

Is Education for Justice Justifiable?

Adalet için Eğitim Temellendirilebilir mi?

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Abstract: Rawls does not talk much about education in *A Theory of Justice*. His study is not educational at all in the conventional sense, were it not taken as a lengthy source, out of which one can still derive an account of education for justice. This is so, not only because he did not write explicitly on education in any of the chapters, but also because, I shall argue, his theory does not help us any more than Kant's ethics to get rid of the metaphysics embedded in value judgments. In other words, Rawls too, together with Kantian theorists, brings the educator to see that she/he is alone in the dubious world of values and value judgments. In this study, I argue for two points. Firstly, that education for justice based on Rawls's theory cannot be justified rationally, as long as one stands safely outside a Kantian metaphysics. Secondly, that Rawls's theory of justice, can yet provide an abstract ground for the educator, upon which she can invite her pupils to reflect upon the basic dilemmas of social justice, distribution of rights and goods.

Keywords: Justice, Fairness, Metaphysics, Education, Justification

Öz: Rawls, *Bir Adalet Kuramı* adlı çalışmasında eğitim hakkında fazlaca konuşmaz. Üstelik, içinden bir tür adalet için eğitim perspektifinin de geliştirilebileceği kapsamlı bir çalışma olarak ele alınmazsa sözü edilen yapıtın alışıldık anlamda eğitimle herhangi bir ilişkisinin olduğu bile söylenemez. Bu yalnızca Rawls'un yapıtında eğitime özel herhangi bir bölüm ayırmayışından değil, bu makalede göstermeye çalışacağım gibi, kuramının değer yargılarında gizli metafizik tavrının eğitim sorunsalında bize Kantçı etikten daha fazla yardımcı olamayacak olmasından dolayıdır. Bir başka deyişle, Rawls da tıpkı Kantçı düşünürler gibi eğitimciyi değerlerin ve değer yargılarının muğlak dünyasında yalnız olduğunu fark etmeye çağırmaktan fazlasını yapmaz. Bu çalışmada sözü edilen çerçeve içinde kalarak şu iki tezi savunmaya çalışacağım: Öncelikle, Rawls'un kuramına bağlı bir adalet için eğitim perspektifi Kant metafiziğinden emin bir uzaklıkta kaldığımız sürece rasyonel bir yoldan temellendirilemez. İkincisi, her şeye karşın Rawls'un adalet kuramı eğitimcinin öğrencilerini sosyal adaletin temel açmazları, hakların ve faydaların dağıtımını gibi sorunsallar üzerine düşünmeye davet edebileceği soyut bir zemin sağlayabilir.

Anahtar sözcükler: Adalet, Adillik, Metafizik, Eğitim, Temellendirme

Introduction

Rawls' theory of justice addresses many vital issues that modern societies have been challenged with for many years. His theory, in a sense, is an attempt to reconsider these issues from a rational point of view, based upon the conviction that a contractual common ground is possible for rational agents. Out of this conviction comes a lengthy discussion of the concept of justice, and of many others, such as fairness, equality, moral theory, right and wrong.

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Rawls does not talk much about education in his *Theory of Justice*. His study is not educational at all in the conventional sense, were it not taken as a lengthy source, out of which one can still derive an account of education for justice. This is so not only because he did not write explicitly on education in any of the chapters, but also because, I shall argue, his theory does not help us any more than Kant's ethics to get rid of the metaphysics embedded in value judgements. In other words, Rawls, together with Kantian theorists, brings the educator to see that she/he is alone in the dubious world of values and value judgements.

In the present study, I will try to argue two points. Firstly, that education for justice based upon Rawls's theory cannot be justified rationally, as long as one stands safely outside a Kantian metaphysics. Secondly, that Rawls's theory of justice, can yet provide an abstract ground for the educator, upon which she/he can invite her pupils to reflect upon the basic dilemmas of social justice, distribution of rights and goods. My second point, of course, presupposes the unavailability of value judgements in the talk of education, and rests upon the fact that what is worth reflecting on *in itself* is a value judgement made by older generations and imposed upon the young.

