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Principle of Justice and Moral Judgement

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ABSTRACT

This research paper is focusing on the Rawl's idea of the 'veil of ignorance and his assumption about rational and equal contactors which present strong advantages from the moral point of view as conditions for the derivation of principles of justice. It is an attempt, to imagine a situation in which our views on justice are not clouded by our actual real interests determined by our place in a distribution. The veil of ignorance prevents us from shaping our moral view to accord with our own particular attachments and interests. But it is one thing to apply the test of the veil or ignorance to particular individual persons to detect their views on justice; and quite another to claim, as Rawls does, that in a society the adoption of this perspective by all would lead to unanimous agreement about the principles of justice. In order to prove this second point Rawls would have to prove two important assertions. He would have to prove, first, that the conditions of his original position represent only the pure model of a rational choice situation and do not presuppose any substantial moral judgements (otherwise the argument would be circular). Secondly, he would have to prove that the same conditions of the original position cannot lead to the derivation of any other set of principles. Now, as a vast number of Rawl's critics have argued, both these propositions are untenable; the common strategy for refuting them is to show that it is necessary to appeal to intuition both in order to construct the original position and in order to derive principles of justice, and that this appeal to intuition conceptually precedes the derivation of principles of justice.

INTRODUCTION

Rawls describes his aim as "to characterize this situation (that is, the original position) so that the principles that would be chosen, whatever they turn out to be, are acceptable form a moral point of view and he believes that his interpretation of the original position best expresses the conditions that are widely thought reasonable to impose on the choice of principles'. But all the implies that he has a view about a 'desired solution', about criteria of what is acceptable form a moral point of view and a knowledge of "conditions that are widely thought reasonable from a moral point of view that are prior to the original position and the derivation of principles of justice.

If, as Rawls explicitly admits, the derivation of the principles of justice is tailored to suit some prior moral conceptions, the obvious question is: what are the justifying grounds of those prior moral judgements? It is certainly not the fact that they are widely thought reasonable. The justification of moral principles is not a matter of counting heads; Rawls obviously does not hold theory that whatever people think just is just. He expressly states that for the purposes of this book, the views of the reader and the author are the only ones that count. But if the same time, the construction of the original position and the derivation of the principles must some prior moral judgements (even if only those of the reader and the author), the only way to interpret the nature of those judgements is to take them as a product of moral intuitions. But in that case the social contract has no independent justificatory force but is merely an expository or didactic device for explaining principles already held. It can be asserted without dispute that one the same contract situation can be a basis for any number of completely different set of principles as a function of different prior evaluate assumption. In Rawls' case, those are prior moral assumptions that cannot have any other source than intuition. Let us consider his idea of the lexical priority of liberty: a rule saying that no amount of socio-economic gain (to which his second principle of justice applies) is a good reason for accepting less extensive or less than equal liberty (described by the First Principle). This priority rule is derivable from the original position only if some additional moral evaluations are accepted.

RAWLS' CONCEPT OF MORAL JUDGEMENT

Which are not inherent in the initial contract situation itself. It does not follow solely from a rational choice situation with its "weakest possible assumptions". Although Rawls several times promises that he will show why at a certain stage of socio-economic development, after the most urgent material needs are satisfied, it becomes and then remains irrational from the stand point of the original position to acknowledge a lesser liberty for the sake of greater material means and amenities of office, he

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actually does not honour this promise. Nowhere in the passages dealing with the priority of liberty does he explain why it would be irrational for the original contractors to design a scheme of trade-off between liberty and economic gain. Whenever he asks himself a question about the grounds of the priority of liberty, he answers by asserting that liberty (after basic needs are satisfied) is more important than material gains). Time and again he repeats phrases like this: "Increasingly it becomes more important to secure the free internal life of the various communities of interest", or stresses the central place of the primary goods of self-respect and the desire of human beings to express their nature in a free social union with others' etc. But this is simply the assertion of the moral primacy of the value of freedom over the values, and in particular, an assertion of the principle that no amount of economic gain can compensate any loss of liberty. Those assertions are no 'justification of the priority of liberty in non-tautological terms-that is, in term other than the supreme value of liberty. But Rawls repeatedly suggests that this principle would be adopted by the original contracts as the most reasonable and therefore, that it can be justified by appeals to values other than those directly postulated by this principle (otherwise the argument would be circular).

The most likely candidate for those other values would be rationality understood as prudence. In a characteristic 'justification of the two principles of justice, Rawls says that: The two principles of justice have definite advantage. Not only do the parties protect their basic right but they insure themselves against the worst eventualities. They run no chance of having to acquiesce in a loss of freedom over the course of their life for the sake of a greater good enjoyed by others.

