

# Rawlsian Values

Jimmy Rising

A number of questions can be asked about the validity of John Rawls's arguments in Theory of Justice. In general, they fall into two classes which should not be confused. One set of questions asks if Rawls succeed in what he set out to do— if he maintained internal consistency, justified leaps in reasoning, and solved the problem as he defined it. Other questions concern the assumptions Rawls used in addressing the problem of justice and whether his solutions have the significance he means them to have. This paper will emphasize the second class of issues. Specifically, I want to question Rawls assumption that knowledge of justice is to be found by removing one's personal value judgments and prejudices.

This may seem like an ridiculous objection, but I believe there is substance behind it, although I have yet to determine if it is sufficient substance to form the basis of a separate solution to Rawls's problem. This paper will be an exploration of those possibilities.

A suitable working definition of justice is the study of rights and responsibilities in the context of institutions. There are many reasons to think that justice must be solely objective, however, there are also several places where subjective judgments could play a role. Is it just for two people to have different rights and responsibilities, not because of some deductive reason or objective difference between them, but simply by virtue of someone's personal preferences? It is possible for two people to consider the same person in the same situation as having different rights and responsibilities, and both be right? These are the sorts of questions I want to address.

## **The Objectivity of Justice**

First I want to formally state some of the reasons we think that justice is something which only makes sense in the realm of the objective.

The pursuit of knowledge has always benefited from our decrease in our estimates of our own importance. When each person realizes as a child that he or she is only one of many individuals, as “real” as him or herself, his or her potential for understanding other people improves enormously. When mankind further realized that Earth is not the center of the universe, and later that our Sun is not either, our understanding of the nature of things expanded enormously.

Philosophers of justice seek the sorts of answers that are true under wide ranges of conditions, and which others have as much reason to hold true as they do. In other words, the conclusions in justice form a system which is independent of the concluder.

The sorts of questions that a study of justice attempts to answer deal with entities larger than a single person. Justice is concerned with creating laws and institutions that govern a society, where institutions are “form[s] of conduct expressed by a system of rules” (48). In contrast, ethics has as its object the actions of individuals in society, and more naturally can incorporate that individuals subjective judgments than justice can the subjective judgments of all.

If we are tempted to allow the personal preferences of each person to play some large role in justice, we have to acknowledge that many of these personal preferences are essentially random. This is why, as Rawls notes, natural abilities and social background are morally irrelevant. One finds oneself in possession of particular abilities and inherited reasons for no reasons that have come from oneself. It is not because of choices that I made that I started with the things I did. Our upbringing also has huge effects on what we will value and what roles in life we will try to hold.

Justice has the same root as justify for a reason. Answers to questions of justice must be justified. If someone is to be punished, it seems is only just for them to be punished if anyone under the same circumstances would have to be punished. Also, justice is intimately connected to judges, impartial individuals who are supposed to try their best to make justice happen, by considering only the facts of each case.

Even with justice being an objective thing, the goal is to continue to take into account individual subjective preferences toward objective ends. Rawls says, “Ideally the rules should be set up so that men are led by their predominant interests to act in ways which further socially desirable ends” (49).

To satisfy these conditions of justice, Rawls uses the idea of “Formal Justice”. Formal Justice is the “impartial and consistent administration of laws and institutions, whatever their substantive principles” (51). The driving idea behind formal justice is the idea that whatever else a system a justice might be, that system must have sovereignty. Rawls called formal justice “adherence to principle, or as some have said, obedience to system” (51). This may not, Rawls notes, be central to an ultimate conception of justice, but it cannot be far off.

## **The Incompleteness in the Rational Conception of Justice**

The central idea of Formal Justice is that the system is more important than the individual. It is a value judgment. The superiority of reason itself is a western view, even though reason may be as universal as westerners claim.

Similarly, the other aspects of justice are less intuitive than they may at first appear. The idea that an interaction between two people is best governed by an abstract principle or an uninvolved third party (a judge) rather than the people themselves should not seem necessary or natural.

Rawls asks us to perform a particular thought experiment, called the veil or ignorance, in which we imagine that we can design a society on any principles, given that we are then going to become citizens of that society, without any control on what role we are to fill. Behind the veil of ignorance, our values and tastes, which are largely a result of our bringing, are wiped away. We are allowed no more knowledge, power, or connections than what we are finally born into.

The purpose of this thought experiment is to help find impartial solutions to social problems. If the original position had actually taken place, and afterwards anyone were to be unhappy with the situation in which they find themselves, one can say truthfully that they had agreed to it (and it is certainly just to have the rights and responsibilities that you agree to have). If society is set up as it would be in the original position had happened, then one can make the equally strong claim that one would have agreed. Rawls claims that the original position would result in the mutual agreement on the “difference principle” which is that inequalities should be permitted only where they benefit the least advantaged. However, I will try to show that there are arrangements that could be consistent with the original position while insulting our intuitive sense of justice.

