

Theories of Justice, Social Action, and the State

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I. Introduction

The purpose of this paper is to examine the recent contributions of Rawls and Nozick to the theory of justice. I shall focus on social interaction and the role of the State in both of the theories. Both works by these authors represent, to some degree, an extension and modification of the principles of classical utilitarian philosophy, the dominant theory in moral and political philosophy.¹ Since the moral foundations of classical political economy were essentially utilitarian in nature, and because modern economic science contains vestiges of utilitarian philosophy, both the works of Rawls and Nozick should be of interest to economists.² Indeed, the extensive references to the economic literature in both works suggest that, although economists may have lost interest in moral philosophy, utilitarian oriented moral philosophers have not lost interest in economics. This circumstance is not surprising; utilitarian philosophy grew out of a period of great interest in the material well-being of mankind (as well as political freedom), and modern utilitarian phi-

losophy continues to remain preoccupied with economic (or material) matters.³

Both works to be examined are extremely complex, and the combined texts of about one thousand pages are difficult to follow.⁴ It is not my purpose to present a detailed study of both works. Instead, I shall deal with two major aspects: the nature of social action and the role of the state. I am aware of the pitfalls of generalizations for those who have not read both works and who would rely solely on my overview. Nevertheless, it seems to me that what is needed most is a theoretical framework for analyzing both theories, rather than a detailed and complex discussion of the theories themselves which are there for anyone to read.

I shall begin with a brief description of Rawls' and Nozick's theories, then proceed to develop the theoretical framework to examine both theories. The theories will then be analyzed within the context of the theoretical framework, and finally both theories will be compared from the point of view of that framework.

II. Rawls' Theory of Justice

Throughout his book, Rawls uses utilitarianism as a frame of reference for his theory of

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¹The references are to John Rawls, *A Theory of Justice* (Cambridge, Mass.: Harvard, 1971) and to Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974).

Although Rawls considers his theory a substitute for utilitarian philosophy, both are rationalistic, atomistic, and materialistic (as is Nozick's theory).

²Although the development of economics as a science in the nineteenth century witnessed efforts to purge economics of the ethical aspects of utilitarianism, the paradigm of economics remains essentially utilitarian: atomistic, rationalistic, and materialistic.

³This is in contrast to idealism and romanticism, the former (Kantian version) being concerned with the duality of man's nature—phenomena (material) and noumena (cultural), the latter being anti-rationalistic and anti-materialistic.

⁴In addition, the style is rigorously philosophical, which is tedious for most economists who are not trained to examine every aspect of a subject until it becomes exhausted (and exhausting).

justice. Essentially, his criticism of utilitarianism stems from its alleged undifferentiated basis for social decision making. According to utilitarian principles, a social action is permissible (and socially beneficial) if it results in a net positive increment to the aggregate of individual utilities, even though such action may make some individuals worse off.⁵ Apparently, Rawls interprets this to mean that some individuals may be denied "justice" if social action is based solely on utilitarian principles. In particular, the denial of basic individual liberties is a matter of concern expressed in his "first principle" of justice, a sort of "Bill of Rights," which protects individuals against the tyranny of the majority: "each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty of others."⁶

Rawls recognizes the inevitable (and even desirable) existence of social and economic inequality. Whereas the utilitarian norm is utility maximization, Rawls is concerned with the distributional aspects of income and wealth, and differences in authority and responsibilities. In other words, his interest is in the "disadvantaged" with respect to the former and the misuse of power in the latter case. His concern leads to his "second principle" of justice, a two-part principle: "social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all."⁷ What is important for my purposes is that his concern for wealth and income inequality results in a socio-economic stratification in his theory—"advantaged" versus "disadvantaged" persons. More specifically, his "difference principle" requires that inequality of income distribution not be permitted unless it can be shown to be to the advantage of the

least advantaged. Rawls' difference principle is a much more restrictive requirement for socio-economic action than the classical utilitarian principle of utility maximization; the latter permits any social action which results in a net positive gain in social utility (it allows for some to be made better off at the expense of others).⁸

Over 300 pages are devoted to the elucidation of Rawls' two major principles of justice. A system based on such principles requires cooperation and rules. He recognizes that self-interest may cause difficulty in reaching a necessary consensus for the structuring of a system based on his two principles of justice. He deals with the problem of self-interest, theoretically, by introducing the concept of "a veil of ignorance," that is to say, in the "original state" (or when a constitutional convention is called) no individual is aware of his social or economic position. What emerges is a convention of ignorant (not disinterested) persons who would act in a self-less-like manner because of their ignorance regarding their own positions in the on-going society.