But again, it is a restatement of a position rather than an argument. The last two phrases justify a view of the advantage of Rawlism principles only if we assume that parties to the original position will absolutely prefer freedom to material gains in case of conflict between both. But perhaps they are less seduced by the vision of the most extensive possible freedom than by the possibility of some additional socio- economic gains; perhaps they prefer rather to run to risk of sacrificing the most extensive possible economic benefits. In this case it would be reasonable for them to approve a loss of portion of their freedom 'for the sake of greater good enjoyed by others' if the scheme satisfies the difference principle, that is if greater good is enjoyed by the worst-off. The priority of liberty is therefore being assumed rather than justified; it is one of the tacit evaluative assumption of his theory that cannot be considered as the 'weakest possible assumption'.

There is probably nothing particularly revealing in showing that a conception of justice relies on moral intuitions. No philosopher is a magician who can derive substantive moral principles from more or less neutral assumptions. Rawls himself admits that any conception of justice will have to rely on intuition to some degree. But if this degree' turns out to be very high, the justificatory power of the contract argument becomes questionable.

Now, 'reflective equilibrium' does have an important role in actual moral reasoning as a device for bringing about coherence of moral principles and particular moral judgments. It is also a fair description of our usual reasoning about hard moral cases. We try to work out a general principle on the basis of our strongly held particular judgments (inductive reasoning) and then apply this moral principle to a difficult or controversial issue (deductive reasoning). In the situation of a clash between a general principle (established on the basis of some other particular convictions) and a particular conviction of justice, we must have freedom either to modify the general principle or to change the particular judgment of justice. Aversion to changing the principle when it clashes with strong moral convictions is a symptom of moral dogmatism; incapacity to change judgments of justice when principles so dictate is a sign of an unprincipled, case-by-case approach to morality. In its extreme version, this latter approach deprives moral discourse of its essential feature: the universality of moral principles, the defense of a moral decision in terms more general than one particular case. Those two deviations should be avoided, by a two-way approach to a reflective equilibrium' but a decision about which way should be chosen in any particular instance is to be made by the person who makes the moral decision or proposes the moral principle. Ultimately it depends on the relative intensity of our convictions and principles. If, however, we decide to modify a principle under the influence of a very strong particular judgment of justice, we must remember that its change will lead to a change in some other particular judgment of change now justice, on the basis of which we have established the very principle that is subject to a change now.

"Reflective equilibrium is, thus, a useful and adequate description of the introduction of coherence into a moral system through a combination of inductive and deductive reasoning. But, to avoid the objection of circularity, the equilibrium' must have its external source. It is not a satisfactory argument if we say, for instance racial and religious discrimination are immoral; therefore, all discrimination on irrelevant grounds is immoral (induction); discrimination of women is based on irrelevant grounds; therefore, it is immoral (deduction). Although that is probably the way we actually often think, a moral theory tries to find some justificatory source for the whole argument. Such as 'external source of reflective equilibrium in Rawls' theory is provided by a hypothetical social contract but, for reasons suggested above, it cannot be seen as independent moral source because the conditions of the contract are already molded by the convictions of justice that are believed to be a part of reflective equilibrium what is the source of those convictions that influence the conditions of the initial contractual situation? Answering this question Rawls, must appeal either directly or indirectly to intuition. Hence social contract is superfluous as a part of moral justification; it can be viewed as a useful didactic tool, but as a part of reflective equilibrium' it creates an illusion that it is an objective', non-intuitive factor in justification.

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It is clear then that for Rawls common sense precepts, essential convictions and historical traditions are prior to not derived from conditions for a social contract. They shape the structure of the original position, not the other way round. The upshot of these considerations is that ultimately, we appeal to our moral intuitions when proposing principles of justice and that the job done by a hypothetical social contract is derivative form prior moral intuitions. Now, this view may seem very unsatisfactory to those who seek more solid and objective' grounds for principles of social justice then something so enigmatic and unintelligible as moral intuitions. Secondly, this view may also be objectionable to those who are offered by the apparent absolutism of intuitionism' conceived as a theory claiming the discovery of self-evident moral truths by means of direct insight'. Paradoxically, then, direct appeal to moral intuition is susceptible to quite opposite objections that it is too weak and too strong, that it does not help solve moral controversies and then it attempts to impose arbitrarily 'true' answers to difficult moral questions.
To take up the second point first, I should like to suggest that the ultimate appeal to moral intuitions in defending moral principles and judgements does not necessarily entail endorsement of a meta-ethical theory of 'intuitionism with all its traps and overstatements. In particular it does not necessarily entail two views shared by meta-ethical intuitionists, that, firstly, truth and falsity can be attributed to moral judgments and hence that morality is a matter of knowing (although in a different sense than knowledge about natural facts), and secondly, that moral truths are self- evident, necessary and indubitable because they are propositions synthetic a priori. Without entering into the debate on other merits or demerits of such radical intuitionism, it seems to me that view endorsing these two points has a practical setback, it clouds rather than illuminates the seriousness of moral disagreements about judgments and principles of justice. If the persistence and the inevitability of such disagreements is taken to be one of the most important facts about morality, and in particular about judgments of social justice, then meta-ethical intuitionism is hardly helpful in explaining the nature and the sources of such disagreements. Intuitionism, endorsing the two prepositions cited above, cannot avoid the conclusion that in cases of moral controversy some people know the truth, others are mistaken. In consequence, the intuitionist must end up with a statement that: The fact that people disagree in moral matters, even concerning basic, ultimate moral issues, is evidence that they cannot all be right, not that the judgments involved are incapable of truth or falsity.

