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### How Justice Is Simply The Removal Of Injustice

These are some statistics of the current state of the world: six million children under the age of 5 die every year from hunger; half of the world's population lives on less than two dollars a day; the world's 3 richest people have wealth greater than the combined Gross Domestic Product (the value of all goods and services) of the world's 48 poorest nations.<sup>1</sup> Some may say these are examples of injustice. This paper will inquire into the utility of John Rawls' theory of justice in removing injustice. The paper will outline the basic tenets of his theory and assess their utility.

In *A Theory of Justice*, Rawls explains the intended utility of his theory. He believes that if we can come up with the basic principles of justice, we can then understand a just society as one that upholds these principles. The criterion for the basic principles of a just society is as follows: *a basic principle of justice must be one in which free and rational people, concerned with furthering their own interests, would accept from the standpoint of being behind the veil of ignorance.* This must be explained.

The most technical term in this criterion is the concept of being behind the *veil of ignorance*. Rawls has a very elaborate criterion for being behind the veil of ignorance:

*No one knows his place in society, his class position...his fortune...his intelligence...strength...conception of the good...features of his psychology...optimism...pessimism...the circumstances of his own society...its economical or political situation...<sup>2</sup>*

Additionally, people are ignorant of the position they might have in society after they agree on the principles of justice. In short, to be behind the veil of ignorance is to be ignorant of all

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<sup>1</sup> These statistics are used by the general intellectual community. I believe them to be non-controversial.

<sup>2</sup> S. Cahn, ed., *Classics of Political and Moral Philosophy*, Oxford, 2002; p.1051

particulars about one's life that may bias his/her acceptance of principles of justice. Beyond particulars, Rawls entitles us to know an unlimited amount of generalities about economics, politics, psychology, etc. Thus the *veil of ignorance* is supposed to insure a fair method of determining principles of justice.

Rawls identifies two principles of justice he thinks would likely be accepted by free and rational people, concerned with furthering their own interests, from behind the veil of ignorance: (1) everyone is to have an equal right to basic liberties; (2) social and economic inequalities must be to everyone's advantage and attached to positions open to all. In addition to these two principles, Rawls has one further requirement that the principles be arranged in a *serial* order, with the first principle prior to the second. This means that nothing in principle two can restrict the basic liberties implied by principle one.

The first principle is clear. "Basic liberties" are supposed to include things like: the right to vote, freedom of speech, freedom of assembly, freedom of thought, freedom from physical harm, and the right to hold personal property.<sup>3</sup>

The second principle, however, needs further explanation. We should think of the second principle as describing the criterion for permissible inequalities: the only permissible inequalities are those that benefit everyone. Rawls means something very specific by *benefiting all*. Suppose person B suffers from inequality  $x$ . Inequality  $x$  is permissible only if B and everyone else would be worse off without  $x$ .<sup>4</sup> The final requirement is that the inequalities in society are attached to positions open to all. This means if inequality  $x$  is attached to position  $p$ —whether a beneficial inequality, like higher pay, or a harmful inequality, like lower pay—then all people in society are capable of being in position  $p$ .

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<sup>3</sup>Cahn, p.1046

<sup>4</sup> At this point we shall just assume such permissible inequalities are possible.

Moreover, Rawls argues that it follows from his principles that there is a *tendency towards equality* in a just society. What this means is a prioritization of inequalities: society must place a priority of attention on people who suffer from "undeserved" inequalities (e.g., being born into a poorer family). The outcome of this is supposed to redress inequalities toward a tendentious position of equality. Rawls thinks an example of this would be to spend more money and time on the education of the less rather than the more intelligent.<sup>5</sup>

In summary: a just society is one that (a) guarantees all of its citizens basic liberties; (b) allows only inequalities that are advantageous to all; and (c) places a priority on redressing the inequalities of the disadvantaged.

