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Theory of Justice: Philosophical Understanding of Rawlsian Justice

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ABSTRACT

With his claim that a society in which those with resources assist those in need is not merely moral but also rational, John Rawls revitalised the fields of political and ethical philosophy. It was his idea to apply the positivist method to moral and political issues. This interpretation is new; in fact, it is more commonly believed that he broke with positivism, restored the social contract and Kantian traditions, or brought rational choice to ethics. These more widely accepted interpretations are partially based on Rawls' own self-descriptions as a Kantian, a social contract theorist, and a rational choice theorist. The scope of the argument and its support have been shaped by considerations of justice, social practices, moral psychology, the consequences of morality, and the nature of philosophy in ethics. He took a positivist approach to philosophy, even though the social contract traditions were now used to reframe this positivism. Rawls' magnum opus, "A Theory of Justice," has integrated all these subjects. But this book's guiding philosophical conception was predictably anti-foundational. This research paper focuses only on the first section of the book because it has the essential premise of his argument. It is that the positivist expectation that all reasonable people will reach the same conclusion in their assessments and because it is this premise that explains the contradictions in his opinions and, so, the way his ideas developed later. Although various scholarly commentators have concurred with Rawls, their interpretations of how the principles of justice originated from and applied to everyone have significantly varied.

***Keywords**: Justice, philosophy, positivism, social contract, Kantian.*

I. INTRODUCTION

John Rawls outlined his ideas about justice while rejecting conventional political philosophical approaches, claiming that "while some moral principles may seem natural and even obvious, there are great obstacles to maintaining that they are necessarily true, or even to explaining what is meant by this."[2] These reasons caused him to completely reject foundationalism because, in his opinion, "there is no set of conditions or first principles that can be plausibly

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[2] John Rawls, *A Theory of Justice* 578 (Harvard University Press, Cambridge, 1971).

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claimed to be necessary or definitive of morality and thereby especially suited to carry the burden of justification."[3] His own perspective on justice-related issues was correspondingly anti-foundational, based on the idea that conceptions of justice are justified as a whole, supported by a variety of factors, and justified not absolutely but relative to one another.[4] Above all, he took a positivist approach to philosophy, even though the social contract traditions were now used to reframe this positivism. His argument in his seminal book "A Theory of Justice" was positivist in two ways: it assumed that all reasonable people would concur on enough of their considered judgements of justice and understood philosophy as an analysis or explication of those judgements.

Despite its limitations and presumption that the conceptual frameworks of all reasonable people are sufficiently similar, meaning holism was associated with Rawls's anti-foundationalism. The specifics of his philosophical stance in his book prove this limited holism. His central belief was that "justification proceeds from what all parties to the discussion hold in common."[5] As a result, his objectives in the book was to gather "widely accepted but weak premises" and show that, once combined, these assumptions imply a single conception of justice or at least "impose significant bounds on acceptable conceptions of justice."[6] The idea was to take as premises considerations on his viewpoints most broadly and the "provisional fixed points" or judgments "which we presume any conception of justice must fit" more specifically, the truths of moral psychology, and the implications of having a morality.[7]

This research paper evaluates Rawls' theories about the justification requirements. It provides insights into his conceptualisation of formal limitations on the concept of justice, the implications of having a morality and a notion of the good, and the derivation of the principles of justice from thoughtful judgements.

II. ANALYTIC CONSTRUCTION OF RAWLS' VIEWPOINT

Rawls aimed to illustrate to us the limitations that seem reasonable to place on arguments for justice principles through an analytical construction or thought experiment.[8] Each description of the thought experiment was meant to reflect considerations relevant to questions of justice. He emphasised this feature of the experiment: "Each aspect of the contractual situation can be

[3] *Id.*
[4] *Id.* at 579.
[5] *Id.* at 580.
[6] *Id.* at 18.
[7] *Id.* at 20.
[8] *Id.* at 18.

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given supporting grounds."[9] His goal was to argue that, given this defensible description of the situation of choice, two principles of justice, known as "justice as fairness," would be the unique solution to the problem of choice.[10]

The person who oversaw describing the chooser and the factors that went into his decision to select the principles of justice had a major influence on the analytical construction. Like how it was in the middle of the 1960s, this idea of the individual was clearly Kantian, but it was focused more intently on the idea of autonomy or behaving like a rational person. As Rawls wrote:

> "An individual acts autonomously when the principles of his action are chosen by him as the most adequate expression of his nature as a free and equal rational being. The principles he acts upon are not adopted because of his social position or natural endowments, or in view of the kind of society in which he lives or the specific things that he happens to want."[11]

The conception of the rational person was unchanged: he was a "moral person," or a person with the capacities to form conceptions of the good and a sense of justice.[12] This double-edged capacity made human beings into "free and equal rational beings."[13] Many other features of the rational person were "the outcome of natural chance or the contingency of social circumstances" as they were not essential to being a rational person.[14] These features included the individual's social position, natural endowments, the kind of society in which he lives or the "specific things that he happens to want," and other characteristics such as race and gender.[15] It would be hypocritical to act heteronomous and lose one's autonomy in order to defend one's moral convictions using these kinds of facts. Rawls aimed to present a case that upholds one's autonomy while choosing the principles of justice.

