

Social Justice and Rawl's Difference Principle

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Abstract

In *A Theory of Justice* John Rawls provides a theory of social distribution based on two principles. The Difference Principle is the second principle which states that any inequality that is permitted in society should only be permitted on the basis that it benefits the least favoured in society. Rawls argues that given a situation in which one could not choose one's status beforehand, people would choose a system of social justice according to the Difference Principle. This paper describes three contentions with Rawls' theory. Firstly, it does not account for the 'free-rider problem' whereby the worse off may benefit more by doing less at the expense of the better off. Secondly, one could solve this issue by appealing to the concept of desert which rewards people for their natural abilities, however Rawls rejects this idea. Lastly, it does not address the idea that the least advantaged are motivated by envy. Thus, this essay concludes with the idea that while Rawls' theory of social justice is illuminating, the Difference Principle itself has some flaws.

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Essay

In *A Theory of Justice*, John Rawls provides a contract theory of the principles of social justice in terms of the 'basic structure of society, or [in other words] the way in which the major social institutions distribute fundamental rights and duties [to] determine the division of advantages from social cooperation' (Rawls, 1971, p. 6). The distributive justice proposed by Rawls is underpinned by two fundamental principles. The first principle, which is prioritised over the second, is the idea that people's liberties should be preserved in distribution. The second principle is the idea that any

inequality that is permitted should only be permitted on the basis that it benefits the least favoured in society. This is the Difference Principle which is arrived at from the hypothetical situation of the Original Position. This essay will explain this principle and the way in which Rawls formulates it. It will argue that while the Difference Principle taken from the stance of the Original Position provides a promising framework for the distribution of advantages in society, it is lacking in certain areas, of which this essay focuses on three. Firstly, it does not deal with the free-rider problem, where those who do less work can benefit from the extra work done by others. Secondly, it leaves the possibility that the least advantaged are motivated by envy, which is not a just reason for benefitting from the hard work of others. Lastly by ruling out the concept of desert, it provides a view of personal autonomy that is contradictory to its principles.

Rawls begins his theory by assuming a hypothetical situation which will be known as the Original Position. In order to arrive at a just system of social distribution which is also fair and in which everyone cooperates with each other and is assumed to act justly, one must first remove all biases in order to come to a common consensus on the good of society. Thus the Original Position assumes a veil of ignorance in which one is unaware of what one's social status, income, religion or natural endowments might be when making one's decision. This is so that no one can design the principles in their own favour or allow them to be influenced by 'natural chance or the contingencies of social status' (Rawls, 1971, p. 11). Rawls is specifically concerned with the 'principles that free and rational people concerned with furthering their own interests would accept in an initial position of equality as defining the fundamental terms of their association' (Rawls, 1971, p. 10). This is known as justice as fairness.

According to Rawls, given the Original Position, people would choose two fundamental principles in assigning the distribution of goods in society. Firstly, people would choose 'equality in the assignment of basic rights and duties.' This argument can be comprehended in two different ways. First it can be understood in the sense that 'each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme for others' (Rawls, 1971, p. 53). Liberties here include 'political liberty, freedom of speech and assembly, liberty of conscience and freedom of thought, freedom from oppression, right to hold personal property' (Rawls, 1971, p. 53), and similar liberties. The second connotation of this argument is that 'social

and economic inequalities be arranged so that they are both reasonably expected to be to everyone's advantage and attached to positions and offices open to all' (Rawls, 1971, p. 53). In other words, there should be an equality of opportunity such that people are not prevented from attaining higher positions based on arbitrary social contingencies such as class or social position.

The second principle people would choose given the original position relates to distributive justice, specifically 'the distribution of income and wealth' (Rawls, 1971, p. 53). Rawls says that people would choose a distribution such that 'while the distribution of wealth and income need not be equal, it must be to everyone's advantage' (Rawls, 1971, p. 53). Rawls' formulation of this principle is known as the Difference Principle. The second principle, according to Rawls, that everyone would unanimously agree upon is that 'social and economic inequalities of wealth and authority are only just if they result in compensating benefits for everyone, particularly the least advantaged in society' (Rawls, 1971, p. 13). The idea is that it is just for say a doctor or a pilot to earn a higher salary as he would be providing a service to everyone, therefore it benefits the least advantaged members of society as well. The higher salary provides incentive to complete the necessary qualifications and investment of time and effort required to reach the higher position.

The first contention with Rawls' argument comes from the idea of incentive. Rawls agrees, by allowing for some inequalities to exist in society, that the idea of incentive to encourage people to wish to attain higher positions is important. However, he ignores the opposite issue of the free-rider problem. As Robert Nozick says, by allowing the less advantaged members of society to benefit from the work of the richer, one is essentially allowing the poorer to make claims on the goods of the richer (Nozick, 1973, p. 81). While the presence of a little inequality provides some incentive to work, some of this incentive is taken away by the idea that it would be easier to work less and still achieve some gains at the expense of others' hard work. This is the essence of the free-rider problem. People can choose not to work and be satisfied by reaping the benefits, even whether very little, of the more advantaged, but the more advantaged cannot choose to work for their own benefit without contributing to the less advantaged. Understood in this way, the free-rider problem may hinder the incentivisation of earning a higher salary. Nozick phrases this in a similar way by saying that those who sacrifice working for leisure time can benefit from more leisure but those who choose to work overtime cannot enjoy the extra goods that they could afford. Even if only a little

bit of the gains go to another person, 'it is like forcing the other person to work n hours for another's purpose' (Nozick, 1973, p. 63).

