的阐述来说明这一普遍主义方案。同时,密尔的思想又具有折衷性、多样性和思想的飘忽性、摇摆性的特点,他对自由主义普遍主义方案又表现出深深的怀疑,由此提出思想言论自由、个性自由,在代议制民主政体中给少数特别是给少数精英分子以较大的发言权和不能以大多人的意见压制少数人表达的自由,从而导致一种大众的平庸和多数人的暴政的论述,无疑是自由主义宽容和多元主义发展的又一个发展阶段,如果说洛克的多元主义是政府和宗教之间的宽容和多元主义,那么密尔的思想则是对言论、思想、个性之间的宽容和多元主义,这无疑是洛克的宽容思想的进一步深化。

以赛亚·伯林经历了 20 世纪的两次世界大战,亲身目睹了两次世界大战的悲惨结果,对以高扬自由主义传统的西方社会却不能避免大战的悲剧感到震惊,他由此区分了两种自由,对西方社会追求理性主义的积极自由从而导致消极自由的压制,并最终造成 20 世纪对人类自由的最大威胁的悲剧。他强调竞争的多元主义,强调历史的非决定性,无疑是 20 世纪自由主义的中心课题。他的

《自由四论》可以说是继洛克的《政府论》，密尔的《论自由》之后对自由主义的最好阐述。他的思想就是把自由主义的宽容和多元主义思想贯彻到底，这就是提出一种多元主义的思想，主张不同的价值、文化处于一种不可通约、不可公度、不可比较的状态，自由主义发展所造成的人类悲剧就是因为启蒙运动的普遍方案所造成的悲剧，对这一方案的系统批判是伯林的主要任务，因此，我们在对伯林的思想阐述过程中，主要是对他的思想批判方面的论述较多，而对他思想正面阐述的比较少，这也是伯林思想的特色，他对自己思想的正面阐述主要表现在“两种自由概念”一文中，而其他部分主要是对普遍主义方案的分析批判。伯林的多元主义对自由主义来说是一个极大的挑战，自由主义到底是一种普遍主义的方案还是一种多元主义方案，或者说自由主义是多元主义的一元还是多元主义是自由主义的价值之一，这一问题在伯林看来只能是多元主义，但是如果自由主义的价值观、它的普遍主义只能是多元主义中的一元，那么自由主义作为一种价值观、一种学说本身的存在就提出了疑问，伯林对自由主义发展的影响无疑是摧毁性的，当代的自由主义者必须面对伯林的问题，是把多元主义的思想贯彻到底还是对多元主义进行更深刻的反思，在新的基础上达到一种新的共识，一种新的普遍主义方案，这是当代自由主义者所要思考的问题。

本书把约翰·罗尔斯作为对伯林问题的思考和反思而对自由主义重新阐述和论证的代表人物来说明。罗尔斯在《正义论》一书中，力图阐述的是一种立足于两个正义原则所建立的整个制度体系和理论学说，他坚决地扛起启蒙运动普遍主义方案的大旗，为自由主义的普遍方案的原则及其实施提出了一系列的论述和证明，不过他的思想的重点是从传统自由主义的关注自由和权利而转向对平等的关注，认为只有更好地处理对社会不平等问题，才能完成自由主义普遍主义的任务，对最少受惠者利益的关注，这是实现洛

克的个人权利、体现密尔的个人自由,落实康德的人是目的等自由主义原则的实质内容,只有整个社会的公平正义确立,才能保证自由主义普遍方案的实施。而这一方案本身又是和自由主义的基本原则之间是矛盾的,诺齐克认为罗尔斯的思想代表的是一种平等的自由主义思想,这一思想主张一种功能较多的国家,它对个人权利和自由可以实施较多的干预,这本身就是违背自由主义原则的,它主张一种权利至上性的自由主义;社群主义对罗尔斯的批评则是认为罗尔斯对正义问题的关注而没有处理好这一问题,因为他所立足的自由主义原则是一种抽象的个人权利,他离开一定的历史、传统、特定的社群来考察正义问题,特别是回避了人类社会的多元主义事实而用自由主义的普遍主义方案来统一整个社会正义的解决方案,使这一问题不能很好地解决。他的《政治自由主义》一书,可以说是在坚持自由主义普遍方案和协调多元主义方案的一个新的解决方案。该书认为作为公平合作的社会合作方案,作为一种政治正义观念是可以建立起来的,这是自由主义普遍方案的必然要求;同时,对于当今各种合乎理性的多元主义学说的存在这一客观现实,如何在一种理性多元主义基础上达成一种重叠共识,又成为他来协调多元主义和普遍主义的一种新的尝试,他的基础还是共识的建立,这就决定了他的思想的普遍主义的一面,同时,他的思想又不是传统的一种综合性学说,而是把各种综合性学说作为一种背景文化,在一种公共理性的公共论坛上通过类似于立宪阶段的投票过程和在一个公共论坛上的辩论而达到的一种经由宪法共识然后达到一种重叠共识的阶段。因此罗尔斯的重叠共识本身并不是一种完备性学说,而只是一种协调理性多元主义基础上的政治正义观念。罗尔斯的论证最终不得不回到他的普遍主义方案中来,他的重叠共识最终说来还是一种共识,一种普遍方案,这实质上是一种立足于当今美国立宪民主制,以一种美国式的自由主义来统一整个自由主义的普遍主义学说。