The Kantian conception of the person determined considerations in terms of which the persons in the original position chose principles of justice. It provided justifications for evaluating alternative conceptions of justice based on primary goods. The primary goods were those that any person needed to develop and exercise these two capacities, as defined by Rawls' conception of a rational person, or one who can form a conception of the good and develop a sense of justice. In other words, they were necessities for any rational person. His premise was

[9] *Id*. at 21.
[10] *Id*. at 119.
[11] *Id*. at 252.
[12] *Id*. at 12.
[13] *Id*. at 252.
[14] *Id*. at 12.
[15] *Id*. at 252.

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that rational people in the real world would rather have more primary goods than fewer; this premise was then applied to the first position, which resolved the conundrum of offering selection criteria without succumbing to heteronomy.[16]

Likewise, the Kantian understanding of the person disregarded factors unrelated to justice-related issues. The "veil of ignorance," which blinded those in the original position to some types of knowledge and thus prevented them from using certain types of reasons in the choice of the principles of justice, was the primary tool for this purpose. Consistently with the Kantian conception of the person, the persons in the original position did not have any knowledge of the particularities of their own person, including their place in society, class position or social status, natural assets and abilities, such as intelligence and strength, or their own beliefs about the good life.[17] Nor did persons in the original position know any particular facts about their own society or the generation to which they belonged. Deliberations about justice were to be carried out without recourse to these kinds of facts.

It is not necessary to outline the rest of the analytical framework or go over Rawls's reasoning that goes ahead from these premises to the conclusion that justice is synonymous with fairness. However, it should be noted that the original position was a crucial part of Rawls' positivist philosophy. It was a thought experiment designed to compile the widely held considered judgements and, by combining their force, reveal the conception of justice that these considered judgements implicitly revealed. These "widely accepted but weak premises" started to take on more Kantian characteristics in 1965, and the "reasonable person" and the "Kantian person" grew increasingly coextensive. The content of the justice principles was affected by Kantian presumptions, but Rawls's positivist understanding of philosophy was unaffected.

III. INTERPRETATIONS IN LINE OF KANTIANISM

In the years at once following the publication of "A Theory of Justice," Rawls was often interpreted as a rational choice theorist. For instance, on the key question: "Why should I do what is right?" is typically followed by an answer "Because doing what is right is in your self-interest." Rawls gave some grounds for this interpretation by describing his argument as "a part, perhaps the most significant part, of the theory of rational choice."[18]

In fact, however, the relationship between rational choice theory and Rawls's argument is the inverse. Rawls acknowledged this more than twenty years later, considering his original self-

[16] *Id*. at 142.
[17] *Id*. at 137.
[18] *Id*. at 16.

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description as incorrect. He said that in fact the rational choice theory is itself part of a political conception of justice because the account of the parties (in the original position), and of their reasoning, uses the theory of rational decision.

Rawls was impressed by the deductive nature of decision theory and its consequent decisiveness. This decisiveness resulted from a clearly and sufficiently robustly defined chooser and the situation of choice. He intended to achieve this decisiveness by defining the situation of choice by premises sufficiently robust to make conclusion. As he wrote in his book:

> "The argument aims eventually to be strictly deductive. … Unhappily, the reasoning I shall give will fall short of this, since it is highly intuitive throughout. Yet it is essential to have in mind the ideal one would like to achieve."[19]

The second similarity between Rawls's argument and rational choice theory is the similarity between the key definitions in the original position which is rationality and mutual self-interestedness, and the key definition of rational choice theory, i.e., rationality and egoism. Rawls deliberately adopted a standard definition of rationality, also shared by rational choice theory, as "taking the most effective means to given ends" to "avoid introducing into it any controversial ethical elements."[20]

