

John Rawls's Principles of justice *Christopher Storelli*

Social and political theories are philosophically justified through human nature because it provides the moral component to the concept of justice. Justice is a concept that is balanced between law and morality. Laws can be used for the good or bad of a nation's citizens. Those that support citizens and create and promote social harmony are considered just. The good of a citizen and social harmony, however, can be accounted for in different ways, most of which depend on the account of human nature that a theory uses.

Rawls defends his account of justice as fairness by utilizing the family. Rawls's hypothetical model of human nature generates the principles of justice that are supposed to represent the moral basis of political government. His original defense of this position is in *A Theory of Justice*. According to these principles, humans need liberty and freedom to pursue their interests as long as they do not harm others. People accomplish happiness by freely pursuing interests within a supportive society. Rawls is considered to be a liberal political philosopher because of his argument that every citizen deserves the same opportunities to succeed as every other citizen. I will discuss Rawls's argument for justice as "fairness" in society and the family. I will begin with the two principles of justice that Rawls generated from his model. I will then briefly explain Rawls's defense of democratic equality, which he thinks is chosen by the principles. Then, I will present a criticism that Susan Moller Okin makes against Rawls's model. I will present the main reasons why she argues against Rawls's hypothetical approach to justice. In conclusion, I will present Leonard Choptiany's criticism of Rawls's view and how it supports Okin's position.

Rawls argues that his principles of justice should be used to assess the justice of actual social institutions, such as political governments, that govern human beings. Rawls bases these principles on his argument that a certain form of justice is essential to human flourishing. According to Rawls, human beings have specific, clearly defined, characteristics that must be accounted for in any theory of justice. He argues that his theory best captures these characteristics and generates a resource for evaluating real social institutions. Rawls belongs to a philosophical tradition called social

contract theory. In general, this tradition uses a model of human nature to argue for a position on the concept of justice, how it should be met and how it should be enforced. The model is created by first clarifying the human features that must be met by the theory. The model arrives at conclusions about justice by showing that humans with the features would agree (or contract) to obey and enforce the rules of governance that emerge from the model. Rawls's theory, however, differs from traditional theories like John Locke's or Thomas Hobbes's. This is because Rawls makes it very clear that his model is a hypothetical model used for the purposes of generating conclusions specific to the concept of justice and nothing else. Rawls calls this "justice as fairness."

Fairness occurs when a society insures that each citizen is treated equally in the eyes of the law and is given equal opportunity to succeed in a socially balanced life of his or her own choosing. To contrast a model that captures "justice as fairness," Rawls imagines a hypothetical situation in which no one has any arbitrary advantage over anyone else. He calls this situation "the original position." The decision makers in this position are behind a "veil of ignorance," which means that they know nothing about who or what they are in real life.

Rawls's original position creates a hypothetical state of equality that stops decision-makers from choosing principles that may arbitrarily favor a person in the decision-maker's station in life. Rawls explains that,

No one knows his or her place in society; no one knows her or his class position or social status; no one knows what abilities or handicaps he or she will have; and no one knows her or his conception of the good or his or her psychological tendencies. (Rawls 1971, p. 454)

These conditions create a "veil of ignorance." People cannot know their status in society. This ensures that whatever the rules are that people pick, they will apply equally to everyone and neither favor nor disadvantage anyone. Perfect equality would be an outcome of this veil of ignorance. Furthermore, principles of justice are the principles that rational and free persons concerned to further their own interests would accept in an initial position of equality as defining the fundamentals of the terms of their association (Rawls 1971, p. 405). The original position and the veil of ignorance are supposed to mirror a level of the playing field where everyone has an equal chance to win. The rules of association are like the rules of fair play, which each player must play and be judged by. Rawls argues that there are two distinctive principles that those behind the

veil of ignorance would accept as governing principles in their decision-making.

