# A SUBJECTIVE EXAMINATION OF THEORIES OF JUSTICE

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*ABSTRACT: Following observations by John Rawls, in his "Dewey Lectures," this study attempts to illuminate the "common sense" convictions which are presumed central to a workable theory of justice. Utilizing Q methodology, the study identifies four factors depicting how people think about justice, and three factors representing how people think about justice when operating from a position behind the Rawlsian veil of ignorance. Overall, participants indicated respect for an open and equally accessible political process, and demonstrated a belief in the need for constitutional guarantee of basic civil and political rights. Nonetheless, the evidence does not support the notion that our political culture is prepared for a Rawlsian conception of justice.*

The aim of political philosophy, when it presents itself in the public culture of a democratic society, is to articulate and make explicit those shared notions and

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> principles thought to be already latent in common sense; or, as is often the case, if common sense is hesitant and uncertain, and doesn't know what to think, to propose to it certain conceptions and principles congenial to its most essential convictions and historical traditions.
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> --John Rawls

This study was prompted by observations offered by John Rawls in his *Dewey Lectures* (Rawls, 1980). A theory of justice, Rawls indicated, can be justified for a society "only when a basis is established for political reasoning and understanding within a political culture" (p. 517). People, in other words, must be able to offer a defense for a theory of justice which is "publicly recognized as sufficient reason" (p. 517). The problem with the current justice dialogue, according to Rawls, is that it has yet to arrive at an understanding or a way of communicating ideas about freedom and equality which have met with general approval (p. 517). Discussions concerning justice have failed to tap into justifications which are publicly accepted in our political culture as legitimate. Rawls sets as his task in the *Dewey Lectures* the achievement of "a practicable and working understanding on first principles of justice" (p. 518). His hope is that there is sufficient desire among the public to achieve agreement on justice and that a body of principles on which we could base such an agreement exists as part of our political culture. As he writes:

> The real task is to discover and formulate the deeper bases of agreement which one hopes are embedded in common sense, or even to originate and fashion starting points for common understanding by expressing in a new form the convictions found in the historical tradition by connecting them with a wide range of people's considered convictions: those which stand up to critical reflection. (Rawls, 1980: 518).

It is our hope that the following study will shed some empirical light on those "common sense" con-

victions which occupy such a central place in Rawls's theory. For all who agree with his assertion that a theory of justice involves a set of principles publicly accepted in a society and that this public acceptance is contingent upon an appeal to methods of justfication imbedded in a particularly historical political culture, the identification of what people actually think about justice and questions about justice involving freedom and equality is a necessary preliminary for any serious discussion of justice. Even the most cursory review of contemporary political science literature of the past decade shows no lack of thinking about justice. What does appear to be absent from this literature, however, is the expression of these all-important common sense convictions. Apart from the ever-present public opinion polls, there have been few attempts to discover the kinds of views held by the public concerning justice. The justice literature is no exception to most of the literature of political science. It contains the debates of professionals in the field refining and elaborating upon an endless array of theories and their critiques. This, most certainly, is a necessary and respectable enterprise, but it is not sufficient in and of itself if we as a society are to develop an acceptable and workable definition of justice. Professionals in the field of political science can articulate what others can only sense, and some of them can even lead people in the direction of their own ideas, but they cannot force a particular theory of justice on the public. As Rawls has noted, we simply have not come very far in our discussions about justice. In his words, "The requisite understanding of freedom and equality, which is implicit in the public culture of a democratic society, and the most suitable way to balance the claims of these notions, have not been expressed so as to meet general approval" (Rawls, 1980: 517).

Q methodology has been employed in our study for its ability to display in an objective way some contemporary subjective attitudes toward justice, freedom, and equality. We were especially interested in identifying those elements in these attitudes which prevent the emergence of a consensus regarding a definition of justice and an acceptable relationship between freedom and equality.

The participants in our study were, in the best sense of the word, "ordinary people." It was our intention to focus attention on some of the oft-neglected characters in the script, the everyday people who inhabit our world and must daily play out their lives in the context of limitless desires and limited resources. Ultimately, their voices must be heard. At certain times, force or delusion might substitute for justice, but as moderns we are convinced that agreement about principles of justice is a superior way to insure a content and stable public life for all citizens.

## Study Design

For the purposes of this study, 40 statements were drawn from Rawls's *A Theory of Justice* and Nozick's *Anarchy, State, and Utopia*, as well as from several articles dealing with these two works. Since we intended to focus the investigation on questions of justice involving freedom and equality and their "proper" relationship, we selected statements which dealt with this particular aspect of the topic. The decision was made to focus on these particular works and authors as dominant voices in the current debate.