While discussing the objection of intuitionism, Rawls' main argument is that intuitionism is of no help in weighing moral principles against one another in case of conflicting values, because it contains no priority rules and we are simply to strike a balance by intuition, by what seems to us most clearly right. The view that he is refuting is that moral intuitions (which are sources of our judgments) cannot suggest any priority rules in case of competing values or principles: no principle is ultimate, there is plurality of second-ultimate principles and conflicts among them are practically solved only on a case-by-case basis. According to Rawls: Intuitionism holds that in our judgments of social justice we must eventually reach a plurality of first principle in regard to which we can only say that it seems to us more correct to balance them this way rather than that.

This is, however, to attack a man of straw. This version of Intuitionism, although conceivable, is an incomplete conception of justice. It states that there are several "first principles" (in fact, they are only-'second principles') but by failing to prescribe priority rules it is useless for guiding our actions in hard cases. There is no reason to think that in a meta-ethical theory of Intuitionism must be linked to an incomplete conception of justice: Intuitionism may, just as any other theory, postulate priority rules. If we can intuit several 'first principles', why can we not intuit the first principle? There is no reason for moral intuition to stop at an intermediate level in the hierarchy of moral principles. Actually, Rawls himself observes: 'Perhaps it would be better if we were to speak of Intuitionism in this broad sense as pluralism'. This is a disarming statement of course it would be better! But in this case Rawls' objections would hold against any form of moral pluralism that might just as well be a social contract theory as an intuitionist one, and then it would become obvious that his arguments are not relevant as a criticism of intuition as a moral source. Hare rightly observes that: There can also be another, non-pluralistic kind of intuitionist- one who intuits the validity of single method, and erects his structure of moral thought on this.

Rawls' arguments about the weakness of intuition are therefore misdirected: they also probably stem partly from a confusion of the meta-ethical theory of Intuitionism with the normative intuitionist ethics that is actually refuted (in one of its versions) by Rawls. Intuitionism's weakness lies elsewhere: not in the fact that it does not guide our actions by clear priority rules but that the scope of inter personal arguments about them is so limited. People's values, including principles of justice, are as emotivity maintain, solely expression of their emotions or recommendations of actions. They are not totally 'arbitrary' or 'irrational', principles of justice are often the result of rational considerations about the possible consequences of various rules, structures and actions, the consequences for human beings in terms of their life, dignity, prosperity, liberty, etc. People value certain principles more than others because they know (or think that they know) possible consequences of putting them into practice that is 'rational part of arguments about justice and that is a legitimate field for moral dialogue. Moral judgments are not derived from facts but they correspond in a certain way to facts. People make their judgments not always arbitrarily and not always as emotional responses to challenges but also as considered convictions based upon expected consequences resulting from action upon them. But the ultimate evaluation of those consequences hangs upon subjective principle: standards of right and wrong underivable from empirical facts or from even higher standards. Those ultimate value judgments cannot be argued about in terms of empirical facts

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because it is the latter that are assessed by the former. Reflection upon the facts and the facts alone does not entitle us to make value judgments about them.

CONCLUSION

The alternative either our value judgment express "moral truth and therefore in case of disagreements at least one view is mistaken or our judgments are totally arbitrary and irrational, does not exhaust the whole list of possible approaches to morality. The view that I would like to suggest is that moral judgments are neither arbitrary nor verifiable in interpersonal discourse. The fact that people cannot prove the truth of their principles of justice and that those principles cannot be attributed truth from any human point of view, does not necessarily mean that those people hold their respective views without any rational justification. Those judgments cannot be proved" but they can be justified; they can be justified, but they cannot be agreed upon by all. Not because some of them are less strongly justified, nor because some people are less rational; the lack of moral consensus is not a contingent but an inherent feature of human morality. Human disagreements about considered principles of justice and the impossibility of reaching any consensus in interpersonal discourse, express the very nature of morality.

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