The original position supports two principles which would regulate the distribution of social and economic advantages across society. The first principle states that, "Each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others." The second principle states that,

Social and economic qualities are to be arranged so that they are both reasonably expected to be to everyone's advantage and attached to positions and offices open to all..." (1971, p. 406)

These principles apply to the basic structure of society. They regulate the rights and duties that citizens can fairly have through the distribution of social and economic advantages. Power relationships and economic classes would be based primarily on fairness, with a sensitivity to the fair use of talent and fair assessment of need.

The first principle determines basic rights that we should naturally retain such as the political liberties, to vote or run for office, to own property and to have free speech. The ability for humans to flourish as productive autonomous creatures requires that these liberties be a protected part of their basic existence. The second principle describes the fair distribution of income and wealth and the fair design of organizations. Everyone would have the same chance to work, build wealth, and govern in public office without the prerequisite of wealth or power. The only prerequisite would be knowledge and skill. Rawls states that,

While the distribution of wealth and income need not be equal, it must be to everyone's advantage, and at the same time, positions of authority must be accessible to all. (Rawls 1971, p. 406)

Rawls sees that economic barriers are some of the main sources of social injustice. These barriers prevent people from securing the education needed for competing in the job market. They can also stop people from entering public office, where they may make innovative contributions to the development of society. Protecting the basic rights of individuals as well as ensuring that they have a chance to compete fairly for jobs and public offices promotes advances in all the areas that contribute to human flourishing. Fair play in a state is important to its stability.

Fairness, in the form of the two principles, ensures that people have the chance to create a life for themselves if they are willing to work for it. Merit and one's contribution to society then becomes the basis of one's worth in society, both personal and social. No citizen, in turn, would have a legitimate reason to criticize or undermine the

social institutions or rules that support such circumstances. According to Rawls, the rational person (which is the type of person that he assumes is involved in the original position) would be a supportive and law-abiding citizen. A society filled with such persons would be stable. Once Rawls argues for the two principles of justice, he uses them to evaluate different types of political governments: natural liberty, natural aristocracy, liberal equality and democratic equality. He uses the principles of justice to show that three of the four fall short of promoting justice as fairness in one or more of the aspects outlined in the two principles. Only democratic equality fulfills the principle of justice.

Democratic equality guarantees citizens equal basic liberties through Rawls's first principle. His second principle consists of two principles that specify how the benefits of social cooperation are "open to all" and work "to everyone's advantage." Its guarantee of fair equality of opportunity requires that we not only judge people for jobs and offices by reference to their relevant talents and skills, but that we also establish institutional measures to correct for the ways in which class, race and gender might interfere with the normal development of marketable talents and skills (Daniels 2003, p. 1). Democratic equality fulfills the principles of justice because when there is true democracy, all of the people under the government will have equal opportunity in life. When everyone has the same opportunity in life, the principles' purpose will be achieved. Democratic equality is then the foundation for the principles of justice because equality allows mankind to accomplish anything. Rawls assumes that the two principles can be applied to any social institutions that occur in a democratic government as well.

Rawls claims that his model is based on reason and impartiality. Thus, the conclusions that one may reach using it are based on reason alone and apply to everyone. Rawls argues that although people should start at the same level in life, they don't. So, equity cannot be captured by the overly simplistic approach of making everyone have the same material goods, education and job. Natural talent creates difference; work ethic creates difference; temperament creates difference. All of these distinguish one person from another in their commerce with the rest of society and these things cannot be controlled without interfering with their contribution to the person and society. Rawls's basic liberties principle and difference principle provide ways to secure fairness without sacrificing the differing contributions.

The family is a social institution that, along with types of governments, can be evaluated using the principles of justice. The family, according to Rawls, is the ultimate source of members in the

greater institutions of society. Hence, it is important to examine the psychological factors in the family that motivate people to obey or disobey rules and respect or disrespect other members of society. Rawls calls this development of a "sense of justice" in the family. It causes people to seek principles of justice that would come and play when they interact with people outside the family. The three psychological factors of moral development are: 1) the morality of authority; 2) the morality of association; and 3) the morality of principles. The morality of authority is the most primitive of stages and is in the form of a child. The love of parents for their children, which comes to be reciprocated, is important in his account of the development of a sense of self worth. By loving the child, they arouse in him a sense of his own value and the desire to become the sort of person they are. Healthy moral development in early life depends upon love, trust, affection, example, and guidance (Rawls 1971, pp. 462-465).