Before we assess the utility of this theory in addressing injustices of the current state of the world, let's consider how this theory might attempt to address them. Let's take something simple like the condition of the schools in and around south-central Los Angeles. The tendency of these schools is to provide education to what Rawls would consider, "the less rather than the more intelligent" students. California Governor Gray Davis' 2003-2004 budget proposal, to be submitted January 10, 2003, plans to cut \$10 billion dollars primarily from schools and services to the poor.<sup>6</sup>

If we were to use our principles of justice to assess this budget plan we would realize it has two problems: first, it seems that this budget plan does not benefit everyone; and second, it seems that, rather than redressing the disadvantages of the students in south-central Los Angeles, it makes their situation worse by decreasing the amount of money their schools receive. Because

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<sup>5</sup> Cahn, p. 1049

<sup>6</sup> Alexa H. Bluth; California Governor Declares Fiscal Crisis As Special Session Begins, Yahoo News, AP World Politics, 12/10/2002.

of these problems, we can conclude that this plan is unjust.<sup>7</sup> Further, since we have deemed it unjust, we are justified in taking the necessary means to replace the proposal with one that redresses the disadvantaged. Rawls believes that the initial means are to use our basic liberties, of, e.g., free speech, to try to persuade the general public and the legislature to change, in this case, the budget proposal. If we are unsuccessful enough times to reasonably conclude that this type of persuasion may not work, Rawls argues we are justified in engaging in civil disobedience. He defines civil disobedience very loosely to include a range of actions from legal demonstrations, infractions of the law, to militant action, and organized resistance. The only obvious restriction to civil disobedience is that it must be consistent with the basic principles of justice as well, e.g., our engagement in civil disobedience cannot deny someone basic liberties.

Suppose, however, we are in a situation in which all of our efforts to remove an injustice fail. What are we to do then? Rawls does have an answer, but the circumstances must be very specific. If we live in a society that fails or ceases to provide all of its citizens with basic liberties, then that society is no longer just. If, in such a society, civil disobedience is met with state repression, and hence useless in removing the inequalities, then other types of resistance are justified. Rawls is not perfectly clear on this point, but he does claim that war is justified in the form of self-defense.<sup>8</sup> Whether or not the effects of Davis' budget proposal constitute a violation of basic liberties is not being argued. The point is merely that Rawls' theory provides justification for warlike resistance under certain circumstances.

In short, Rawls' conception of justice enables us to determine whether laws, policies, income distribution, etc. are unjust. In the event that some are unjust, his theory also provides us with the justification to try and remove these injustices. His theory also provides us with a

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<sup>7</sup>For our purposes, though one may be able to argue that this budget plan benefits all people more than some other plan, this is irrelevant.

<sup>8</sup>J. Rawls, *The Law of Peoples*, Harvard, 1999, p.91

method to minimize inequalities in society. And ultimately, his theory provides us with the justification to defend ourselves against the harms of an unjust system.

Now we shall assess the utility of Rawls' theory as it has been explained. But first we must elucidate what is meant by utility. We shall assess the *practical utility* of such a theory. What is meant by *practical utility* is the following: the ability to provide people with an efficient method of identifying (a) injustice and (b) the appropriate means to remove injustice. I find the practical utility to be the most useful in terms of ensuring a just society. For a society to be just we must be capable of recognizing injustice, and to eliminate injustice when we do recognize it. Further, it seems obvious that the degree of utility is directly proportional to the degree of efficiency; a theory is not going to be very useful in eliminating injustice if it is extremely inefficient. Thus, when assessing utility, I mean the *practical utility*.

The starting point for our assessment of the utility of Rawls' theory will be his two principles of justice. Since efficiency is part of the requirement of utility, we must take into account the process by which we come up with these principles. For Rawls, the process is the inquiry that we perform behind the veil of ignorance. Thus, we must assess the efficiency of this type of inquiry.

A worry about the veil of ignorance, however, is whether it is actually possible to place ourselves behind it. Rawls' idea of being behind the veil of ignorance assumes we consider ourselves to know as much as possible about economics, psychology, politics, etc., but, at the same time, we are supposed to know nothing specific about ourselves (e.g., what we find valuable, what are class backgrounds are, etc). This seems very difficult to do. If we know about, say, economics, we had to read a book. But to read an economics book one must already have a great deal of previous education; if we have lived long enough to have a serious education, then

it follows that we know our class position in society, we know our preferences, our sense of good—in short we know everything we are supposed to disregard when we go behind the veil of ignorance. Thus, in order to meet the requirement of being behind the veil of ignorance we must be able to disregard these ideas. Unfortunately, *prima facie*, this seems very difficult, if not impossible.

To understand the difficulty of this let's first consider an extreme example. We should rightfully be hesitant to leave the determination of the principles of justice to, say, a group of Ku Klux Klan members. Even if we grant them rationality, it's not clear we could trust them to be uninfluenced by their racist beliefs. Our hesitation to racists determining the principles of justice is a legitimate hesitation. People's ideas about morality, justice, economics, what is possible, all come from experience.<sup>9</sup> Thus, to place ourselves in a position where we don't consider these ideas is to be in a situation where we disregard all of our experiences that engendered them. But what is that position like? How can we place ourselves in such a position? Moreover, even if we were capable of such a position what would be our method that verifies whether we are truly in it? It seems we are oblivious to the affects these experiences have on our beliefs; I'm sure, e.g., racists think they're being objective when they argue that another race is inferior to them.