All the above is a gross simplification of Rawls' very detailed arguments, but one which captures the fundamental propositions of his theory.⁹

⁸I am concerned only with classical utilitarianism at this point, as is Rawls. The principles of classical utilitarianism should not be confused with Pareto's modification, which came later and which is familiar to economists as the Pareto optimum criterion. The "compensation principle" in economics is an outgrowth of the attempt to bypass the more restrictive Pareto criterion, the latter requiring actual compensation rather than potential compensation.

⁹As long as Rawls remains at the general level of abstraction, i.e., at the Principles level, there is little difficulty. But in Part II of his book, when he comes to specifics, all sorts of rules are introduced to deal with specific cases. These rules and others lead to a paradox: the desire to ensure liberty and equality for individuals leads to more and more individual constraints. This result is not surprising because at some level of analysis it is necessary to step down from the nebulous regions of pure speculation, if theory is to have any empirical content, and then one

⁵Of course, this is not in keeping with the Pareto optimum criterion of welfare which attempts to avoid interpersonal comparisons of utility.

⁶Rawls, *op. cit.* p. 60.

⁷*Ibid.*

III. Nozick's Theory of Justice

Nozick begins with a (Lockean) state of nature approach to justice. He speculates on how individuals might protect themselves against encroachment by others through protective associations, and he then examines how a protective association may evolve to (or be defined characteristically as) a minimal state. He examines various objections to his arguments for a minimal state, and he concludes that his ideas hold: "the minimal state is the most extensive state that can be justified."¹⁰ Following his defense of the minimal state, Nozick examines arguments which appear to justify the existence of a more extensive state, one beyond the minimal state. Such arguments derive from ideas of distributive justice, equality, envy, exploitation, etc. He offers counterarguments as justification for not going beyond the minimal state.

In his defense of the minimal state, Nozick is waging a war of words. However, finally, in his chapter, "A Framework for Utopia," he stresses

the fact that people are different. They differ in temperament, interests, intellectual ability, aspirations, natural bent, spiritual quests, and the kind of life they wish to lead. They diverge in the values they have and have different weightings for values they share. There is no reason to think that there is *one* community which will serve as ideal for all people and much reason to think that there is not.¹¹

The above makes clear that one of the basic differences between Rawls and Nozick is the extent to which "shared values" dominate over

must recognize that mere mortals fly in the face of such ideals. Theories of justice require cooperation and consensus, or rules and enforcement in their absence. Hence one finds a vacillation between dreams of perfectability (which reconcile nicely the divergence between ideal conceptions and mankind as it is) and, therefore, the description of a future state, and a necessity to deal (often harshly) with this imperfect mankind in the present in order that he conform eventually to the ideal type.

¹⁰Nozick, *op. cit.* p. 149.

¹¹*Ibid.* pp. 309-310.

individual heterogeneity, although both recognize the relationship between the individual and the social in their works. Whereas Rawls sees individual and social (and economic) heterogeneity as a basis for possible injustice (resulting from inequality), Nozick sees in such heterogeneity the only basis for justice. In contrast to Rawls, Nozick argues that social heterogeneity results in social cooperation, a viewpoint reminiscent of the Harmony economists.

The works of Rawls and Nozick may be viewed as being in opposition to each other.¹² Rawls' work can be interpreted as a statement of current liberal norms, while Nozick's work might be characterized as a modern restatement of nineteenth century liberalism. Both are concerned with justice within the context of individual liberty, both works are exercises in normative theory. Neither pretends to describe the values and institutions existing in modern society, but values and institutions as they *should* or *might* be. Although both theories are normative (moral philosophy) in nature, rather than scientific, they can be examined objectively. In other words, when removed from their focus on justice, they are essentially theories dealing with impersonal and interpersonal interaction. Therefore they can be examined as theories of interaction. I shall now take up this task.

IV. A Paretian Utilitarian Approach to Rawls' Theory of Justice

Although Rawls finds utilitarianism lacking in several respects as a theory of justice, or at least his version of utilitarianism, it is possible to examine his system in a utility framework. Such a framework is not too great a departure from the *spirit* of Rawlsian thought because, as mentioned above, his ideas represent a modification and not a rejection of utilitarian theory. Nozick's system is essentially utilitarian, as we shall see.

