

Phil 115, June 7, 2007
Criticism of Rawls's treatment of natural endowment

Rawls difference principle allows one's natural endowment to influence one's share. Those with more talent are likely to have larger shares than those with less talent.

But the influence of talent on distributive shares is tightly circumscribed. Talent is allowed to influence the distribution only to the extent that this improves the position of the worst off.

Today we will consider some criticisms of this second part of Rawls's theory.

Nozick: Rawls stacks the deck against the historical entitlement theory

Nozick argues that Rawls rigs the original position to guarantee that end-state principles will be chosen.

- Parties cannot choose historical entitlement principles on the grounds that historical entitlement principles seem fair to them. Moral considerations, like fairness, are not admissible in the OP.
- Parties are supposed to choose solely on the basis of self-interest.
- All they will care about is the end state.
- Historical entitlement principles lead to an end state that favors the talented.
- But the parties don't know what talents they have.
- So they will reject historical entitlement principles.

Nozick: Why ignore talents?

How does Rawls's defend designing the original position in such a way that historical entitlement principles will never be chosen?

- Rawls comes closest to offering an argument against the historical entitlement theory when he rejects the system of natural liberty in §12.
- He rejects it because it permits distributive shares to be influenced by factors that are, as he memorably puts it, "arbitrary from a moral point of view."
- Nozick: "Rawls has explicitly *designed* the original position and its choice situation so as to embody and realize his negative reflective evaluation of allowing shares in holdings for be affected by natural assets" (215).

Nozick: Where does Rawls draw the line?

- Perhaps talents are morally arbitrary.
- But what about how people have chosen to develop their talents?
- Are "such choices also are viewed as being the products of factors outside the person's control, and hence as 'arbitrary from a moral point of view'" (214)?
- If one carries this idea to its logical conclusion, there is the danger that nothing may lie within the person's control.
- This threatens the very idea of people as free agents.

Nozick: What is the role of Rawls's claim that natural endowment is morally arbitrary?

- (1) It might play a positive role, as part of an argument that natural endowment should not have distributive effects.

(2) Or it might play a negative role, as part of a *rebuttal* of *one counterargument* to the claim that natural endowment should not have distributive effects (i.e., a rebuttal of one argument that natural endowment should have distributive effects).

On Rawls's behalf, Nozick reconstructs positive argument A:

1. People should deserve their holdings.
2. People don't deserve their natural assets
3. If a person's X partially determines his Y, and his X is undeserved, then so is his Y.
4. Therefore, people's holdings shouldn't be partially determined by their natural assets.

But Nozick observes that Rawls rejects both 1 and 4. Rawls does not think that distributive shares should be sensitive to desert. And Rawls accepts that natural assets may influence distributive shares to some extent.

Nozick then reconstructs counterargument E, which Rawls might be arguing against:

1. People deserve their natural assets.
2. If people deserve X, they deserve any Y that flows from X.
3. People's holdings flow from their natural assets.
4. Therefore, people deserve their holdings.
5. Therefore, their holdings are just.

The negative role of Rawls's "arbitrariness" point, in this case, is to reject 1.

Nozick is willing to concede that Rawls succeeds in refuting counterargument E. But he asks whether E is the only, or most compelling, counterargument to R's claim that natural endowment should not have distributive effects. In particular, N wonders why anyone should argue for 3 by means of 1 and 2. Indeed, Nozick observes, premise 2 seems false: "It needn't be that the foundations underlying desert are themselves deserved, *all the way down*" (225).

In any event, Nozick points out, we can make E sound by replacing "deserves" with "is entitled to," which is the central notion in N's theory anyway. In this case, the suspect premises 1 and 2 are avoided entirely. The result is counterargument G:

1. People are entitled to (have a right to) their natural assets.
2. If people are entitled to something, they are entitled to what flows from it.
3. People's holdings flow from their natural assets
4. Therefore, people are entitled to their holdings.
5. Therefore, their holdings are just.

Rawls's arbitrariness point does not refute counterargument G.

Nozick: What does "morally arbitrary" mean?

The phrase "morally arbitrary" is ambiguous.

- to say that X's being F is morally arbitrary might be to say that there is *no good moral reason why* X is F. But this would seem to make everything morally arbitrary. Things don't typically happen because there is a good moral reason for them to happen.
- to say that X's being F is morally arbitrary might be to say that X's being F *is of no moral significance and has no moral consequences*. But then the claim seems circular.