The statements were initially administered to 16 subjects who were instructed to rank them from "most agree" (+4) to "most disagree" (-4). Then, the same subjects were again asked to Q sort the statements under a different condition, one in which they were told to assume they knew nothing about themselves, their place in society, nor the society in which they were to live. Theoretically, this allows us to approximate the condition of Rawls's "veil of ignorance" and permits us to make some interesting comparisons between the theories of justice held by historically situated selves and theories of justice which might emerge were people uncertain as to the particulars of their individual lives.

We hypothesized that at least two factors would emerge as a result of the first phase of the study: one which would approximate the Rawlsian viewpoint, with its concern for the proper places for freedom and equality in a theory of justice; and one resembling Nozick's libertarian view on justice. As pro-

fessional political scientists, we approached this phase with some trepidation: should neither of these factors emerge, the conclusion might be drawn that the talk about justice produced in the academy is totally divorced from what goes on beyond our hallowed walls! The results of phase one were somewhat reassuring in this regard. We also anticipated that phase two (veil of ignorance) might produce a single factor which would cluster along the lines suggested by Rawls in *A Theory of Justice*. Once again, reality proved to be more complex than our initial hypothesis.

## Theories of Justice

Four factors emerged from phase one of the study. Factor A, dominated by individuals with some training in political science, most closely approximated Rawls's theory of justice, and there is a temptation to suggest that this factor has been influenced by formal training in political science.

For Rawls, a just state is one in which all individuals have an equal right to basic liberties, and the inequalities which do exist are arranged in such a manner that the least advantaged are benefitted to the greatest extent (Rawls, 1971: 60-61). In this regard, statements 15 and 37, which serve to characterize factor A, suggest the importance these individuals attach to an open society in which all people are entitled to participate in government and enjoy certain fundamental rights:

> (15) All citizens should have an equal right to take part in, and to determine the outcome of the constitutional process that establishes the laws with which they are to comply. (+4)

> (37) Each person is to have an equal right to the basic liberties (the right to vote and run for public office, freedom of speech and assembly, etc.) to the greatest degree consistent with everyone having these freedoms equally. (+3)

The members of this group, moreover, demonstrate a genuine compassion and concern for the less

fortunate through a rejection of statements which suggest that the better off have no obligation to the poor. The evidence suggests that these individuals view the welfare state as a legitimate vehicle for insuring that better-off citizens will assist those in need of help.

> (3) Taxation of earnings from labor is on a par with forced labor; taxation and slavery are roughly equivalent. (-4)
>
> (6) We have no obligation to help those worse off than we are. (-4)
>
> (8) It is morally illegitimate for any government to tax some of its citizens in order to provide food, shelter, medical care or social services for other, less fortunate citizens. (-4)

Factor A operates within a rights-based conception of justice and what Sandel (1984: 16) has referred to as a "neutral framework" with respect to ends. As indicated by other statements in the array,[1] these individuals appear not to believe that there is a single best society for everyone, nor do they try to tell one another what should be valued, but they do commit themselves to a process and framework consistent with individual pursuit of a variety of goods. They also recognize the limitations that arise from a situation of scarcity, but they attempt to arrange the inequalities which do result so as to be open to all.

Nor is their politics bereft of a moral sense of obligation to aid one another, as evidenced in the set of statements which received the greatest disagreement. Traditionally, the problem for the liberal position is the need to create some kind of community out of a number of separate individuals. The participants in this phase of the study, although possessed of a liberal, rights-oriented view of justice, demonstrate a sense of compassion and feeling of responsibility to help one another, even to the extent

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[1]The statements and factor scores are available upon request.

that government need become involved. These individuals see no inconsistency between freedom and coercive governmental action to help others. Their view of justice accommodates a definition of a liberal sense of self as well as an acknowledgment of a connectedness demanding of action to others. What this admittedly scanty evidence suggests is that the problem of community may not be as monumental as is often depicted in the justice literature. Indeed, research from the field of social psychology points in this very direction. Melvin Lerner, a student of the psychology of justice, for example, suggests that people are capable of perceiving a "strong sense of identity" with those beyond their immediate families, and that that ability is a resource of "enormous power" in dealing with questions involving justice (Lerner & Lerner, 1981: 34). The subjects participating in this study, although not called upon to act on their beliefs, give credence to Lerner's interpretation and Rawls's hope for a just society.