Rawls's Understanding of Justice

In *A Theory of Justice* John Rawls basically deals with the moral-philosophical problems attached to the concept of justice, and he develops an original theory, particularly of social justice. He makes clear, in the preliminary pages, what he takes as the subjects of justice:

Our topic... is that of social justice. For us the primary subject of justice is the basic structure of society, or more exactly, the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social co-operation (Rawls 1972, 7).

In attempting to develop a theory of justice what Rawls has in mind is a reconsideration of major ideas of the social contract from a utilitarian point of view. Thus, according to Rawls (1972,11), the basic structure of society can be determined based upon a contract, which reflects the principles that free and rational persons concerned contract to further their own interests.

What principles the contract should involve and how all the parties should come to an agreement on this contract are determined according to a purely hypothetical situation characterized so as to lead to a certain conception of justice. This situation, which Rawls calls the original position, is the key to this theory of justice. He defines the original position as follows:

Among the essential features of this situation is that no one knows his place in society, his class position or social status, nor does anyone know his fortune in the distribution of natural assets and abilities, his intelligence, strength, and the likes. I shall even assume that the parties do not know their conceptions of the good or their special psychological propensities (Rawls 1972, 12).

It is in this situation that all parties, who are ideally rational agents, are supposed to determine the basic principles of justice. According to Rawls, the veil of ignorance, which is the main characteristic of the original position, will lead people on one hand to be concerned only with doing the best for themselves and act in such a way that will bear on their best interests. On the other hand, when choosing basic principles behind a veil of ignorance, people will have to think of themselves in a worse situation and want to avoid it, by agreeing with a principle of 'maximum'. Rawls writes: "*The maximum rule tells us to rank alternatives by their worst possible outcomes: we are to adopt the alternative the worst outcome of which is superior to the*

worst outcomes of the other” (Rawls 1972,152-153).

According to Rawls, the basic principles upon which self-interested and rational parties in the original position would all agree are the principles of justice. Rawls proposes two principles out of this hypothetical initial situation:

Firstly: each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others.

Secondly: 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 (Rawls 1972, 60).

From these principles, the first one address the liberal nature of justice, and aims to secure such rights as freedom of speech and assembly, liberty of conscience and freedom of thought, freedom of a person to hold personal property and the like for all citizens. The second principle, in the first approximation, aims at arriving a kind of ‘unity of differences’, by means of which inequalities caused by natural differences between people are aimed to be beneficial at the maximum possible level for those least well off. The same principle also aims to keep ‘positions of authority and offices of command’ accessible to everybody.

Rawls argues that the difference principle, which is an implication of the second general principle, is the fairest way of distributing utilities in all situations in which the removal of inequalities would create even worse results for the less advantaged. Accordingly, as Wolff points out, “Inequalities are to be justified not merely on the grounds that they make no one worse off and at least one person better off. Rather, they are to be justified only if they make *everyone* better off” (Wolff 1977, 40). With the difference principle Rawls wants to draw a distinction between ‘deserved’ and ‘undeserved’ inequalities, and it is with this principle that natural assets are no longer seen as individual properties, but rather seen as a means of creating welfare for all. He goes on to claim that “*in order to treat all persons equally, to provide genuine equality of opportunity, society must give more attention to those born into the less favourable social position*” (Rawls 1972, 100).

Once its assumptions, such as the possibility of justifying a theory based on the original position is accepted, John Rawl’s *Theory of Justice*, no doubt, can bring many significant results. Apart from its practical implications (like the distribution of rights and goods, adaptation of new taxation policies and legislation), I think, one might claim that it might also appear as a self-contained theory of justice that removes all doubts about the possibility of having a crystal-clear conception of justice. One may go on claim that it provides us with a satisfactory content, as well as a plausible notion of justice to be used in an education for justice. In what follows, however, I shall try to draw attention to some difficulties with this idea.

Justificatory Problems with the idea of Education for Justice

We have to justify at least two claims if we are proposing an educational program through which pupils will be induced to conceive and internalize the concept of justice in the way that Rawls shows us: First, conceiving justice as *justice as fairness* is equally compatible with different conceptions of personal well-being, and second, it will teach pupils something new about the concept of justice which is clearer and more useful when compared to conventional or somewhat gained notions of it.