To make this point another way, let's consider what people base their personal identity on.<sup>10</sup> It seems that part of being an individual is recognizing certain things in your life that set you apart from others (things like, what you find interesting, where you grew up, your job, education, moral and political beliefs, class background, etc.). Keeping these things in mind is necessary to maintain some sort of identity of oneself. Moreover, it's not as if we keep them in mind all the time—i.e., we're not thinking about them every second of the day. But, if someone

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<sup>9</sup> In fact, I would argue all of our ideas come from experience, but this is not the point I'm making here.

<sup>10</sup> By "personal identity" I don't mean what it takes for a person to say they are the same person. I mean the way in which they think of themselves as individuals, what things people believe play a role in forming who they are.

were to ask us, e.g., what our class background were, or our belief about whether X is right or wrong, we would be able to tell him/her. Additionally, if someone were to ask us to simply disregard, e.g., that we grew up poor, we would be unable to do such a thing; to do that would be to deny a significant part of our identity. Thus, it's not clear how capable we are of placing ourselves behind the veil of ignorance.

Rawls can argue that the former criticism is slightly irrelevant to his theory. He makes it very clear that the veil of ignorance is supposed to be a purely hypothetical *guide* to reasoning about justice. Moreover, it's supposed to be a guide towards thinking in terms of fairness. The removal, as much as possible, of the antagonism between one's own interests and the interests of others in the reasoning process is supposed to ensure fairness. Rawls intends to achieve this by including in the criterion for being behind the veil of ignorance that we not know our place in the society that will be based on the principles we choose. Thus Rawls can maintain that though we may not be able to disregard the influence of our experiences on our reasoning, at least we can meet the latter criterion and not choose principles that provide us with benefits and others with ills.

This response Rawls might make seems to miss the point, however. Clearly we have the capacity to reason about what we think is just. The dispute is about whether we can reason while putting ourselves in the hypothetical situation of the veil of ignorance. Let's consider a different type of hypothetical reasoning: suppose we ask A, "what should you do if you were in situation x (say, trapped beneath a dock under water)?" Let's further suppose that A has never been in situation x. All A can do at this point is appeal to past experiences A had that were similar to x—perhaps, e.g., being under water for a long time. It is by appealing to these past experiences that we can even form any idea of what we might do in the situation.

The same is true of reasoning about principles of justice. Because we are reasoning about hypothetical situations, we are reasoning about situations we are not currently in, and most likely, have never been in. So, all we have available to base our reasoning on is past experience. Asking us to go behind the veil of ignorance is like asking us to suppose we had amnesia—we don't know our class position, our preferences, our views of what the good is etc.; we can't determine, when we *don't* have amnesia, what we would think if we *did* have amnesia. Thus, if Rawls' veil of ignorance denies knowledge of past experience to us, it seems to place us in a position in which reasoning is impossible; rather, it seems to place us in an impossible situation, i.e., it seems to place us nowhere.

On the other hand, if being behind the veil of ignorance does allow knowledge of past experience, then it is not clear how different it is from situations in which we already reason about justice. It seems that most reasonable people aren't vicious and they take into account the well-being of others when they determine what they think is just; they don't simply figure out what is best for themselves. So it's not clear what we would add to our reasoning about justice if we supposed we were behind the veil of ignorance.

In short, it seems the concept of being behind the veil of ignorance is either impossible to achieve, or is not relevantly different from the reasoning process most people already engage in. Thus it seems to have no utility: if it's impossible, then it's obviously inefficient; if it's not relevantly different from normal reasoning, then it's superfluous, and thus inefficient.

Let's now assess the utility of the two principles of justice. First, it seems we can summarize the principles as follows: everyone should be guaranteed their basic liberties, and people should only be unequal if it is better for everyone. It seems that most people would not dispute these principles, and it seems most people already hold these or something very similar

to them.<sup>11</sup> Moreover, because most people already hold such principles, they seem to be something to which most people appeal when determining whether something is just. So, *the principles* as such seem to have utility because they provide an efficient means in identifying injustice.<sup>12</sup> But the utility of Rawls' *theory* in restating the principles of justice for us is null; there's no utility in telling us something we already know—or in this case, in providing us with principles we already hold.