Factor B presents a somewhat more puzzling attitude. The characterizing statements for this factor suggest confused thinking concerning justice. From the viewpoint of "professional political science," the perspective appears inconsistent and contradictory. How, for example, can these individuals strongly agree with both of the following statements?

> (20) I would prefer a libertarian society; one in which everybody would be able to live the life they want to live. (+4)
>
> (40) Freedom is not the chief and continual object of our desires; it is equality for which we feel an eternal love. (+4)

The strength of Q methodology, however, is that it allows individuals to present their subjectivity in an unfiltered fashion to the researcher. At this point another interpretation suggests itself, one which holds out the possibility that the inconsistencies and the contradictions emerge only if factor B is analyzed from the position derived from the formal justice literature. For these individuals, there is no contradiction, as Nozick for one would suggest, between freedom and equality. Whatever equality means for

them, it does not involve anything that interferes with their understanding of freedom. Likewise, freedom in their viewpoint is consistent with what they perceive as equality. In order to understand their perspective, then, it is necessary to transcend the meaning of freedom and equality as they traditionally are presented in the literature of political theory. To the extent that we are able to do this, we may well begin to formulate a way to resolve the dilemmas that have plagued our thinking about justice.

Unfortunately, it is at this point that we are left with little guidance. Two individuals defined this factor. Both were young women with little or no formal training in political science. Although they do not see governmental action as directed towards improving the plight of the disadvantaged in society, they are not opposed to taxation, a coercive technique, in order to provide for the needy. In their conception of equality, they emphasize process over substance. They believe in equality in terms of equality of access to the constitutional process and to social and economic inequalities, but they also appear to reject any economic system which would take from them the products of their personal efforts. These individuals think about justice in procedural rather than end-state terms, and to this extent their views are not dissimilar to those expressed by Nozick.

Factor C, however, even more closely approximates the theory of justice presented in Nozick's *Anarchy, State, and Utopia*. The following statements, for example, indicate the stress these individuals place on freedom:

> (20) I would prefer a libertarian society; one in which everybody would be able to live the life they want to live. (+4)
>
> (22) If liberty conflicts with equality, I will take liberty. (+4)
>
> (26) The primary threat to liberty is the imposition of obligations to which one has not consented. (+4)

At the same time, factor C's position on equality emerges in stark contrast to thoughts on freedom, as scores for the following statements indicate:

> (4) Nothing will satisfy me without equality; I'd rather die than lose it. (-4)
>
> (5) Since inequalities of birth and natural endowment are undeserved, these inequalities are to be somehow compensated for. (-4)
>
> (40) Freedom is not the chief and continual object of our desires; it is equality for which we feel an eternal love. (-4)

Unlike factor A, factor C sees little in the way of an obligation to help others; indeed, C is the only group of individuals in either phase of the study to register even mild agreement with statement 6: "We have no obligation to help those worse off than we are" (-4 -2 +2 -4).

Consistent with their conception of freedom and their attitude towards the obligation to help others, factor C opposes welfare state activity directed towards ameliorating the condition of the poor.

> (16) Whatever government does, it has to do for the poor. (-3)
>
> (14) All domestic policies should ask the question: What does it do for the poor? (-3)

Interestingly, factor C differs from the other factors at another crucial point: their concern with protecting the basic rights of the individual seems relatively weak. For example, this factor assigned the lowest score of all the groups (+2) to the view that "each person is to have an equal right to the basic liberties (the right to vote and run for public office, freedom of speech and assembly, etc.) to the greatest degree consistent with everyone having these freedoms equally." On the other hand, this factor strongly agrees (+3) with the notion that people are entitled to their inherited assets. The individuals on this factor see no need to justify social and economic inequalities through an appeal to the

Rawlsian notion that some inequalities are permissible if they benefit the most disadvantaged members of society.

Factor D, like C, gives an economic focus to its conception of rights. The following statements typify the attitude:

> (9) Restrictions on earnings or inheritance in order to maintain equality are unacceptable. (+4)
>
> (19) People are entitled to their inherited assets whether or not they deserve them. (+4)

As indicated elsewhere in the factor arrays, inequalities of birth and natural endowment demand no compensation; unpredictably, however, factor D rejects the notion that we have no obligation to help those worse off than ourselves. On the other hand, these people do disagree with the notion that government should direct its activities towards helping the poor. Government, for them, involves coerced obligations, and coerced obligations threaten their freedom. Interestingly, they indicate no support for a libertarian society, and do not see coercive governmental regulations as morally wrong. If anything, they appear to admit the morality of using government to help the poor, but reject it as a violation of personal freedom. They prefer to fulfill their obligations to others through voluntary transfers.

