

Rawls' Theory of Justice: An Improvement upon the Utilitarian Doctrine

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Abstract

John Rawls' theory of justice provided a revolutionary conception of the justice system and the morals behind it. As a solution to the deadlock of utilitarian and intuitionist theories of justice, it presented a superior explanation, which relied less upon seemingly unfounded assumptions of human nature having an inherent interest in pursuing the greater good. For the purposes of this argument, John Stuart Mills' conception of utilitarian justice is compared to Rawls' theory.

Introduction

Justice is a concept that has many definitions, interpretations and prescriptions, all of which have been widely disputed in political and philosophical literature. Generally, it can be described as a sense of moral rightness, which can be applied in many different ways, much of which is usually state-sanctioned action. Within justice, politics and morality are intertwined. A justice system is established through politics and is generally expected to reflect the morals of the population which it regulates to ensure fairness, equal treatment or protection of rights.

It is fairly obvious, then, that justice plays a role of insurmountable importance within society, and thus justice systems are carefully analysed and rigorously assessed to assure maximum functionality and efficiency. One can presume, then, that there are many different conceptions as to what principles the ideal justice system is based on and as to what the use of these principles presume about the morals, aspirations and goals of individuals or of a whole population.

Throughout much of the 19th century, there was a struggle between two theories of justice which were said to form a deadlock, namely utilitarianism and intuitionism. Utilitarianism was widely accepted as the theory that best captured the essence of political morality, and was challenged simply by an "unsatisfying alternative", intuitionism, which many philosophers thought to be an "incoherent jumble of ideas and principles" (Kymlicka, 2002: 53). Intuitionism rested solely on the idea that value pluralism prevents a true universal theory of justice, and that there is little consensus on specific instances of right and wrong, making prescription nearly impossible. Thus, those who searched for an alternative to utilitarianism were often left without an option.

In the 20th century, however, another theory of justice emerged, which was both controversial and historically important, as it broke the intuitionism-utilitarianism deadlock: John Rawls' *A Theory of Justice* (Kymlicka, 2002: 53-54). Based on mainly reform liberal ideological principles, including a modified version of equality of opportunity, *A Theory of Justice* claimed a significantly different main principle from utilitarianism.

For the purposes of the argument set forth in this paper, I will be focusing on the concept of utilitarianism as dictated by John Stuart Mill in his like-titled book, *Utilitarianism*. The main difference exempted here between Rawls and Mill, is that Mill's utilitarianism claims that

actions are right or useful if they benefit a majority, whilst Rawls claims that any action that may result in an inequality must benefit the least advantaged of society.

In terms of justice specifically, utilitarianism considers justice to be attained when utility is maximized within society, whereas Rawls considers justice to be attained when the distribution of social primary goods is equitable in that it benefits the least well-off. In this paper, I will argue that Rawls' theory of justice is, in fact, superior to Mills' utilitarian conception of justice, and offered a genuinely improved theory when the work was published. It will also be argued that this is generally due to Mill's rejection of humans' inherent self-interest, which is a core concept within Rawls' theory, and also Mills' ignorance of the inevitable subjectivity and conditional nature of his theory.

Utilitarianism

Classical utilitarianism is generally considered to be a normative ethics theory, originally conceptualized by philosopher Jeremy Bentham in his 1789 book *An Introduction to the Principles of Morals and Legislation*. The general unit of analysis employed by the theory is that of utility, which can be conceptualized as welfare or pleasure. In Bentham's work *A Fragment on Government*, he concluded: "It is the greatest happiness of the greatest number that is the measure of right and wrong." (Kymlicka, 2002: 53-54). This has long since been the foundation of utilitarian thought and the basis for the utilitarian conception of justice. Thus, it is clear that in order to maximize utility, society must maximize pleasure and minimize suffering.

Therefore, actions should be judged as right or wrong based on their consequences, which should be maximally pleasurable. Mill differed slightly from other philosophers in the sense that he did not consider all pleasures to be of equal importance. Generally, utilitarians would emphasize the *quantity* of pleasure to be of maximum importance. However, for Mill, there is a qualitative aspect to maximizing utility, making his particular version of the theory non-hedonistic. This qualitative aspect differentiates between two different levels of pleasure, categorizing some as more valuable than others, generally with intellectual, artistic or literary pursuits carrying more utility than simple physical pleasures, such as eating, drinking or even sex (Daniel, 2006: 2).