Our assessment of the principles directly affects our assessment of the utility of Rawls' theory in providing us with justification of (a) civil disobedience and (b) self-defense against an unjust system. First, we derive the justification for (a) and (b) from the principles of justice.<sup>13</sup> We concluded, however, there was no utility in providing us with principles we already had. Thus, since we already have the principles, we already have the means to the relevant justification.

Moreover, it seems we already have, not just the *means* to the justification, but we have the justification as well. In order to justify resistance to injustice—of the type Rawls justifies—all we need to do is recognize the injustice. It's not as if we recognize the injustice and then determine whether we need some extra justification to resist it; the reason our resistance is justified is because of what injustice is; the only *just* thing to do is to resist in this case. But, all we need to determine *injustice* is a basic criterion for justice, i.e., the principles of justice; any violation of the criterion constitutes injustice. Thus, we derive our justification for resistance to injustice simply from identifying injustice as such. And, we can identify the latter simply from

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<sup>11</sup> This corroborates the idea that the veil of ignorance is not relevantly different from a process people already engage in.

<sup>12</sup> I am a bit apprehensive to this idea. It seems an open question whether people need to appeal to such principles in order to identify injustices. Perhaps, they do, but it seems we can at least make sense of someone identifying an injustice without consciously holding such principles. If so, then even the principles are useless to those people.

<sup>13</sup> This derivation goes as follows: first, the principles of justice provide a method for determining whether something is unjust—namely, anything that violates the principles; second, if we determine that something is unjust, we are thereby justified in trying to remove that injustice; third, the degree to which we are unsuccessful in trying to remove the injustice determines the justification for civil disobedience and self-defense.

having a criterion for justice. Thus it follows that if we have a criterion for justice, we are justified in resisting injustice—since, after all, resistance here is simply doing what is just. Thus since we already had the criterion for justice, we already had the justification for our resistance to injustice as well. Therefore, in the last analysis, there is no utility in Rawls' theory providing us with a justification for (a) or (b), since we already have such a justification.

The last assessment of Rawls' theory is his guide to minimize the inequalities of the disadvantaged. Rawls states that it is just for a society to prioritize the redress of inequalities of the disadvantaged over the advantaged. Like our principles of justice, this principle of equality seems to be held by most people. If, however, most people don't hold this principle, then providing us with it has utility in so far as it guides us to minimize inequalities: start with minimizing the worst inequalities.

To sum up: of the tenets of Rawls' theory of justice we have mentioned, none have any utility, except potentially the latter. But, if we recall our conception of *practical utility*, we should remember it has two components: the ability to provide people with an efficient method of identifying (a) injustice and (b) the appropriate means to remove injustice. Thus far our assessment of utility has only applied to (a)—Rawls' theory has not provided us with an efficient method of identifying injustice, because his method was either impossible or superfluous. We have said nothing as to the ability of his theory to do (b). If we were to assess his theory relative to (b) we should realize his theory has nothing to provide us with. The closest tool here is the latter guide to prioritize the minimization of inequalities of the disadvantaged over those of the advantaged. But this is merely a guide to minimize *inequalities*, not injustice; Rawls' doesn't speak of ways to identify the means to remove injustices. He must either take it for granted that the injustices are known (or, at least easily known) or he must think it is not a crucial part of a

theory of justice to include theoretical means for the removal of injustice. I think the lack of utility with respect to (b) is far more important than any of the former assessments.

With regards to current injustices—like, Davis' budget proposal, the US about to go to war with Iraq, or any of the abovementioned injustices in the world—we shall see Rawls' theory provides us with no method to remove them. All his theory provides us with is *justification* for resisting these injustices, which we already have. The reason Rawls' theory does not have any utility in terms of identifying means for the removal of injustice is because of the method of Rawls' overall theory. Rawls starts with thinking of a hypothetical situation in order to come up with universal principles of justice. From there he determines what an ideal just society would be, i.e., one that satisfies the universal principles of justice. This is the problem. His theory is already one step removed from reality; his principles have been derived from a hypothetical situation. Thus, whether or not it is possible for the world he lives in to meet those principles is an open question.

