

An Evaluation of the Rawlsian Theory of Justice

The variety of conflicting definitions of just societies presented to us by philosophers and political scientists exudes a conflict between guaranteeing liberty and equality to the societies' members. Utilitarianism only implicitly protects basic rights insofar as utility is maximized. Libertarianism seeks to create a society that maximizes liberty while guaranteeing formal equality. Starting equality wishes to eliminate inequality caused by socioeconomic class. John Rawls' democratic equality, however, claims to balance the competing claims of liberty and equality, while ensuring that liberty takes priority. Below I summarize Rawls' assertion and justification of his theory of justice, compare it to alternatives he considers plausible, and evaluate its relevance in light of the capitalist ethic in a free market society.

Similar to the Dworkinian means of determining a fair insurance plan¹, Rawls prescribes a hypothetical thought experiment, called the original position, to determine the principles of a just society via a social contract. In this experiment, representative members of the society formulate policies that they deem just while behind a *veil of ignorance*, behind which persons do not know their own circumstances (ex. social class, background, skills, familial wealth, morals, etc.) or those of their fellow individual human beings. Only behind such a veil, Rawls argues, can the rules of a society be determined justly without biasing one's principles of justice to favor one's own condition. The veil of ignorance ensures that the neither class nor natural ability affect one's outcome in life as one does not know what arbitrary socioeconomic (class) and genetic (natural abilities) properties one will have while behind the veil. This can be

¹ Dworkin, R. (2000). *Sovereign Virtue*. pg. 332. Cambridge, MA: Harvard University Press.

contrasted with a Dworkinian starting equality which only adjusts for social class, because Rawls argues that it is morally illegitimate to distinguish between social class and natural abilities as they are both attributes which one is not personally responsible for (as opposed to one's choices in life), which is similar to Milton Friedman's argument that such a distinction is logically untenable – however, Friedman believes that both sources of inequality are *just*, while Rawls deems them unjust. Rawls concludes that people behind the veil would support both the absolute protection of basic liberties and a safety net paid for by a redistribution of the surplus wages of the wealthiest individuals to the members worst off in society. This social contract formed by the representatives of society in the hypothetical original position form the basis of Rawls' theory of justice as fairness.

Rawls' formulation of justice as fairness is thus composed of two principles. First, the liberty principle which requires that “each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others”² and second, democratic equality which requires that “social and economic inequalities are to be arranged so that they are both (a) to the greatest benefit of the least advantaged ... and (b) attached to offices and positions open to all under conditions of fair equality of opportunity”³. When in conflict, the liberty principle always takes priority over democratic equality, but the list of “basic liberties” would not include, for example, rights to own methods of production taken for granted in current United States law, making it possible to use principle of democratic equality to redistribute wealth more easily. The liberty principle and democratic equality are

² Rawls, J. (1999). *A Theory of Justice*. Revised Ed. pg. 53. Cambridge, MA: Harvard University Press.

³ Rawls, J. (1999). *A Theory of Justice*. Revised Ed. pg. 266. Cambridge, MA: Harvard University Press.

justified, in that Rawls believes that they are the (only) principles that would be agreed upon by a society in the original position.

Rawls initially provides a more vague wording of the second principle of justice; in this wording⁴, interpretations of a system of natural law or liberal equality are plausible in addition to democratic equality – Rawls rejects a fourth interpretation, natural aristocracy, off-hand. The system of natural law (similar in outcome to that of the capitalist ethic) demands only that the law treat people equally, and that whatever results from such a system is then just⁵. This system also follows the principle of efficiency which requires that the society be in a state which could not further improve anyone's condition without harming anyone else's condition. This principle, used by itself, terms multiple distributions of wealth in society efficient that also meet formal equality requirements, but Rawls believes that some of these distributions are more just than others. Liberal equality (similar to starting equality) further requires that anyone of the same natural talents and motivations should be able to work in a certain profession, regardless of their initial socioeconomic class. Rawls finds neither of these interpretations satisfactory, and thus introduces the difference principle, which insists that inequalities are just only if they improve the condition of the worst off – which, in practice, entails a redistribution of wealth from the richest to the poorest to the point where the richest are being paid the minimum required to keep them doing their jobs. This principle combined with the equality of fair opportunity (of liberal equality) creates true democratic equality.

⁴ Rawls, J. (1999). *A Theory of Justice*. Revised Ed. pg. 53. Cambridge, MA: Harvard University Press.

⁵ Rawls, J. (1999). *A Theory of Justice*. Revised Ed. pg. 57. Cambridge, MA: Harvard University Press.

I reject the difference principle not on the grounds that it is logically untenable, but instead because it serves no purpose that a free market system following the capitalist ethic does not already fulfill. The difference principle demands that we maximize the potential of the people lowest on the socioeconomic scale by redistributing the over-compensation of the people highest on this scale. It also demands that this second requirement (of compensating people no less than the minimum required to do their jobs) override the first. However, in an ideal free market, the salary of every person (including those at the top of the socioeconomic hierarchy) has already been optimized to be the minimum required to meet the demand for the particular skills entailed by the job – if the salary is decreased further, people will refuse to work in that profession and the well-being of the entire society (including the worst off) may be decreased as a result of the loss of their services. In fact, Rawls assumes “roughly a free market system” in his original justification of the difference principle and formulation of democratic equality⁶. Therefore, if the free market is operating in its ideal economic state, a government agency that wishes to redistribute wealth by seizing the surplus would have nothing to redistribute.