However, the quantity of pleasure, or utility, being maximized, is said to be the goal which should govern all actions within society. Therefore, while individuals desire happiness specifically for themselves, they must also be concerned about "general happiness", which is considered "the happiness of the aggregate of all persons" (Daniel, 2006: 2). Mill proposed that established moral principles will, themselves, promote general happiness. And, as these established moral principles will dictate the formation of laws, there will not be a need for an individual to weigh the pleasure and suffering potential of each decision or action they make.

Therefore, within the utilitarianism doctrine, happiness is considered to be the only desirable goal for humans and that the principle of utility is "the sole criterion of morality" (Daniel, 2006). Mill justifies this claim by the link he establishes between the principle of utility and "God's purpose". If God's purpose is to ensure his creatures' happiness, then the principle of utility is consistent in doing so (Daniel, 2006: 3).

Mill's Utilitarianism and its Conception of Justice

This general theory of ethics and morals establishes a theory of justice based on the principle of maximizing utility. The established moral principles aforementioned are rules of conduct which are intended to protect the good of all human beings, and they are all bound by them. This, to Mill, is perhaps the most essential characteristic of justice because the rules of conduct are “essential for human well-being and thus maintaining utility”, because all members of society must have a secure society in which to enjoy their utility, for the concept to function effectively (Daniel, 2006: 37-38).

Primary moralities, for Mill, concern an absolute obligation to ensure human well-being, but also to give each individual what they deserve, in a manner that will maximize utility for the majority. From this arises two basic principles of justice, as outlined by Mill, which are based on the natural human sentiments of self-defense impulse and feelings of sympathy, which he claims drive a human’s natural understanding of justice (Daniel, 2006: 37-38). The first principle is the desire to harm a person who has done wrong, or, as Mill states: “... that we call any conduct wrong... according as we think that the person ought, or ought not, to be punished for it; and we say it would be right to do so and so, merely that it would be desirable or laudable, according as we would wish to see the person whom it concerns compelled, or only persuaded and exhorted, to act in that manner” (Mill, 1979: 88). The second principle connects to the first, in that it requires the knowledge that a citizen has had their rights violated, so that justice can be served. For Mill, the protection of citizen rights thus maintains the integrity of the general utility, as mentioned above (Daniel, 2006).

Rawls’ Theory of Justice

Rawls’ theory differs in many significant ways from that of J.S. Mill. For Rawls, justice is not simply a set of laws which are designed to ensure maximum enjoyment of the general utility for the majority of people. Rather, Rawls sees justice as the fair distribution of the social primary goods of society, which are the means which an individual uses to attain his or her personal conception of the good. In order for this distribution to be fair, then, it must benefit the naturally least advantaged within society. Thus, society should be constructed as a cooperative scheme which would be based on two principles of justice, which, for Rawls, operate in a serial order.

Rawls’ first principle of justice, which is the foremost necessary condition for a just society, is the concept that each person should have the same set of basic liberties as the others, and that these liberties should be as extensive as possible within society (Rawls, 1971: 52). This does not differ significantly from the utilitarian principle that citizens’ rights shall be protected, and one could assume that it is implied that when the principles of justice are violated, Rawls would not reject the notion of punishment.

However, the truly defining principle is the second, as mentioned above, which is known as the difference principle. Here, Rawls states that economic and social inequalities should only exist when they serve as the greatest benefit to the least advantaged members of society (Rawls, 1971: 52). In addition, positions and offices in society should be open to all, regardless of socioeconomic standing (Rawls, 1971: 52).

The serial order of the two positions functions to ensure that “the basic equal liberties protected by the first principle cannot be justified, or compensated for, by greater social and

economic advantages.” (Rawls, 1971: 52). This statement especially polarizes Rawls from Mill because Rawls does not place economic or social welfare as the end goal of a justice system, particularly not so much so that it would infringe upon rights that each individual citizen has, simply by virtue of being human.

Rawls also does not assume that these principles are reflective of natural human sentiment or of religious purposes, which are open to much interpretation, as Mill does. However, Rawls proposes that these are the principles for societal organization and distribution of primary goods that individuals would choose for themselves, if they were in a position of free choice and free from biases. This, for Rawls, is the hypothetical “method contract”.