Moreover, not only is it an open question, but it is also a necessary question to answer in order for the theory to have any utility. If there is no possibility for the actual world to meet those principles, then all the theory can do is provide us with an idea of a fantasy world—a fantasy world that we can already think of, in Rawls' case. If there is a possibility for the world to meet the principles, then in order for the theory to have utility it must provide us with a means to make the world fit the principles—which Rawls does not provide us with. Once again: if, in certain circumstances, removing injustice constitutes being just, then a theory of justice must include means for being just, i.e., means for removing the injustice; without identifying such means, we don't have the capacity to be just, i.e., we don't have the capacity to remove the injustice. We should notice, however, that no matter the outcome in terms of whether it is possible for a

society to meet the principle of justice, in order to assess a theory we must know in advance what is possible for our world; we need to know this in order to determine whether it can meet the principles of justice. Thus if a theory fails to determine what is possible for a world, it fails to determine whether the theory can have any potential utility. Because of this we shall outline what it means to determine what is possible for a society.

Determining what is possible for *anything* requires identifying the basic properties of a thing. For example, if we identify, say, the basic properties of an engine we can determine the possibilities of an engine. We can see that when we ignite the gasoline with the spark from the sparkplug it produces energy in the form of heat. This energy, because it is compressed, has enough propulsion power to move the piston. Further, we see that the motion of the piston in turn moves the gears of the transmission, which turn the wheels and enable the car to move.<sup>14</sup> From this we can see it is possible to speed up the car by supplying more energy to move the piston faster or perhaps having multiple pistons operating simultaneously. We can also see what might go wrong with the engine: it can have too much energy in the form of heat and crack the piston, or perhaps different metals in the engine expand at different rates and create a jam, or there can be an air leak which decreases the compression and allows some of the heat to escape, causing the piston not to move at the necessary speed. All of these possibilities flow from understanding the basic principles of how an engine works. Moreover, if we have symptoms of the engine failing, we know, from knowing what's possible of it, what the problem may be. Finally, once we understand what the problem is, all we need to do is remove the problem. If, e.g., the problem is that the compression is too low, then we simply need to increase the compression.

The same is true for society: if we understand the basic properties of how society functions, we can see what is possible for a society. Let's suppose to identify the basic properties

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<sup>14</sup> I realize this is an oversimplified description of an internal combustion engine, but it will make the point.

of a society is to identify how it provides its members with the basic things they need.<sup>15</sup> Once we have identified these properties we can determine what is possible for it.<sup>16</sup> Additionally, if we see symptoms of problems, once we identify those problems, we have identified a solution—i.e., simply the removal of those problems.<sup>17</sup>

Thus we should recognize the following: if we identify the basic properties of society, not only do we identify what's possible for that society, but we also identify solutions to problems. Thus, a theory that identifies the basic properties of society reaches maximal utility and renders any theory that proceeds from a hypothetical situation superfluous. Let me explain.

We said that any theory that proceeds from the hypothetical and identifies universal principles of a just society must determine whether it is possible for that society to meet those principles. But in order to identify what is possible for a given society we must identify the basic principles of that society. When, however, we identify the basic principles, we can now identify solutions to any problems of injustice. Thus, it seems there is no reason to engage in the hypothetical exercises in the first place. The only potential utility the hypothetical exercise can provide is a method for identifying injustice. But, as we have said earlier, this doesn't seem too difficult for people to do. Thus, in short, in terms of utility, the only useful theory of justice is one that proceeds from a scientific standpoint—i.e., an investigation into the basic properties of a society.

In summary: the state of the world is far from ideal and far from just. When we live under circumstances of overwhelming injustices, what is just is to remove those injustices. Thus, any

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<sup>15</sup> This seems correct.

<sup>16</sup> Identifying what is possible for this society by identifying the basic properties of this society is not something I will do in this paper.

<sup>17</sup> I recognize that a further investigation may be required to determine what is sufficient to remove the relevant problem. Though this is the case, having a good grasp of the knowledge of the basic properties usually reveals the problem. Just like the case of the engine: if we identify the problem as a compression leak, we know that we either have to get a larger piston, larger rings, or new gaskets, because, let's suppose, those are the only aspects that contribute to compression.

useful theory of justice must provide us with a method for the removal of injustice. There is no use in a theory identifying what an ideal just society would be like, unless that identification played a useful role in the removal of current injustices. It's not clear, however, how a theory can do this. Karl Marx made a similar point in 1845: *The philosophers have only interpreted the world, in various ways; the point, however, is to change it.*<sup>18</sup>

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<sup>18</sup> K. Marx, *Theses on Feuerbach*, Foreign Language Press, 1976, p. 65.