对于政治自由主义的发展逻辑,本文把它概括为以下几个方面:

1. 政治自由主义的发展逻辑,在其历史进程中经历了一个从合法性到合理性,经过多元主义的冲击最终重归在多元主义基础上的重叠共识的自由主义阶段。在对理论的论证过程中,经历了由自然状态、自然法的论证,到功利主义的证明,再到对历史决定论的批判,以及罗尔斯在原初状态和无知之幕的假设下,对新的契约论的论证,再到政治自由主义时期,他把政治自由主义定义为一种政治正义观,不是一种完备性学说,而只能是一种理性多元论的重叠共识这一逻辑发展过程的演变。

2. 在对自由概念的阐释过程中,对两种自由概念即现代人的自由与古代人的自由的分与合中,经历了一个发展过程。也就是说随着自由主义理论的发展,对自由概念的讨论在不同时代赋予不同的新的内容。洛克的自由代表了一种现代人的自由,这就是有关思想言论自由、法治自由、个人权利神圣不可侵犯;密尔的自由一方面表现为对启蒙运动的信念,坚持用功利主义的普遍性原则来阐述自由的实现问题,这就是积极的自由,这样自由就是一种功利主义的自由观,另一方面是对启蒙运动的怀疑,而提出的思想言论自由和个性的自由,主张政府对只关个人的行为无权干涉,这实际上是消极自由的问题;伯林的自由明确的区分两种自由观;罗尔斯的自由是立足于正义两个原则的一种平等的自由,是作为一种社会制度下的自由体系。

3. 政府观念方面,他们之间也有一逻辑发展过程。在政府建构方面,从洛克的契约说、密尔的功利主义学说,到罗尔斯的新契约论建构正义原则,然后在这一原则上建构政府;在政府制度方面,洛克是一种立宪政府、密尔是代议制政府、罗尔斯是以美国为代表的立宪民主制政府;在政府管理方面,洛克的法治政府和罗尔斯的法治原则之间有一个论述深化的过程。

4. 在正义问题上,到底是坚持形式正义还是实质正义的问题,从洛克的坚持个人权利、法律正义的形式正义,到密尔对功利主义的结果、功利强调而坚持实质正义,再到罗尔斯的形式正义和实质正义的统一,有这么一个发展过程。

5. 在自由主义的宽容与多元主义方面,由洛克提出的处理政教关系的宽容原则,到密尔对人的思想良心乃至个性多样性的承认、宽容,再到伯林对不可归约性的多种价值观的并存的多元主义,最后到罗尔斯在多元主义的价值观下,通过对立宪民主制的基本原则的认可而达到重叠共识,并且它是在公共理性的辩谈下达成的。

6. 在个人与社会的关系问题上,洛克强调个人的权利神圣不可侵犯、私有财产受法律的保护的个人主义,密尔强调最大多数人的最大幸福,力图协调个人与社会的关系,伯林对消极自由的维护,对个人自由和权利的不得侵犯,这是对个人主义的权利的保护问题;另一方面,他又认为人是附属于一定的历史、文化、种族和民族中的,因此更多地关注人的社会历史的因素,和单纯的个人主义的自由主义有所不同。罗尔斯正义理论的主要目的就是为了协调个人与社会的关系问题,由强调个人的自由到兼顾社会的公平。