In order to illustrate this phenomenon, Rawls uses a hypothetical situation which he refers to as the “original position”, where the method contract is constructed. In the original position, individuals are placed in a choice situation, where they must choose principles by which they will be governed. For Rawls, human beings are full, autonomous people who are inherently self-interested, but also possess two moral powers: the capacity of reason and the capacity to know, recognize and submit to justice. While these moral powers exist, the human instinct to ensure personal well being often prevails and in a position where the distribution of social primary goods is to be decided, biases of self-interest must be controlled in order for true fairness to be obtained.

Rawls achieves this control in his hypothetical position through use of the veil of ignorance. Naturally, when given the chance to choose how goods will be distributed in society, individuals will choose means through which they will personally benefit. For example, if a majority portion of society’s goods were afforded to those with natural talents in certain fields or some other natural predisposition to wealth through class status or other means, those who possessed these predispositions would be in favour of that principle of distribution and would support it. However, since Rawls rejects this type of societal organization and deems it unfair, in order for fairness to be achieved, individuals in the original position must be ignorant to these predispositions in both themselves and others.

Thus, when the principles are decided upon, they will emerge as Rawls has outlined them, because when free from biases, individuals will always choose what would benefit them, even if they were in the least advantaged position within their society.

Rawls’ *A Theory of Justice*: A Superior Theory

Utilitarianism has been subject to much historical criticism by philosophers and academics. The most pressing cause for concern, or perhaps simply the most cited criticism, of utilitarianism is that the theory assumes that humans have the ability to accurately predict causal ramifications of each judicial decision or individual action, when this is not always the case in many circumstances (West, 2006: 202).

This calls directly into question the assumption that utilitarians make that human beings have an inherent understanding of what happiness truly is and how they deny the subjective nature of the concept itself. If humans and the justice system are to base their decisions and actions on the consequences, bearing in mind that utility, and therefore, happiness must be

maximized, there is an assumption that there is a universal conception of happiness versus unhappiness.

In turn, individuals are not given the freedom to define their own version of happiness, because they are asked to be concerned with contributing to the general utility, or the total output of their society, not just their own. This causes another issue, when personal utility and general utility may conflict. General utility is said to prevail above all, however it is difficult to disregard personal utility when a decision is also meant to minimize suffering, as the two may be connected.

Rawls offers a solution to these types of criticisms. Rather than assuming that there is a general societal good that each individual should attempt to contribute to, Rawls maintains a more individualistic standpoint. When discussing his conception of the person, Rawls states that humans are self-interested and autonomous, however they also possess the powers of reason and justice. Reason, for Rawls, means that each individual has the capacity to form their own conception of the good life and make a life plan which can help them attain this conception. Then, their power of knowing justice allows them to recognize and submit to the principles of fairness, by ensuring that there is an equitable distribution of the social primary goods, which allow individuals to pursue the good life, however they choose.

The main argument here is that Rawls utilizes a more realistic, and possibly more liberal, conception of the person in his theory of justice. Mill expects individuals to know pleasure and happiness in a distinct form, so much so that they base their actions on what will maximize pleasure and happiness for everyone in society, and not simply themselves. Mill attempts to describe utility in a different manner than other utilitarians when he makes his division between higher valued pleasures and lower valued pleasures, however it is a feeble attempt, mainly because he only adds a qualitative measure to utility, and does not necessarily define it. While it is nearly impossible for every individual to have the same conception of utility, it is perhaps even more impossible for each and every person to be as concerned with the general utility as they are their own personal utility. Thus, Mill conveniently ignores human beings' natural self-interest and mutual disinterest in others, which is actually a major component of Rawls' theory.

This is not to say that I reject Mill's conception that human beings have a natural ability to feel sympathy toward others, and that they are only interested in pursuing their own conception of the good life, without contributing to an overall community. However, Mill's lack of attention for the issue of subjectivity causes a major inherent flaw in his theory. Furthermore, in Mill's final chapter of *Utilitarianism*, where he outlines how the principle of utility connects to justice within society, he states that justice has many components, including the protection of legal and moral rights, desert, impartiality, equality and the honour of contracts (Crisp, 1997: 157). Save the concept of desert, as this is also quite subjective, this seems to be quite reasonable, and is in fact, mostly in line with the same components of Rawls' theory.