In the next stage, which is the morality of association, Rawls perceives the family as the first of many associations in which, by moving through a sequence of roles and positions, our moral understanding increases. The crucial aspect is the capacity in this stage of moral development. Our morality is shaped from how we perceive people for what they say and do, and what other peoples' ends, plans, and motives are in life (Okin 1989, p. 98). If this stage of development does not take place, "We cannot put ourselves into another's place and find out what we would do in his position," which we need to be able to do in order "to regulate our own conduct in the appropriate way by reference to it" (Okin 1989, p. 98). Rawls, however, uses only examples of the father associating with the stranger and demonstrating "judiciousness." What will later be shown in Okin is there is never a discussion of association and respect toward others with regard to fairness within the family.

In the third stage, the morality of principles, the building on attachments formed in the family and participation in different roles in the various associations of society leads to the development of a person's "capacity for fellow feeling" and "to ties of friendship and mutual trust" (Rawls 1971, pp. 472-479). However this does not happen inside the family. In its normal form of right and justice, the morality of principles includes the virtues of the moralities of authority and association. It defines the last stage at which all the subordinate ideals are finally understood and organized into a coherent system by suitably general principles.

By developing through the three stages of Rawls's psychological phases, people can evolve into good citizens and decision-makers for society. When a person is developing they are impacted on what

their parents' relationship is to society. Children learn from their parents because they rely on them for everything. Parents are influential role models that help shape the future generations. By evolving through the three phases a person can enter the world with a capacity to know right from wrong, to make influential decisions and to become a citizen that other people respect.

For Rawls, justice starts with the family (Rawls 1971, p. 405). That is where you discover role models and learn that others' needs are just as important as one's own. Rawls's original position is an abstract account that depicts people as indifferent and uninfluenced by their relationships with those they care about. In real life, humans are members of families. The original position does not address people who have a family or the special concerns and duties of women in the family either. Susan Moller Okin argues that these psychological factors do not address people who have a family in the present time. Okin is concerned that these arguments foster a 1970s male dominant society where females do not have a voice within the family or the outside world. Rawls may respond that he talked about the family in his three psychological factors, but according to Okin, gender bias remains in the theory. He removes the "caring" from his original position causing proclamations to be indifferent claims rather than objective claims.

Okin criticizes Rawls for the ambiguous "he" that riddles his theory of justice. Of course, his overuse of the pronoun "he" is not Okin's most serious concern. Rather, it indicates a male perspective bias in the account that Rawls may not have recognized. Rawls briefly rules out formal legal discrimination on the grounds of sex. He fails to entirely address the justice of the gender system, which, with its roots in the sex roles of the family and its branches extending into virtually every corner of our lives, is one of the most fundamental and influential structures of society. The woman's perspective is not fully addressed in the Rawls model. Rawls himself neglects gender and despite his initial statement about the place of the family in the basic structure, he does not consider whether or in what form the family is a just institution. He does not apply the principles of justice to the realm of human nurturance, a realm that is essential to the achievement and maintenance of justice in the society at large (Okin 1989, p. 101). The family is not addressed as an institution that requires evaluation on the basis of justice. His three psychological factors are the only place where a reference is made about the family but not as a candidate for evaluation. It is just the factual foundation for a person's interest in justice. The sexism of the decision-makers could not be utilized to choose principles behind the veil or ignorance, but that is not enough.