Insofar as a positive consensus is concerned, only three statements received positive scores from all the factors (scores for factors A to D, respectively):

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|---|---|
| +4 +3 +2 +2 | (15) All citizens should have an equal right to take part in, and to determine the outcome of the constitutional process that establishes the laws with which they are to comply. |
| +2 +2 +1 +1 | (33) Self-respect and sure confidence in the sense of one's worth is perhaps the most important human quality and individuals and groups should wish to avoid at almost any cost the social conditions that undermine self-respect. |

+3 +4 +2 +3 (37) Each person is to have an equal right to the basic liberties (the right to vote and run for public office, freedom of speech and assembly, etc.) to the greatest degree consistent with everyone having these freedoms equally.

Those individuals involved in the study apparently agree with equality defined as equal access to the political process and equality of basic civil and political liberties. They also, albeit relatively mildly, see the importance of self-respect in our lives, and the need to avoid conditions which would undermine it.

In terms of a shared community of concerns, the participants in this study agree that all citizens should enjoy our constitutionally guaranteed basic political and civil liberties. Beyond that, however, crucial differences emerge among the factors, but the differences clearly do not center on disagreements between any two particular factors. The establishment of a group of publicly agreed upon principles of justice would therefore seem to involve more than the elimination or alteration of a single attitude.

Nor do there appear to be any significant groupings of critical demographic characteristics associated with a particular factor. Q methodology is of course concerned with the identification of attitudes and not with their attribution to any particular group; nevertheless, it would be no small matter if, for example, males were to cluster on a single factor and females on another, but this was apparently not the case. Factor B was exclusively female and factor D exclusively male, but with the small number of individuals involved with each factor, few conclusions are warranted.

## The Veil of Ignorance

During phase two of the study, only the condition of instruction was altered. The participants and statements remained the same, but the subjects were asked to rank order the statements assuming they knew nothing about themselves, their place in society, nor the society in which they would live. Rawls had argued that people in the "original position"

operating behind a "veil of ignorance" (our phase-two condition of instruction) would select the principles that constitute "justice as fairness." The first principle, according to Rawls, states that all people are to have an equal right to the basic liberties, defined as the right to vote and run for public office, freedom of speech and assembly, liberty of conscience and freedom of thought, the right to own property, and freedom from unlawful arrest or seizure (Rawls, 1971: 61). The second principle states that "social and economic inequalities, for example, inequalities of wealth and authority, are just only if they result in compensating benefits for everyone, and in particular for the least advantaged members of society" (Rawls, 1971: 14). The proposition that people will take a risk in the original position and reject the justice-as-fairness principles is denied by Rawls.

We have expanded the design of the study to include phase two for a number of reasons. Since Rawls's thoughts have been so influential, we were interested in an empirical examination of his theory under the conditions he established. In phase one, we were interested in examining individuals' common sense opinions about justice. As such, we did not approximate the conditions under which Rawls had argued "justice as fairness" would be chosen. We were also interested in contrasting phase two with phase one. If Rawls is correct, it would come as no surprise that individuals aware of their position in society would not cluster on a single factor. To this extent, our findings during phase one were not inconsistent with Rawls. It would, however, be of significance if individuals operating under the veil of ignorance in the original position would not fall on a single "justice as fairness" position.

Factor X of phase two did indeed adopt a "justice as fairness" position. As shown in the statements below, there are individuals interested in an open society which does not ignore its disadvantaged:

(16) Whatever government does, it has to do for the poor. (+4)

(34) Chances to acquire knowledge and skills should not depend upon one's class position,

and so the school system, whether public or private, should be designed to even out class barriers. (+4)

(2) Those with similar abilities and motivation should have a fair chance to attain similar social positions. (+3)

(5) Since inequalities of birth and natural endowment are undeserved, these inequalities are to be somehow compensated for. (+3)

And as demonstrated elsewhere in the factor array, this factor stresses the openness of the constitutional process and the protection of basic liberties. At the same time, these individuals reject those statements which suggest that it is wrong to tax some individuals in order to help those who are less well-off.

Interestingly, factor X includes individuals who, during the first phase of the study, were on factors B and D. When questioned about the change in her views, one woman commented that if she did not know anything about herself or her society, she would prefer a society which was kind to the least well-off since she might fall in that category. During phase one, 9 of the 16 individuals fell on the first or "Rawlsian" factor; 3 of these people were also mixed on other factors. During phase two, 8 individuals fell on this first, or "Rawlsian," factor, with only 1 of the 8 loading on more than one factor.