However, while Rawls considers the protection of liberties, and extensive ones at that, to be of utmost importance, even before the just distribution of the social primary goods, Mill actually sees legal rights and liberties as permeable, meaning they can be sacrificed for the promotion of utility (Crisp, 1997: 162). In addition, he states that none of his principles of justice are absolute, but rather that there are unusual or extraordinary circumstances in which even some laws may not apply, though none are truly specified (Crisp, 1997: 161).

The concept of justice not being absolute is inherently flawed in itself. If, as Mill states, justice exists in the observation of rules of moral conduct, which are designed to promote the maximum utility, then there is obvious logical difficulty associated with the concept that there may be acceptable exceptions to these rules of moral conduct. If the exceptions are not explicit within the rules themselves, then there is an issue with subjectivity once again. What is an acceptable exception is not only a concept that may differ between individuals, but it also refers back to the previously mentioned conflict as to what will contribute so greatly to the general utility that it would warrant an exception to a law.

In addition, the concept of making an exception to a rule, which is designed to facilitate the security of all citizens so that they can enjoy general utility, is flawed in another manner. If utilitarianism prescribes that justice is attained when pleasure is maximized and suffering is minimal, then an exception to these rules would not necessarily minimize suffering. Would it not be considered suffering of some kind if an individual were denied a right or liberty which allowed them to enjoy their utility, when it is perceived to aid in maximizing the general utility?

Rather than allowing for exceptions, Rawls makes it clear in his first principle of justice that the foremost condition of justice as fairness is ensuring each individual has the same access to rights and liberties, which will be protected and will be as extensive as possible. One could argue that the mark of a truly robust theory is the ability to identify non-negotiable, absolute conditions for the fair functioning of society. If utilitarians simply allow for innumerable exceptions, disregard the inherent subjectivity in allowing those exceptions and do not claim any principle to be absolute, then this theory can be afforded the same criticisms as the intuitionist doctrine previously mentioned.

Concluding Remarks

It is no wonder then, that Rawls' theory was considered to be a feasible alternative to utilitarianism when *A Theory of Justice* was published. While Rawls has been subject to much criticism of his own and has often been used simply as a benchmark, which opposing theories use to aid in defining their own concepts, it is nonetheless a work that gained its historical importance through its opposition to utilitarianism and intuitionism.

In conclusion, therefore, it is clear that Rawls offered an alternative theory to utilitarianism simply because his arguments provided a more robust framework within which justice could be constructed. While the true, real-life feasibility of each of these theories is disputed, that is beyond the scope of this paper. Simply, it has been stated that Rawls' work was superior in its historical importance and the completeness and logical structure of his argument.

The two main points in which J.S. Mill's *Utilitarianism* is flawed is, once again, his ignorance of the true self-interested nature of human beings, and his lack of recognition for the fact that many of the concepts which he deems simple and capable of immediate understanding are actually extremely subjective, namely, the concept of what truly maximizes the general utility and what exceptions to rules of moral conduct are acceptable to achieve this maximization.

Rawls provides a solution to each of these issues. He acknowledges the self-interest of humans, without denying their capacity for sympathetic thought or for justice, and he provides

absolute principles which should be abided by, without exception. Rather than allowing for rights and liberties, which are often outlined by unbreakable laws, to be trampled for the sake of attaining some arbitrary conception of utility, which could be modelled and remodelled several times in accordance with who is in a position in society where they can dictate it, he deems these rights and liberties to be of ideal importance. While Rawls is indeed concerned mostly with the distribution of social primary goods, he places his principles in a serial order so that, in fact, the protection of equitable rights and liberties for every person is paramount even to the distributive principle.

It was also mentioned in the introduction that a significant difference between the two theories is that utilitarianism seeks maximum pleasure to be enjoyed by the majority, whereas Rawls' theory is defined by its protection of even the least advantaged members of society. Here there is also a primary piece of evidence that places Rawls' theory in the superior position. While Mill proposes that a sense of general utility will *mostly* provide individual happiness as well, it is impossible for this to occur for every member of the population, particularly those in an already disadvantaged position. For Rawls, however, no citizen is left behind or disadvantaged by the justice system, when all actions that result in inequality are only acceptable if they maximize benefit for the least well off.

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