The original position only employs a disinterested, disaffected, self-interested perspective of one who does not have to be concerned with intimate emotionally based relationships. Okin points out that this perspective is one of the strangers working with other strangers, not one of someone who is a mother, sister, daughter, father, brother or son. According to Okin, at least two problems arise from such neglect. First, any relationship that is emotionally motivated (such as the family) is not addressed by the principles of justice. This flaw can be seen in Rawls's own evaluation of the family where he neglects to apply the principles to the relationships between family members. Second, Rawls's original position removes the motivation to care about others, which removes the motivation to work at resolving problems on a more personal friendly basis, before they become major issues of violating a principle of justice. Okin's point is that the representative members of the original position are not just impartial but indifferent, which ignores a whole part of human life: the one that involves caring.

Okin observes that this neglect is most obvious in Rawls's discussion of the three psychological factors that help a person morally evolve in context of the family. Rawls's three stages of development emphasize learning how to fairly interact with strangers, not friends and family. Okin argues that this exposes the fact that Rawls assumes that children do not need to learn that women, who are considered the primary care-givers of the family, deserve to be treated fairly in relationships. Of course, this is not necessarily exclusive to women. It is about the caregiver position in society. Rawls assumes that this position, which is traditionally taken by the wife/mother of the family, does not need to be treated fairly in the interactions of family members inside or outside of the family.

Okin supports this criticism by examining Rawls's morality of association. As a reminder, the morality of association is the second stage of Rawls's three psychological phases. This stage is where people learn through a sequence of roles and positions that our moral understanding increases (Okin 1989, p. 98). Okin observes that children's first examples of human interaction should be based on equality and reciprocity rather than on dependence and denomination. Rawls's theory of moral development requires us to "put ourselves into another's place and find out what we would do in his position." Both parents must share in nurturing activities so the child can maintain an adult life in the capacity for empathy that under lies a sense of justice. Rawls neglects the family completely. Family justice must be of central importance for social justice, but Rawls leaves this out in his proposal.

Leonard Choptiany criticizes Rawls on his principles of justice and how all of society could not adopt these principles. Rawls's principles are not realistic to society – they are too hypothetical. Choptiany stresses they are neither necessary nor sufficient as principles of justice. Choptiany believes that Rawls's principles of justice are too far off for society to reach. Rawls believed that his principles would be accepted freely by rational egoists in a “contractual state of nature” or “contract situation.” Choptiany states that these principles give no specification of size of the inequality allowed in comparison with the amount of advantage provided. Any equality, no matter how great, would be justified by any advantage, no matter how slight. Rawls does not call this perfectly just, but he considers it “just” all the same (Choptiany 1973, p. 147).

Choptiany believes not everyone is represented or addressed in the principles of justice. He does not fully address that women are not represented in the principles of justice, but he clarifies on how not all men are recognized. Only the top tier men are being represented in Rawls's principles. Okins's criticism is an example specifically of how this happens to women. There are many loopholes in Rawls's principles of justice that Okin and Choptiany both recognize to be inconsistent to all of mankind. They both raise different arguments from a male and female perspective. Even a male, Leonard Choptiany, is opposed to Rawls's principles of justice. Throughout Rawls argument the “he” is addressed which causes his credibility of a liberal political philosopher to be lost. The approach Rawls took even left out different races and ethnicities. This is specifically where Choptiany realizes how not even all men are represented in this society. Rawls's argument is not strong enough because he left too many factors out. His principles of justice are too out of touch with the society of today. The principles are put on this elevated ladder that only reaches upper class men. In today's society the middle class makes up an overwhelming majority of the population. When a monumental amount of people are left out of the principles of justice how is it supposed to function? Rawls did want equality for mankind, but he chose not to address certain aspects of society. His principles would have no chance in the society of today.

With a solution to both these philosophers' arguments, Rawls needs to subtract the “he” and needs to come up with a more realistic way to achieve liberty. That is what comes down to both these philosophers argument: liberty. If not all men, women and children are addressed, how does Rawls suppose equality will happen? How is liberty going to be achieved if the objective is unrealistic? Choptiany believes his principles can not work overall, while Okin is displeased with how Rawls did not address women or

the family. Rawls's general outlook was positive, but he needed to pose a more realistic way in achieving liberty.

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