While it is true that persons in the original position are defined as mutually self-interested, Rawls's motivations for this description are different from the rational choice description of egoism. The latter definition is meant to capture the true and hidden nature of human beings. Mutual self-interestedness, on the contrary, is meant to reflect the implications of the concept of morality, or what Rawls called the "circumstances of justice."[21] When questions of justice arise, he thought that they arise because persons advance conflicting claims to social goods and are unwilling to concede their position on reasons other than those relevant to justice.[22] Thus sympathy, pity and other irrelevant reasons do not make the claimants cede their claims. The ground for this description is that "as a matter of realism, this is how things are," although it would be more proper to say that questions of justice should be decided only by reasons relevant to such questions. The condition of mutual disinterestedness of the parties in the original position was meant to reflect this feature of the circumstances of justice and ensure that the choice of principles does not depend on sentiment and affection. As he summarised this condition in his 1962 lectures on political philosophy, "the point of the 'mutually' is only

[19] *Id*. at 121.
[20] *Id*. at 14.
[21] *Id*. at 126-130.
[22] *Id*. at 129-130.

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to indicate that the parties are not self-interested simpliciter (they are not rational egoists), but they regard themselves as having legitimate interests which they are prepared to press on one another…."[23] Then, he used rational choice theory as a useful guide for the analysis of our conception of justice, but never saw it as a correct conception of philosophy. Rational choice theory had quite different implications in ethics. He admired and adopted some aspects of this approach but rejected its broader aims.

Rawls has often rightly been understood as a Kantian. Rawls himself called justice as fairness "highly Kantian in nature," and stated that "there is a Kantian interpretation of the conception of justice from which the principles derive."[24] Rawls's self-descriptions in this case are entirely accurate: as we have seen, the conception of the person on which the argument in the original position relies is highly Kantian. But, despite the Kantian aspects of his principles of justice, Rawls was not a Kantian in his conception of philosophy as he did not justify his principles of justice in a Kantian way, however, broadly conceived.

Two reasons stand out. First, Rawls has always understood moral philosophy as analysis of considered judgments, and, in the anti-foundational way which he made very explicit in the 1960s, he allowed that, in principle, any considered judgment as any part of a moral theory can be rejected as misguided. He reaffirmed this anti-foundationalism in his book, emphasising that "even the judgments we take provisionally as fixed points are liable to revision."[25] As part of these considered judgments, the Kantian conception of the person is also in principle liable to revision, even if in practice Rawls was confident that it describes the considered judgments correctly. This way of arriving at the conception of the person is clearly incompatible with Kant's: Rawls did not claim that this conception of the person was self-evident or necessary. Instead, Rawls sidelined the concept of "necessity" altogether, claiming that without a broader background in which "necessity" gets philosophical significance, this concept has no use.

Neither is Rawls's conception of philosophy Kantian in the second respect: principles of justice are not defended as implications whether these implications are necessary or not of practical reason. Rawls disowned this interpretation of his later arguments in another important book, "The Law of Peoples," stating explicitly that "at no point are we deducing the principles of right and justice … from a conception of practical reason in the background."[26] While no such explicit statement can be found in "A Theory of Justice," Rawls's 1999 disassociation from the

[23] Harvard University, *John Rawls Faculty Papers* 71 (Harvard University, Cambridge, 1962).
[24] *Supra* note 1, at viii and 251.
[25] *Supra* note 1, at 20.
[26] John Rawls, *The Law of Peoples* 86 (Harvard University Press, Cambridge, 2001).

Kantian argument applies fully to this argument in 1971. Admittedly, he did draw implications of making an ethical judgment that these were the constraints on the concept of right, including universality and finality. If one makes an ethical judgment, he assumed, it applies to all persons in similar conditions and cannot be changed if it goes against one's interest. These constraints on the concept of right were incorporated into the argument from the original position, but only as part of the many considerations needed to deduce principles of justice.

Throughout the 1960s and in his book, Rawls supported that the principles of justice cannot be derived from any one kind of consideration. In particular, he thought, principles of justice could not be derived from formal conditions on the concept of right. He argued then that "we cannot … derive the content from the formal conditions alone": "this is too slender a basis."[27] Therefore, even when interpreted in this his own way, the practical viewpoint was only partially relevant to his defence of justice principles. Given the circumstances, he was unmistakably Kantian in both its understanding of the individual and the substance of the laws of justice. But the book's philosophical framework was not Kantian; it did not treat ethical principles as necessary consequences of reaching an ethical conclusion, much less as implications of making an ethical judgement.

IV. INTERPRETATION IN LINE OF SOCIAL CONTRACT THEORY

Rawls was also regarded as a social contract theorist, as he has also been interpreted. Because his demands that a conception of justice be accepted by all, this interpretation endures. There are two primary ways to understand he as a proponent of the social contract theory because he demanded that everyone in the original position concur on the rules of justice as well as that all reasonable people in the actual society do the same. While the second focused on agreement in real society, the first highlighted agreement in the original position. However, neither of these readings takes into consideration his primary aims in "A Theory of Justice." In the first, the agreement in the first position is erroneously highlighted. The second is superior in many ways; it correctly focuses on the consensus of reasonable people in the real world and perceptively highlights the social contract components that his argument has. However, it also overlooks the fact that the contractualism requirement adds nothing new to his conception of philosophy. But rather, it imposes itself on the positivist presumption that all reasonable people would concur in their well-considered conclusions.