¹²Nozick is in fact critical of Rawls in his book.

possessing police powers, and ruling on matters related to individual liberties only.)

Let us now turn to the second principle of justice, which involves legislative action. The first part of the second principle of justice requires that all individuals share equally in the opportunities of this world. In terms of our framework the requirement that all individuals be treated equally, regarding opportunities, results again in equal weighting by government: $M_1 = M_2 = \dots = M_i = \dots = M_n$. Again a political (social) optimum obtains when condition (6) is satisfied.

The "difference principle" requires that social and economic inequalities be arranged "so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all." The distribution of wealth and income, "while it need not be equal, it must be to everyone's advantage."¹⁶ Suppose a certain action (production, exchange, etc.) results in a distribution of income which does not satisfy the "difference principle." Then in order for the "difference principle" to obtain, it will be necessary to make some persons worse off by reducing somewhat their gain resulting from that action in order to make everyone else who did not gain from that action better off.¹⁷ The government is the sole agency for redistribution. What this amounts to saying is that redistribution will take place until condition (6) holds. In the case of redistribution, individuals are grouped according to those advantaged and disadvantaged, the latter being assigned higher M values. Some of the dU 's will be negative and others positive, indicating the

redistribution necessary to achieve the second part of the second principle.

Redistribution according to the second principle results in a higher level of aggregate (political) welfare because of the higher M weights assigned to the disadvantaged, who gain from the redistribution relative to the advantaged.¹⁸ It is precisely this differential weighting scheme which distinguishes the Rawlsian theory of justice from classical utilitarianism. Regarding individual liberties and equality of opportunities, Rawls and the classical utilitarians are at one. On the other hand, the *economic* concept of welfare is tied to a market framework which implies certain conditions (free competition) and ignores distributional aspects because they involve interpersonal comparisons of utilities. Hence the economic conception of welfare is more restrictive in scope. What is important for my purposes, in a non-market context, is that government has a central role to play with respect to both the determinacy and optimum of a social system. I shall return to this point later.

V. Nozick's Theory of Justice

Central to Nozick's theory of justice is the importance of individual freedom of choice and individual heterogeneity. In order to examine the relationship between choice and heterogeneity, let us begin the analysis with the absence of the latter. If there exists a community of n identical individuals then $\alpha_{11} = \alpha_{21} = \dots = \alpha_{n1}$; $\alpha_{12} = \alpha_{22} = \dots = \alpha_{n2}$; etc.¹⁹ This circumstance amounts to saying that the subjective welfare function of any individual is identical to the social welfare function of the

community,

$$W = w_i = f_i(u_1, u_2, \dots, u_i, \dots, u_n), \quad (7)$$

since there exists n^2 -homogeneity of individuals. A *social* optimum exists when conditions in system (3) above are satisfied.²⁰ Furthermore, there is no need for any kind of state, minimal or otherwise. For if there existed a state, the β_{ij} would be equal to 1, and the M_i in system (4) would be redundant. Also the expression for the maximization of political (social) welfare,

$$0 = M_1 du_1 + M_2 du_2 + \dots + M_i du_i + \dots + M_n du_n, \quad (8)$$

would be the same as all of the identical individual expressions in system (3), rendering the state redundant.

All the above seems rather obvious and perhaps trivial. But in the works of Rawls and Nozick the justification for the existence of the state remains tied to moral issues, whereas in fact it derives from something quite different, namely the heterogeneity of individuals.²¹ Once the problem of individual heterogeneity is added to freedom of individual choice, there develops the potential for *social* conflict, which must be resolved. Nozick approaches the problem of conflict by proceeding from states of anarchy to association to ultra-minimal state to the minimal state to examine how individuals would protect themselves against the freedom of choice consequences of other individuals. Collective action is given so much attention that *individual* interaction remains obscure. It is not clear whether such action is impersonal

²⁰This was not the case when system (3) applied to *heterogeneous* individuals. In that case no solution was possible without the imposition of a political welfare function.

