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Month Day, Year

Hands Off: Shortening the Social Contract

Justice, as the old saying goes, is blind. But while the principles of justice may seem impartial, many people have different opinions on whether government should also be blind. Concerning issues of social justice, Robert Novick and James Rawls take oppositional views on the philosophical idea of an outsider's attempt to re-allocate resources in the name of fairness. Much is at stake: as Novick points out, the American system of welfare and aid to the poor is based wealth redistribution. However, despite the well-meaning intentions of many philanthropists and activists, justice is best served through Novick's concept of a minimalist state and non-interference in economic or social issues.

Robert Novick advocates a "laissez faire" approach to justice. He argues for a minimalist approach to distributing fairness. He acknowledges that economic inequality exists, but posits "from each as they choose, to each as they are chosen." According to Novick, government interference to redistribute resources continually interferes in people's lives and ability to acquire/use resources. Novick states the distribution of such holdings is fluidic and individualized; while at times transactions may seem morally suspect to outsiders, they nevertheless reflect America's capitalist system in which negotiating parties perceive benefits from doing business. An outside force—usually socialist, in Novick's view—that attempts to regulate such distribution into identifiable patterns generally omits transactions such as charity,

gifts, gambling, and other means of attaining/disposing holdings. The narrow boundaries of any system are not only counterproductive, but ultimately unjust.

While Novick argues for a minimal state, John Rawls believes a larger, extensive social structure can ensure justice. He notes justice inevitably means the political or economic disadvantages of some, but “an injustice is tolerable only when it is necessary to avoid an even greater injustice.” He asserts this “fairness” is based on the allocation of resources: competing parties desire the same limited advantages and “justice” is the means by which a society assigns the rights, privileges, and burdens in order to maintain a cooperative, functional society. A “social contract,” presumably overseen by the government, administers this system of justice and fairness. At the core, however, this system is dependent on the participants agreeing on the same principles and values, such as Constitutional rights, even if they disagree on the means of distribution. Rawls acknowledges that systems of inequality exist, but the benefits of the few must also improve the fortunes of the disadvantaged.

Rawls’s admission that justice depends on the socio-political milieu complicates his position. Specifically, his dry, technical concept of justice leaves out the thorny issue of human morality. Writing in the early 1970s, Rawls and Novick were probably influenced by the Civil Rights movements, second wave feminism, and the Cold War against the Soviet Union. To progressives, the United States seemed to rectify long-standing past injustices in terms of race, class, and gender. School busing and integration programs opened economic opportunities to disadvantaged parties. The increased government enforcement of the social contract seemed to validate Rawls’s ideas of a social contract based on a consensus of universal human rights.

But Rawls could not have predicted the backlash as many Americans, mainly lower- and middle-class whites who had previously enjoyed a political and economic advantage, regarded

this form of “justice” detrimental to them. The controversial topics of affirmative action, abortion, and rights for illegal immigrants brought into conflict the deep prejudices ingrained in American history. Rawls bases his theories of justice on assuming the constituents would agree upon “a system of cooperation designed to advance the good of those partaking in it.” But when this extensive “system” favors one party over the other based on past misdeeds, as in the case of affirmative action, definitions of “justice” collide. In the 1970s and 1980s, the “public conception” of justice fragmented over perceptions of morality; what constitutes a “fair” reimbursement to make up for centuries of slavery and segregation? Furthermore, few could decide on who decides/enforces the prevailing notions of fair justice. Controversy erupted over the federal structure: if affirmative action or school busing or abortion became part of the social contract of justice, did the federal or state or local branches of government wield the power to formulate/implement the programs? The Supreme Court’s wavering, the passionate grassroots concepts of morality, have led to violence, property damage, and loss of life.

Novick’s stance on a minimalist government is based on its “historical nature”: although inequalities exist, they have developed over time. Novick argues that an artificial redistribution of wealth, a “current time-slice” method to re-apportion the pie is artificially constructed. Drawing from F.A. Hayek, Novick asserts, “We cannot know enough about each person’s situation to distribute to each according to his moral merit.” In the case of affirmative action, the dizzying number of contingency factors regarding individual applicants’ life histories beyond race—e.g. overcoming economic hardships, socio-economic backgrounds—has complicated the process, even at times to the detriment of what the program’s goals to make universities or companies more diverse. The wide variety of affirmative action programs have further confused the issue of fairness and justice, since there is little agreement on the exact requirements a

program should have, and governmental efforts to clarify matters has only flared tempers.

Novick recognizes the complexities of historical and individual actors, such as moral forces. He admits injustice—i.e. fraud, thievery—has long track records, but he contends imposing artificial patterns of redistribution does not solve underlying problems. Indeed, “time-slice principles” which only examine the end-game of who-has-what-now detrimentally affects everyone: citizens feel an unfair loss of property and opportunity, while the less-advantaged acquire benefits they did not fairly earn. His heavily anti-socialist references may seem like relics from the Cold War (i.e. anti-communism), but he recognizes the arbitrary attempts to rectify past grievances (such as quota systems) have left many disappointed in the government.

Nevertheless, if Rawls is correct, then the social contract *must* be able to make that distinction in order to ensure justice and fairness. But Rawls offers no method to reconcile these differences. Instead, he dances around the complexities of American history, stating his theory “is not, of course, thought of as an actual historical state of affairs” and that his concepts apply as “a purely hypothetical situation.” Rawls imagines a society where the concept of justice is literally blind: “the principles of justice are chosen behind a veil of ignorance.” Therefore, rational human decisions can determine their course of action. If the legacy of race riots is any indication, humans are prone to act in irrational ways. Indeed, in the end, Rawls distances his theory of social justice the “real world” from his framework, “leaving aside those aspects of the social world that seem arbitrary from a moral point of view.”

Rawls and Novick agree that justice lies in the eye of the beholder. While the definition of justice may have a consensus, the employment of the concept has proven elusive. Rawls attempts to tie those ideals under a social contract, administered by the government or some other controlling agency. Unfortunately, in doing so, Rawls closes the door to morality; applying

his ideas to complex historical grievances and issues has generated more questions than answers.

While Novick's hands-off policy may seem economically cruel, as it has the potential to marginalize poorer classes, his minimalist stance reflects the nature of America's capitalist system, and emphasizes individualism as the key to fairly partake in the Land of Opportunity.

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