本书的创新点在于从英美自由主义的代表人物的思想入手,梳理出自由主义的一些概念、范畴之间的逻辑演变过程,并得出一些相应结论。政治自由主义的发展逻辑对保守主义、社群主义和现代主义的影响是有了一个批评的对象,它们的思想的产生和发展是在对自由主义的分析和批评中来形成的。自由主义的思想 and 理论对我国社会主义政治文明建设也具有一定的借鉴意义,我们应该吸取其中合理的有价值的东西,更好地服务于我们的理论和实践。

Abstract

This dissertation is characterized by the logic of political liberalism from the four typical thinkers' thoughts on the basis of historical and logical ties. The main topic from the beginning to the end of the dissertation is the origin and its development of universalism and pluralism of political liberalism, different alternatives which solve the contradiction, and the developing process of its concepts and category

The dissertation describes the liberalism into four stages, the first is the founding of liberal political system and its liberalism theory in the 17th century typical of John Locke; the second is the completion of liberal political system, how to revise the liberalism theory and how to prove by reason, this is typical of John Stuart Mill; the third is the reconsideration and contemplation of traditional liberalism on account of the analysis and critique of the 20th totalitarianism of Germany Nazi and the former Soviet Union, this is typical of Isaiah Berlin; the fourth is a new comprehension of liberalism on the basis of two principles of justice, especially in order to coordinate universalism and pluralism of political liberalism, a new comprehension of over-lapping consensus on the basis of reasonable pluralism is reached, this is typical of John Rawls.

This dissertation regards John Locke as the founder of liberalism

since his thoughts set up a universalism scheme of liberalism, which includes personal right, state institution, government ruled by laws, people's sovereignty, etc.. This theory is considered as the best and the most perfect scheme to all societies and all liberalists believe in the scheme. The best , the most early and the most complete of the scheme is generally characterized by John Locke, and this dissertation describes the liberalism of this stage from Locke's thought, even though some other thinkers such as Niccolo Machiavelli, Thomas Hobbs, the French Enlightenment thinkers and German thinkers etc. express the same ideas. Additionally, at the book "Four Letters concerning Toleration " Locke expresses the toleration between government and religion and pluralism, but his thoughts don't include the toleration and pluralism among different person's thoughts, characters and different conceptions of values and cultures because of his historical limits.

As the most famous liberalist in the 19th century, and defender of Utilitarianism, Mill's liberalism based on utilitarianism, his account of representative government, these doubtlessly represent the 19th liberalist perfect scheme of the Enlightenment Movement, this scheme represents the perfect and universal scheme of human society development which is promoted by the Enlightenment Movement, and his description and proof are more fine and more reasonable. Therefore he is thought of as the typical person of the second stage even though other thinkers at this stage express this same universal scheme. In the meanwhile, Mill's thoughts are compromise, pluralist, and swaying, he doubts at the liberalist universalism, and sets forth thoughts freedom, characters freedom, at the representative government the minor representative especially the minor elite persons have more opportunity of expression and the majority opinion can't restrict the minority opinion of expression, this will

cause the vulgar majority and the tyranny of the majority or the tyrant-society collectively, This doubtlessly represents another stage of liberalist toleration and pluralism development. If Locke's pluralism is toleration and pluralism between government and religion, Mill's thought is toleration and pluralism among expressions, thoughts, characters, this is a development of Locke's thought of toleration.

Isaiah Berlin experienced the two world wars of the 20th century, saw the terrible outcome of the two world wars, and was shocked by the tragedy of the two world wars which originated in the western liberalism tradition and couldn't avoid the tragedy. Berlin divides the freedom into positive and negative freedom, and believes that the rationalist positive freedom will cause to restrict the negative freedom and cause the serious threat to human society's freedom in the 20th century. He emphasizes the competitive liberalism, the historical inevitability, which is doubtlessly the main topic of liberalism. His "Four Essays of Liberty" is the best description of liberalism after Locke's "Two Treaties of Government" and Mill's "On Liberty". His thought is thoroughly carried out the liberalist toleration and pluralism, and advocates pluralism, which maintains different values and cultures are incommensurable and perpetual rivalry with one another, the human tragedy brought by liberalism development is the tragedy brought by the universal scheme of the Enlightenment Movement, one of Berlin's main tasks is to criticize this universal scheme. Therefore we describes Berlin's theory mainly from the part of critique, and partly from direct expression of his theory, this is his theory characteristic. His direct description of his theory is in the "Two Concepts of Liberty", and other books are concerning the analysis and critique of universalist schemes. Berlin's pluralism is a challenge to liberalism, which scheme is liberalist scheme, universalism and plural-

ism? Is liberalism a part of pluralism or pluralism is one of liberalism values? Berlin believes the pluralism, if liberalism value is a part of pluralism, liberalism value and its theory will be full of doubts. Berlin's theory to liberalism is destructive, contemporary liberalists must face Berlin's problem whether pluralism is thoroughly or a new consensus and a new universalist scheme is promoted on the basis of contemplation of pluralism.