²¹The problem of individual heterogeneity is recognized by both authors. We have seen how Rawls attempts to deal with it in his "veil of ignorance," and Nozick introduces the problem at the end of his book. But in both cases heterogeneity either remains implicit or is taken for granted, while the focus is on moral issues.

or interpersonal. This obscurity leads to the temptation to categorize Nozick's theory as both an economic (or market) theory of interpersonal interaction and an interpersonal interaction theory. In fact, it is both, depending on whether or not a party to any social act (one involving another person) feels that he has suffered a damage, subjectively. Hence a damage to another party circumscribes the limit of individual freedom of choice.²² Up to that limit, freedom of choice is purely a private matter, and, hence, the analogy with economic theories of choice.²³

Although harmony reflected in private exchanges between heterogeneous individuals is the most common case in Nozick's system, it receives the least attention since it is the least troublesome from the point of view of justice. Hence, the preoccupation with damages and compensation imposed by a protective association. The function of the dominant protective agency (or the minimal state) is to act as an agent in exacting compensation (and/or punishment) for injured parties. Presumably, justice requires that all persons be treated equally in matters affecting damages and compensation. Therefore, $M_1 = M_2 = \dots = M_i = \dots = M_n$.

Since compensation (and punishment) is at the heart of Nozick's approach to conflict, I shall focus on this issue. The problem of compensation can be viewed best from a micro level. Suppose individual 1 gains at the expense of individual 2, and both individuals perceive the gains and losses subjectively the same i.e. $|du_{11}| = |du_{12}| = |du_{21}| = |du_{22}|$.²⁴ For individual 1, $\alpha_{11} > \alpha_{21}$, and from his point of view his action is justified since it results in a gain in his

²²In economics (or market) theories of choice the problem of conflict does not exist since both parties to, say, exchange, must subjectively benefit from such action. If not then no transaction takes place. The freedom in such cases is to decide whether to enter a transaction at a certain price, given the "preferences" of both parties.

²³See footnote 22 above.

²⁴This merely simplifies the discussion, it is not essential for the results.

¹⁶*Ibid*, p. 60-61.

¹⁷At times Rawls seems to be suggesting that no action would be permitted *in advance* which would violate the "difference principle." Such a requirement would involve perfect knowledge regarding the outcome of every action. It would also suggest, in the absence of perfect knowledge, the necessity for social control of almost every form of economic and social action which generates income. In the text, I assume that the government attempts to satisfy the difference principle by ex-post redistributions.

¹⁸The political weighting process based on the second principle of justice is purely normative and subjective, since it derives from a moral principle of justice. In saying that such redistribution results in a higher level of political aggregate welfare, the qualification "according to Rawls' principle" should be emphasized. There is no *objective* basis for this principle.

¹⁹We see also that n identical individuals does *not* imply the equality of all α_{ij} .

subjective *social* welfare function, $w_i = f_1(u_1, u_2, \dots, u_i, \dots, u_n)$. Individual 2 may not see things in the same way. Suppose at best that for him $\alpha_{21} = \alpha_{22}$; he will argue that then there has occurred no increase in *his* subjective social welfare function, and he is worse off *individually*.²⁵ Both individuals disagree regarding the consequences of individual 1's action.

Enter the state. Justice requires that all individuals are to be treated equally where the state becomes a party to the dispute. So by multiplying the α_{ij} by β_{ij} , the following result is obtained:

$$\alpha_{11}\beta_{11} = \alpha_{12}\beta_{12} = \alpha_{21}\beta_{21} = \alpha_{22}\beta_{22}. \quad (9)$$

In other words, the state imposes its own political (ethical) welfare function, $W = G(u_1, u_2)$ upon the subjective welfare functions of both individuals, from which it derives a political optimum:

$$0 = M_1 dU_1 + M_2 dU_2. \quad (10)$$

In this case since $M_1 = M_2$ (from (9) above), individual 1 is made worse off while individual 2 is made better off, through compensation: the equal justice principle, *in this case*, rejects individual 1's basis for his action, and returns conditions to the original state. The above is extensible to punishment for crimes. If the state has weighted each individual unequally, so that $M_1 \neq M_2$, then it would mean that it disagreed with both individuals' α_{ij} 's, and the resulting compensation (if any) would reflect its own weighting.²⁶

It is important to recall that in Nozick's minimal state, the state is a passive agent in matters of individual interaction. It waits for claims to

²⁵Such socially undifferentiated results, although allegedly acceptable on classical utilitarian grounds, would not be acceptable to either Rawls or Nozick.