Factor Y calls into question Rawls's assertion that people would not be risk-takers in the original position. The three individuals who comprise this factor are willing to take a chance on where they will end up in a new society. Two of these fell on Rawlsian factor A of phase one, suggesting an interesting rejoinder to Rawls! Factor Y displays an attitude that no society will be perfect, which suggests that a risk (at least one as insignificant as one taken on paper in the course of a political science experiment) might pay off in a big fashion. Moreover, these individuals appear to value freedom over equality. Their reactions to the following are particularly significant:

(22) If liberty conflicts with equality, I will take liberty. (+3)

(4) Nothing will satisfy me without equality: I'd rather die than lose it. (-4)

(40) Freedom is not the chief and continual object of our desires; it is equality for which we feel an eternal love. (-4)

Factor Z was perhaps the most puzzling of all which emerged during the two phases of the study. At best, it can be said that the individuals comprising this factor value freedom over equality, viz.:

(20) I would prefer a libertarian society; one in which everybody would be able to live the life they want to live. (+4)

(40) Freedom is not the chief and continual object of our desires; it is equality for which we feel an eternal love. (-3)

Clearly, however, it is the type of attitude reflected in factor Z which is the bane of rationalists. Note, for example, their responses to the following statements:

(17) Social and economic inequalities are to be arranged so that they are attached to offices and positions open to all under condition of fair equality of opportunity. (+4)

(34) Chances to acquire knowledge and skills should not depend upon one's class position, and so the school system, whether public or private, should be designed to even out class barriers. (-4)

(15) All citizens should have an equal right to take part in, and to determine the outcome of the constitutional process that establishes the laws with which they are to comply. (-3)

Short of arguing that this factor represents some form of Nietzschean transvaluation of values and that our traditional concepts are too limited to reflect their complex attitude, little can be said of it. If anything, the individuals who clustered on this fac-

tor do give some evidence of disregard for the herd (no. 32: "Individuals may not be sacrificed or used for the achieving of others' ends without their consent. One may not violate a person's rights for a greater social good" (-4)). Perhaps they, too, in their own way, are confident risk-takers who believe that, whatever the outcome of decisions made behind the veil of ignorance, they will somehow emerge in a favorable position.

## Conclusions

To what extent have we been successful in articulating and making explicit shared notions and principles in the public culture of our society? At best, we can lay claim to but modest success for our efforts. The results of phase one of our study revealed little beyond what even the most amateur of political observers might suggest as distinguishing attitudes of our culture. Our participants indicated respect for an open and equally accessible political process. They demonstrated a belief in the need for constitutional guarantee of basic civil and political rights. But are these shared attitudes a sufficient basis for political reasoning and understanding within a political culture? Not, we would suggest, if that society aspires to a Rawlsian conception of justice. Clearly, our political culture, if the attitudes of the participants in this study can be viewed as representative, is not prepared for a Rawlsian theory of justice with its specific relationships between freedom and equality. Although factor A of phase one might do quite well in such a place, their colleagues on the other factors would experience their own form of civilization and its discontents.

The results of phase two were no more encouraging for those who look to Rawls. What we discovered was that some individuals, despite Rawls's prediction, are risk-takers. Now, most certainly, as was noted earlier, the gap between risk taking during experiments and risk taking during the course of real life is all but unbridgeable. Those of us denied the deed can take some small comfort from the thought that individuals in this experiment were truthful and honest in expressing what they thought

they would do should the veil of ignorance descend upon them.

However, might not an appeal to a rights-based conception of justice provide adequate justification for a publicly acceptable theory of justice? This possibility, in fact, accurately describes much of American political thought and life since the founding. For those who find the realization of political freedom and equality without corresponding economic freedom and equality an unreachable (and undesirable) goal, the results of this study indicate that much needs to be done if we as a society are to become something other than what we are and what we have been. And here is the catch. The factors demonstrated no consensus concerning the role of government in our lives and the specific "right" or "obligation" to use governmental action to alleviate the plight of the disadvantaged members of society. As a society, we do not seem able to agree whether an individual "deserves" inherited wealth, nor do we display any evidence of an emerging consensus for acceptance of a society which operates according to Rawls's difference principle.

If the common sense of the participants in our study was "hesitant and uncertain" (to borrow a final time from Rawls), then the task of the political philosopher (who might well take off from where the political scientist concludes) becomes contrastingly clear. Now more than ever, it becomes the lot of the political philosopher to suggest conceptions and ways of proceeding on those conceptions which can become tomorrow's common sense convictions.

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