Rawls gave grounds for the social contract interpretation of his work by describing his seminal book as the "traditional theory of the social contract" but "generalised and carried to a higher

[27] Harvard University, *John Rawls Faculty Papers* 169 (Harvard University, Cambridge, 1962).

order of abstraction."[28] A year later, in a 1972, he further described his argument as merely an extension of Jean-Jacques Rousseau's social contract's core insights. Key among these was Rousseau's claim that the general will is universal in its source that it is shared by all: "the general will, to be truly what it is, must be general in its purpose as well as in its nature; … it should spring from all and apply to all."[29] The idea that acknowledges that developing the contract doctrine into a fairly clear moral theory was crucial was rendered obsolete by Rousseau's discovery.[30]

V. ANALYSIS

The original position and the contract that results from it, according to Rawls, are thought experiments designed to simulate the careful assessments of reasonable people in the real world. He rejected the social contract interpretation of his work. The argument in the thought experiment derived its strength not from the contract feature but rather from the pertinent considerations for the question at hand, as he had previously written in 1964 while outlining the foundations for political obligation. No one is bound by an actual agreement; rather, people are bound by certain acts that have the necessary quality of being in line with principles.

The original positions and the contract's purpose was to shed light on the carefully considered decisions made by reasonable people in the real world. Therefore, it was also intended to reveal something about our carefully considered judgements through the agreement among those in the original position. If the original contract further supports the principles of justice, it does so by proving that the premises taken together are in fact strong to choose one conception of justice and, so, prove that all reasonable people share sufficient well-considered judgements.

While there are undoubtedly sections in "A Theory of Justice" that lend credence to the contractarian reading of Rawls, Rawls's argument does not rely on the fundamental contractarian assumption that political philosophy is a pragmatic endeavour involving compromises. In fact, it has no bearing at all due to the positivist presumption that all rational people already reach the same conclusions and that gathering and analysing these conclusions is all that is necessary. A compromise along the lines outlined above is not necessary. This is clear from a comparison of Rawls's later argument in "The Law of Peoples" with "A Theory of Justice." In this later book, Rawls argued that different reasonable people would justify the law of peoples from their own points of view, using various kinds of arguments. Rawls had conceded the central positivist assumption that all reasonable persons would agree in their

[28] *Supra* note 1, at viii.
[29] Jean-Jacques Rousseau, *The Social Contract* 75 (Maurice Cranston trans, Penguin, London, 1979).
[30] Harvard University, *John Rawls Faculty Papers* 1 (Harvard University, Cambridge, 1972).

judgements of justice. The original position's argument was only considered a potential defence of national laws. The earlier book lacks this first step towards the contractarian position, which acknowledges the possibility of strong disagreement. It is expected of every reasonable person to follow the same line of reasoning.

VI. CONCLUSION

The background of the first stance proves Rawls' evolving views. As a part of the positivist tradition, it was initially created in the middle of the 1950s with the intention of testing his central premise, namely, that all reasonable people would reach the same conclusion and that justice-related decisions could therefore be considered objective. But he started to recast the original position's goals as he was influenced by the rational choice theory in the early 1950s, the social contract tradition in the late 1950s, and Kantianism in the mid-1960s. As a result, the original position's connection to positivism was obscured. It was intended to function as the analysis of the thoughtful decisions of reasonable people, but despite this repurposing of the original position, it persisted as a part of his larger positivist framework.

While rational choice theory filled in some of the reasoning that led to the derivation of the two principles of justice, Kantianism provided the premises from which Rawls drew his inspiration. These two traditions were complementary to positivism. The social contract tradition amounted to a hollow rephrasing of the positivist presumption that all reasonable people must concur in their assessments. In theory, this tradition could have rivalled Rawls' positivist conception of philosophy. He persisted in viewing philosophy as an empirical investigation, examining reasonable people's conclusions to uncover their underlying unity.

Thus, narratives arising from the distinction between positivism and the interpretations can be used to conclude it: Kantianism, social contract theory, and rational choice theory do not always provide a philosophical conception. Therefore, it makes sense that Rawls employed the methods of rational choice theory to support his claims and was both a positivist and a Kantian. When taken into consideration, theories of rational choice, social contract, and Kantianism can offer philosophical conceptions that are comparable to positivism.

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