Consider two citizens of Rawls’s system of justice. One has amazing innate musical abilities, but is too lazy to use them, preferring to be supported by the state. The other, through birth or accident, is crippled and cannot support himself, but nonetheless never rests in trying to take what responsibilities he can. Under Rawls’s system, both of these would be at or near the maximized minimum, although their situations are very different.

Consider an outlandish example which exemplifies a more general point. In our society, there is some need for a job which requires three hands to manage it. Normally two people do this job, and either one of the two people is particularly bored having almost nothing to do, or both are somewhat bored and have only some amount of work to do. Along comes a group of people who have three arms to the rescue, and they can do this job easily and with satisfaction. Some in this group, however, are lazy and refuse without considerable incentive. If the need is great enough that all of the three-armed people are asked to work, the laziest would get the highest standard of living and the most social-minded would get the least.

Multiculturalism is another important problem for Rawls. The claim that different groups are unequally affected by equally applied laws is in direct conflict with the idea of justice as fairness. The first principle of Rawls’s theory is that people have as many rights as are maintainable. Given this, one might hope that these conflicts of selectively unjust laws would quit. But this view does not hold up against reflection. It is easy to conceive of a widely

held fundamental right from which cultural groups might ask exception. For example, Rawls' principle of rights clearly requires women be given the same rights as men, although many patriarchal countries would expect the social right to enforce an inequality of the sexes. To take a more humorous example, if it to be disallowed for people to become monks and give up all their worldly possessions, because then they would fall below the minimum set by the difference principle.

The welfare state that the difference principle creates is a pattern system of wealth, which Nozick argued is equivalent to not accepting people's ownership of the wealth beforehand. If it is considered unjust that the least advantaged be lower than they need to be, their rights have to be significantly infringed to maintain their position. Suppose that the least advantaged in a Rawlsian society still get three meals a day. What if one least advantaged convinces another least advantaged to forgo breakfast (to give it to him) for some reason (this is like Nozick's Will Chamberlain example). The second may not make that choice because it upset the pattern.

Another question one must ask is if the discussion behind the veil of ignorance is even metaphysically possible. Without any values at all, how are the participants to make any decisions at all, given that a society might be optimized for many things? Rawls ascribes to people in this original position self-interest, without really having interests at all.

Rawls claims that people in the original position are going to do whatever they can to ensure that they will have self-respect, and he has various arguments to support this claim. However, these arguments do not deeply enough acknowledge that self-respect is a value, and that there is nothing inherent to the nature of human beings or sentient beings in general that requires this value (consider some groups of eastern feudal warriors and self-flagellating religious groups).

Two other plausible answers to the question of the path most followed by humans are education and freedom. Each of these has been considered to accent the most fundamental aspect of a human being: the mind, by Mill, and self-determination, by Nozick. The truth

in this matter is very difficult to pin down.

Also, if the participants in the original position are stripped of everything but their rationality, it is reasonable to suggest that they would consider rationality the most fundamental human characteristic and design the institutions of the world to most allow its growth. Prejudices and emotions in general exist as barriers to pure reason (see Nietzsche, *Genealogy of Morals: What is the Meaning of Ascetic Ideals*). One can imagine the resulting world like that of Star Trek's Vulcan or Robert Pirsig's "Quality-less" world: without art, poetry, music, or a hundred other things that many would say make life worth living.

## **Additional Considerations from the Subjective**

Personal preferences and values are a separate mechanism for reason, but can also be used for making judgments. In our society, and particularly in intellectual pursuits, it is considered a very weak one. That is, wherever there is the slightest bit of reason, it overrides feelings. And for good reason. Because there is no reason behind feelings. Personal preferences can be justified by nothing in the third person. One cannot make a statement of the form, "it is right for me to like what I like because...."

However, these requirements only make sense from the point of view of reason. One could imagine a society in which judgments are made entirely using feelings, except in the cases where there are no preferences one way or the other, in which case reason is allowed to hold for the time being. Problems with such a society would emerge wherever one person had power over another, if that power relationship is not voluntary. If two people have unequal power and differing opinions, one opinion will be supported and the other one ignored. This problem must be dealt with, but I submit that there are solutions.

Another reason why subjective considerations should have a larger role in justice is that they form a large part of what we consider to be our objective reality. All raisers of cows in India accept that cows are sacred, and all will tell you that they would never kill a cow for

their own self-interest. However, it is found that in some areas there are many more female cows than male cows. When the raisers are asked about this, they comment about how the male cows are often weak and fail to get the food they need and die as a result. They truly believe that this is exactly what happens, and do not recognize parts of what we consider to be objective reality which suggest otherwise.

Aspects of social reality are also subjective. Rights and responsibilities exist because people expect them to exist. The system of justice which is supposed to make it a natural consequence of self-interests to pursue social goals is built on the actions of individuals with subjective understandings of what those rules are.

In the end, like Nietzsche's superman, we are free to do as we choose. If we can out think the system of justice, our true rights are unlimited and our responsibilities absent, by the laws of social institutions. I do not mean to claim that we do not have actual rights and actual responsibilities. However, they need to be found in the same place as is the power to use them— within oneself.