²⁶An intriguing question is whether or not justice would prevail in such cases where the participants are weighted unequally by the state. Both sides of arguments seem compelling. The answer lies in the basis for the original distribution of income, as to whether or not it was "just."

be brought to it. All other actions among individuals, which are settled satisfactorily by individuals are outside of its jurisdiction. Almost any agreement between individuals is permissible, from the point of view of justice, even if the result is inequality. As concerns distributive justice, the distribution of income resulting from such voluntary agreements is also just. Patterned principles of distribution such as "to each according to his moral merit, or needs, or marginal product, or how hard he tries, or the weighted sum of the foregoing, and so on"²⁷ are rejected because no "distribution or patterned principle of justice can be continuously realized without continuous interference with people's lives."²⁸ Instead Nozick advocates the principles of entitlement, which more or less corresponds to my description of absolute freedom of individual choice, including agreements and contracts.

VI. Rawls and Nozick

Heterogeneity of individuals is the basis for the existence of the state. The issue, at least for Nozick, is the limits of state power which are consistent with individual freedom of choice and justice. Indeed, this is the crucial difference between the systems of Rawls and Nozick. In the Rawlsian system the state is an active force which intercedes in almost every individual or social action possessing distributive implication. Rawls seems to suggest that the state role is ex-ante, not merely ex-post; it prevents or permits actions depending on whether or not they conform to distributive justice. Rawls' system can be re-interpreted as an ex-post redistribution role for government, an interpretation which is more consistent with an environment of uncertainty of outcome of individual or social action.

For Nozick, the role of the state is confined to ex-post compensation and punishment

²⁷Nozick, *Anarchy, State, and Utopia*, p. 157.

²⁸*Ibid.* p. 163.

(except for preventive detention). Essentially then the contention between both works concerning governments is ex-ante or ex-post redistributive (depending on how one wishes to modify Rawls in order to take account of uncertainty) versus ex-post compensatory. Each implies differences in degrees of government interference in individual and social action. Neither presents anything like a theory of the limits of state power, based on different circumstances of individual heterogeneity. Instead, both reflect in their works, a received doctrine. Rawls presents little more than a cohesive and rigorous statement—one is tempted to say rationalization—of current American liberalism, while Nozick's is a restatement of nineteenth century liberalism. Is it surprising then that Rawls stresses interventionism and Nozick laissez-faire, views reflected in the climate of opinion of both periods? Both are quick to point to the flaws of the theories they examine, but cannot explain why one should expect their own theories to do better, although they are based on the same stuff—moral sentiments.

VII. Conclusion

Would a careful reading of Rawls and Nozick be a waste of time for economists? After all are not normative theories of justice unscientific? The development of economics as a science during the nineteenth century witnessed the purging of utilitarian ethical principles from economics. Nevertheless the utilitarian paradigm has survived implicitly in standard micro-economic theory and it is reflected in the institutional background conditions assumed to exist in theory. It is precisely these background

conditions which require careful scrutiny and evaluation. To the extent that the social sciences deal with individual interaction, they have a common basis. In economics, the dominant conception of interaction has been impersonal interaction.²⁹ Yet much of what economics attempts to explain occurs in an environment of interpersonal interaction (e.g., wage determination, pricing, interest rates, output, employment, public policy, etc.) where considerations of justice, equity, and efficiency are inseparable, not only in collective decision making, but also in individual choices. But attempts to move in the direction of theories of interpersonal interaction have been frustrated by the complexity of problems encountered, the most important being a breakdown in the traditional boundaries among the various social sciences.³⁰ If economists are going to become involved in interpersonal interaction in order to bring theory closer to reality, then it will soon be realized that economic phenomena are economic only by definition.

²⁹What this means in terms of the framework developed is that in (3) the only positive values are along the main diagonal; all other values are zero. This is why in economic theories of interaction solutions are possible without the existence of a government. This is often overlooked in welfare economics where the existence of a social welfare function is assumed to be necessary for a unique Pareto optimal solution. Pareto demonstrated that the system has a unique solution. The lack of uniqueness appears when one asks which of two states along the contract curve is better. The system determines this point, so the problem arises because of the nature of the question, which requires interpersonal comparisons. In practice, where consensus exists there is little need for theories of justice and where it does not exist such theories are little more than ideology.

³⁰Another problem is that such theories tend to be descriptive rather than analytical and lack definitive results.