Nozick: Talents a “common asset”?

- “Some will complain, echoing Rawls against utilitarianism, that this ‘does not take seriously the distinction between persons’” (228).
- “Will the lexicographic priority that Rawls claims for liberty in the original position prevent the difference principle from requiring a head tax on assets and abilities? The legitimacy of a head tax is *suggested* by Rawls’ speaking of ‘collective assets’ and ‘common assets’” (229).
- “Those underutilizing their assets and abilities are misusing a public asset. (Squandering public property?)”

Gauthier: rationality, rather than rights

Like Nozick, Gauthier believes that Rawls fails to show that natural assets should not affect the distribution. Whereas the engine of Nozick’s theory is the idea of individual rights, the engine of Gauthier’s theory is the idea of individual rationality.

- In Gauthier’s view, Rawls is attempting to reconcile morality with rationality.
- Is this accurate?
- Such a reconciliation of justice and rationality, Gauthier argues, requires that the choice of the principles of justice in the OP must be rational not only *prospectively*, from the standpoint of the parties in the OP, who do not know who they are, but also *retrospectively*, from the standpoint of citizens in society, once they know their particular traits.

Gauthier: What is the baseline?

The “no agreement point”: the way the world will be if the parties do not agree on principles of justice.

- This is a world without social cooperation.
- No one does very well in this world, but some do better than others.
- In particular, those with greater natural assets do better than those with lesser natural assets.
- By cooperating, everyone—the more talented and the less—will be better off. This gain from cooperation we can call the “social surplus.”
- The principles of justice are supposed to tell us how to distribute this social surplus.

How should the inequalities in the no agreement point be treated?

- (1) we can *redress* the inequalities in the no-agreement point. In this case, we get Rawls’s favored result. All primary goods, whether socially produced or not, are distributed according to the difference principle.
- (2) we can let the inequalities in the no-agreement point stand, but distribute the *social surplus according to the difference principle*.
- (3) we can distribute all primary goods *proportionately to the inequalities* in the no-agreement point.

Whether or not natural inequalities are *deserved* should be simply *irrelevant* in the original position. The parties are supposed to be motivated only by self-interest, not by moral considerations, such as desert. Neither should they should see (3) natural inequalities as

deserving greater advantages, nor should they view (1) *undeserved* natural inequalities as calling for *redress*, as the first alternative claims.

The parties should be concerned *only* with distributing the social surplus. When the veil of ignorance is lifted, each will view his choice as having been retrospectively rational only if it promised to secure him as many *additional* goods as possible, *over and above what he would have had in the no agreement point*. Rawls should have endorsed (2).

Gauthier: social potential rather than absolute share

“Social potential”: the *maximum* increase in well-being that each person can expect under the social arrangement *most beneficial* to him. Social potential is the measure of what a person, given his natural endowment, stands to gain from social cooperation.

Three options

- (1) ignore social potential in distributing the social surplus.
- (2) distribute social surplus to maximize the minimum degree to which any person’s social potential is fulfilled.
- (3) view social potential as a criterion of desert, so that the social surplus is distributed to maximize the satisfaction of the person with greatest social potential.

(3) seems unjust on its face, and it would not be chosen by rational agents concerned only to advance their own interests.

(1) treats the effects of natural ability as *undeserved*, something to be *redressed*. Self-interested agents won’t care about this.

Instead, rational agents would choose (2): the “proportionate difference principle.”

Note that the worse-off person in Gauthier’s sense may be much better off in *absolute* terms than the better-off person in Gauthier’s sense. See Bonus Handout.

Gauthier: The upshot of the proportionate difference principle

The proportionate difference principle implies something like what Rawls calls “Liberal Equality.” “For the competitive market is the mechanism by which an optimal social surplus is produced and distributed in accordance with the contribution which each person makes. The one restriction which the proportionate difference principle imposes is that each person’s initial position in the market must reflect only her natural endowment, and not such factors as inherited wealth” (167).

All of this follows, Gauthier concludes, from certain ideas of rationality, of the individual, and of society that seem to be implicit in the social contract approach. If we view persons as separate individuals, with their own separate talents, who agree to join together in society for their mutual advantage, then it will be rational for them to agree to divide the fruits of their cooperation in a way that is sensitive to the differences in their talents.

Questions: Can Rawls reject these ideas?