Nozick points out that in such a situation the better endowed are worse off because they cannot choose to work harder to benefit themselves without forgoing some of this benefit. He says that 'the less well-endowed gain more than the better endowed' (Nozick, 1973, p. 47), and even more than they would in a situation where there was no Difference Principle. Rawls might argue that if the difference between the less well-endowed and the better endowed was not significant, this does not dispute the Difference Principle as long as the less-endowed are still gaining from the situation. While their goods aren't being maximised, they are still close to the maximum, therefore the situation is less than ideal, however this situation is preferable to the less advantaged losing out while the more advantaged gain. As long as 'society [avoids] those situations where the marginal contributions of those better off are negative' (Rawls, 1971, p. 68) there isn't a problem. However, this still begs the question of why the less-endowed should be able to make such a strong statement to their benefit while the more advantaged cannot. Rawls does not explain why the better off would willingly oblige to make this sacrifice. A potential Rawlsian response could be that the better off choose to oblige by entering the social contract from behind the hypothetical veil of ignorance. In such a case, when everyone assumes that they could be at the less-endowed part of society, they formulate a principle that will ensure that the less well-endowed gain the most benefit. However, this response still does not justify the idea that the more advantaged in society must willingly, for instance, sacrifice their leisure for labour that they cannot benefit from themselves, whilst the lesser advantaged gain a benefit from that labour.

Rawls gives a range of possible interpretations of the principle of liberty, concluding that the form he wishes to argue for is the democratic interpretation. This includes 'a framework of institutions required by equal liberty and fair equality of opportunity' (Rawls, 1971, p. 65). This alone considered without the Difference Principle should include 'improvements in society so that people avoid too much poverty and wealth' (Rawls, 1971, p. 63), as well as a 'school system to even out class barriers' (Rawls, 1971, p. 63). Also, Rawls specifically talks about a free and rational society, therefore not one in which people are so constrained by poverty that they can no longer be rational. In such a case, one would think that the difference between the least well-off and most well-off

shouldn't be so great as to reflect the need for a Difference Principle. Although there may be many different positions in society, from low position to high position jobs, there should also be an array of different opportunities and viable alternatives so that no one is forced to take up any kind of job. In that case, any wish for the least advantaged to gain more from people in higher positions must be motivated by envy (Nozick, 1973, p. 110). This is not a fair basis to make a theory of social justice. The least advantaged would only want to be more advantaged if unwilling or unable to help themselves, which would lead us back to the free-rider problem. If the least advantaged were just those who were unable to help themselves, there would be less contention, but the theory fails to take into consideration those who are unwilling. A fair theory of social justice must not allow the choice of some to work harder for a greater benefit to themselves to be undermined by the choice of some to refuse to work as hard but still gain a benefit from someone else. Rather, it seems fairer that the better endowed have the same amount of choice as the less-endowed as to whether they are willing to make a sacrifice for those unwilling to help themselves. While Rawls might respond that by choosing to enter into this social contract, one has a moral and social obligation to work as hard as others even if they are paid more, there may be no way of guaranteeing that this is the case.

One solution to this problem which Rawls rejects is an appeal to the concept of desert. As David Miller notes, this concept says that people are endowed with unlimited talents and success depends on the willingness to use them, but also on personal preferences and decisions (Miller, 1999). The idea of willingness and preference are key. When a person uses their talent or natural ability in some performance or activity, they should benefit as long as it wasn't a fluke or based on integral luck (Miller, 1999). This gives people the incentive to work harder and have more entitlement to their earnings. However, Rawls disagrees with this principle. According to him, natural endowments are morally arbitrary as they are arbitrarily distributed and are part of a natural lottery that has more to do with luck than anything else. Similarly, whether one is born into the least advantaged or most advantaged place in society is also a matter of luck and therefore shouldn't be included as a determinant for fair and equal justice. The closest he comes to describing this is in his discussion of the principle of liberty. Here, Rawls describes as a situation in which people with similar skills and abilities have a similar prospect of success regardless of their initial status (Rawls, 1971, p. 63). This is known as the principle of fair opportunity. Rawls rejects this idea, stating that there is no way to guarantee that those talents were not the result, for instance, of being in a family

that supports these better qualities. As Nozick points out though, to take away all natural characteristics of a person is to 'denigrate a person's autonomy' (Nozick, 1973, p. 65). People adopt and use their skills in a variety of circumstances and often regardless of their social backgrounds. Nozick's point seems to be that this individuality should be celebrated, as each person's own skill and talent is an advantage. Rawls' rejection of this seems to be contradictory to the concept of human dignity itself that he is trying to uphold. The rejection of this expression of individuality seems contradictory to Rawls' position that the principle of preserving people's liberties should take precedence over the Difference Principle.

In conclusion, although Rawls' argument for the Difference Principle based on the Original Position and veil of ignorance provide some useful insights into how to form principles of social justice, particularly his concept of liberty, the Difference Principle itself has some flaws. It allows for the existence of the free-rider problem where it is easier to contribute less and gain more than it is to contribute more, thus blocking productive incentives. Rawls doesn't provide an adequate guarantee that those who were unwilling to work would not exploit the labour gain of those who work harder. In a free and rational society, the Difference Principle shouldn't be needed if other institutions are upheld and constantly working to fix inherent inequalities in societies, such as by reducing class barriers. Any existing wish for the least advantaged to want to gain more would be motivated by envy, which is not a fair basis for a theory of justice. A possible solution to this problem would be to include the concept of desert, which focuses on actual action and willingness to perform. However, Rawls' rejection of this concept shows a denigrating view of personal autonomy which is contradictory to the very principles he wishes to preserve.

References

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