John Rawls considers and contemplates Berlin's problem, re-explains and proves the liberalist theory. In the book of "A Theory of Justice" Rawls believes to construct a whole institution system and a theory based on the two principles of justice, he succeeds the tradition of the universalism of the Enlightenment Movement, describes and proves the universalist scheme, and his theory topic is changed from the liberty to equality, believes that the universalist task can be completed only if the society handles the inequalities of the society. Attention is paid to the least advantaged, that is to carry out the contents of liberalist principles, such as Locke's personal right, Mill's personal freedom, Kant's thought human is the end etc.. If the whole society can build a system of justice and fairness, the liberalist universalism scheme can be attained. But this scheme is contradiction with the basic principles of liberalism, John Nozick holds Rawls's thought is an egalitarian liberalism, this thought maintains a state with many functions, the state can interfere the personal rights and liberty, this is contrary to liberalism, he maintains liberalism of a primacy of rights. The critique of Communitarianism to Rawls is that Rawls empathizes justice but doesn't solve the problem since his theory based on liberalism is an abstract personal rights, he discusses the justice away from specific history, tradition and community, especially disregards the fact of human society pluralism and seeks a

liberalist universalism scheme to solve society justice, this is difficult to solve. Rawls's "Political Liberalism" is a new solving scheme to adhere to liberalist universalism scheme and to coordinate pluralist scheme. At this book the idea of society as a fair system of cooperation, the political conception of justice can be set up, this is the inevitable demand of liberalist universalism, at the same time the fact of different rational pluralist theories existing, how to reach an over-lapping consensus based on reasonable pluralism becomes a new attempt to coordinate pluralism and universalism. His base is to build a consensus which decides his theory is a universalism, on the other hand, his theory is not a traditional comprehensive theory (on the other hand), but an over-lapping consensus which regards the different comprehensive theories as background culture, the constitutional essentials and over-lapping consensus will be reached at the public forum through public reason like votes of the constitutional establishment and like public forum debate. Therefore Rawls's over-lapping consensus is not a comprehensive theory, but a political conception to coordinate reasonable pluralism. Rawls's discussion has to come back to universalism scheme in the end, his over-lapping consensus is a consensus, a universalist scheme, this is in fact a liberalist universalism theory based on the USA constitutional democracy system according to the American-styled liberalism.

This dissertation summarizes the logic of political liberalism as the following:

- 1, The logic of political liberalism, is in the process of history from the legitimate to the reasonable, from the impact of pluralism to over-lapping consensus based on pluralism. In the process of proof from the state of nature, the law of nature to Utilitarianism proof, from critique of historical inevitability to Rawls's the original position, the veil of

ignorance and the new contract theory, and then to his political liberalism, which is described as a political conception, not a comprehensive theory but an over-lapping consensus based on the reasonable pluralism.

2, The explanation of the concept of liberty, concerning two concepts of liberty, that is the liberties of the moderns and the liberties of the ancients, passes different stages. Locke represents the liberties of the moderns, which are concerning freedom of thought and conscience, the rule of law, personal rights are not violated. Mill's liberty at one-hand, believes the belief of the Enlightenment Movement, explains the liberty according to Utilitarianism, on the other hand doubts the Enlightenment Movement maintains freedom of thoughts and freedom of characters. Berlin makes a division between positive and negative liberty. Rawls's liberty is an egalitarian liberty based on the two principles of justice, is a system of liberty under a society institution.

3, Concerning the conceptions of the government, it exists a logical development. Concerning the construction of government, from Locke's contract theory, to Mill's utilitarianism of constructing government, and to Rawls's new contract theory of constructing justice principles, and then of constructing government according to the principles. Concerning the government institution, from Locke's constitutional monarchy, to Mill's representative government, and to Rawls's constitutional democracy government. Concerning the management of the government, Locke's ruled by law and Rawls's ruled by law exist a logical development.

4, Concerning the justice, Locke believes the justice of personal right, Mill believes the utilitarianist justice, Rawls believes the pure procedural justice.