With this point of view, I believe the outcome of a society which adheres to Rawls’ two principles of justice and the outcome of a society which adheres to the capitalistic ethic would be the same. Specifically, if two societies had the exact same initial state of affairs, except with one following the Rawlsian justice principles and the other exhibiting a free market, the state of each individual at any future time would be the same in both societies. I hold the difference principle relevant if and only if there does

⁶ Rawls, J. (1999). *A Theory of Justice*. Revised Ed. pg. 57. Cambridge, MA: Harvard University Press.

not already exist a free market – a state that I, as a subscriber to the libertarian outlook, already deem unjust. A literal comparison of the capitalist ethic, as defined by Milton Friedman, and Rawls’ principles also divulges their similarity. Friedman’s defense of individual rights, described by “the maximum freedom for each individual to follow his own ways, his own values, as long as he doesn’t interfere with anybody else who’s doing the same”⁷ is almost exactly the same as Rawls’s liberty principle in protecting as many rights as possible without interfering with other’s equal rights. Therefore, I think democratic equality as defined by Rawls would not actually improve the situation of the lowest class as compared to formal equality under a free market, or, alternatively (and equivalently), that formal equality provides the same guarantees of equality that democratic equality provides in the special case of a free market economic system.

I do concede, however, one important exception to this rejection of the difference principle due to its irrelevancy. The reduction of the surplus of wages would reduce to nil if and only if people had the sole goal of accumulating financial wealth. However, I believe that this is a reasonable assumption to make. Even Rawls agrees that a just society is only possible when all members prescribe to generally similar rules of justice⁸; I take as evidence the generally capitalistic practices of the people of the United States, and, in general, a majority of the world’s economically successful countries⁹ that people are motivated, rightly or wrongly, by selfish financial incentives. Moreover, the reliance on the original position does not remedy this situation, since although the principles of justice would be created behind the veil of ignorance that hides one’s own true

⁷ Friedman, M (1999). Interview. "Take it to the Limits: Milton Friedman on Libertarianism." *Uncommon Knowledge*. Hoover Institution. from <http://www.uncommonknowledge.org/99winter/324.html>.

⁸ Rawls, J. (1999). *A Theory of Justice*. Revised Ed. pg. 4. Cambridge, MA: Harvard University Press.

⁹ This argument may be self-fulfilling as the definition of “economic success” would be dependant on the country’s desire to accumulate wealth – a clear sign of capitalistic practices.

motivations, it does not change the actual motivations people will have in society. Even if not all people act in the name of financial self-interest, the difference principle is not a useful addition to the free market because those generous individuals who believe they earn too much would give away the surplus to private charities, thus resulting in a similar distribution to that acquired by the use of the difference principle. It may be argued that those generous individuals may not distribute the money as equally as a government agency could, however if, for example, such individuals wished to discriminate in their generosity, they would simply refuse to lower their pay in the democratic equality model if their extra wages were being redistributed to a group they disliked.

One interesting question that arises from the qualifications of my rejection of the difference principle is whether or not I believe the difference principle would be just if a free market were not in place. Although I would insist that the best solution would be the installment of a free market, if that was impossible, I would have to agree with the employment of the difference principle to remedy the situation. Since a lack of a free market implies that coercion is used in at least some of the on-going transactions between members of the society, some form of compensation must be transferred from the coercers to the coerced. As it is also reasonable to assume that the coerced are those at the bottom of the economic ladder, it makes sense to seize from the coercers the amount of money they illicitly gained – this would be the same as the surplus identified by Rawls because the unjustly gained amount would be the amount over the minimum required to do the job – and redistribute it to the disadvantaged. Unfortunately, my reasons for supporting the difference principle in this specific case (of a lack of a free market) are unrelated to Rawls' formulation of a just society in the original position behind a veil of

ignorance, and are instead tied to libertarian beliefs about the inherent rights to what one produces and the proscription of coercion in general.

Rawls explains his original reason for writing *A Theory of Justice* in the preface to the 1999 revised edition. He says, “A convincing account of basic rights and liberties, and of their priority, was the first objective of justice as fairness,”¹⁰ and in this vein I believe Rawls has succeeded, with his liberty principle conforming to my intuition of rights that should be protected, and, moreover, should prevail over other requirements of justice. However, his second objective, “to integrate the account with an understanding of democratic equality,” is irrelevant in a free market society, as an ideal free market would provide no surplus on which to fund policies based on the difference principle.

¹⁰ Rawls, J. (1999). *A Theory of Justice*. Revised Ed. pg. xii. Cambridge, MA: Harvard University Press.