As we have seen before Rawls derives his concept of ‘*justice as fairness*’ precisely from a hypothetical case. He asks us to see that the question ‘*what are the basic principles of justice?*’

is answered once we answer the question ‘*what principles would be chosen by rational and self-interested chasers?*’ in the original position. It is this assumption which that I think Rawls talks in a very limited about in *A Theory of Justice*, and hence the assumption remains without justification. Are there good reasons to accept that rational agents would behave in the original position in that way, from which Rawls derive his basic principles, then they should behave in the same way in a real situation? Put in another way, can we move from *would* to *should* without providing any further justification?

In his article entitled “*Nature and Soundness of Contract and Coherence Arguments*” Lyons asks a similar set of questions. “*What bearing could a Rawlsian social contract, an imaginary agreement, have on us? Why should we think ourselves in any way bound by it, obliged to judge our institutions by the principles agreed to, and to act accordingly?*” (Lyons 1975, 150). Rawls, according to Lyons, fails to produce convincing arguments to support his position. One of his attempts to meet this difficulty, as Lyons says, is to emphasize that we can enter the original position at any time. By saying that we can enter the original position at any time Rawls wants to imply, in a sense, that we can empathize with those less advantaged people in the society based upon our ability to envisage the conditions of the original positions. We can imagine, by means of the hypothetical possibility of the veil of ignorance, that advantages or disadvantages we receive as natural assets are so contingent and everything could have been the other way around. Rawls suggests that “*we can do so if we have the will, and, to some extent, this may be possible; for we can, perhaps, constrain ourselves to reason and deliberate impartiality*” (Lyons 1975, 156).

However, the question still persists in another way: Why should I empathize with those disadvantaged people and let society organize itself in terms of the principles of justice that stem from a fictitious case or from an emphatic understanding? The question here, for which I am so anxious to get an answer is obviously a moral one. Why should people in a real-life situation feel themselves obliged to sign such a contract that will most benefit – based on the difference principle- the less advantaged people, though they are aware of the fact that the natural distribution of native talents is just like a ‘natural lottery’? According to Lyons there is no good reason here to conceive ‘right action’ as one which agrees with what Rawls’ second principle (the difference principle) says. He writes, “*It does not follow, however, as Rawls seems to suggest that some features of the natural or social ‘lotteries’ could not serve as the just basis of deliberate distributions*” (Lyons 1975, 158).

Thus, I guess it has been clear so far that Rawls’ argument requires an explicit connection with a moral theory. Put in another way, in moving from *would* or *ought* Rawls’s theory of justice needs to convince us that this movement is ‘good’. I shall argue that Rawls’ preference is Kantian good, and hence his theory is too subject to the same criticisms as Kantian metaphysics, even though he tries to avoid this by originating an experimental procedure. In fact, Rawls himself emphasizes that his theory is a Kantian variant of the general contract theory. He writes: “*The original position may be viewed, then, as a procedural interpretation of Kant’s conception of autonomy and the categorical imperative*” (Rawls 1972, 256).

As I write elsewhere, Kant makes careful distinctions between selfish action and prudential action, and moral action. Accordingly, when one acts to maximize profit without considering others’ interests, Kant claims that one is acting selfishly. It would not make any difference, according to Kant, even if the action weren’t causing any harm to others. But this time Kant would call it prudential action, an action that is still far from being ‘moral’. Only those actions, which are done from duty, deserve to be called ‘moral action’. In *The Foundations of the*

Metaphysics Kant excludes both acting against duty and acting *in accord with* duty of acting *from* duty. He writes:

I here omit all actions which are recognized as opposed to duty, even though they may be useful in one respect or another, for which these the question does not arise as to whether they may be done from duty, since they conflict with it. I also pass over actions which are really in accord with duty and to which one has no direct inclination, rather doing them because impelled to do so by another inclination (Kant 1990, 400-401).

The only morally praiseworthy reason for not acting in a wrong way, according to Kant, would be if the individual told herself, it *wouldn't be right* regardless of the consequences. It is this Kantian understanding of the morally good action that appears in Rawls' theory as 'right' action, one to which he thinks people would agree on the original position. In this sense, Rawls' original position and Kant's categorical imperative dictate more or less the same principles, even though these two theories stem from different procedures and methods. Therefore, an action that corresponds to *justice as fairness* and another that stems *from* duty have never come apart.

Dworkin provides insight, in his article on The Original Position, about much of what I have discussed so far. He argues, however, that Rawls' theory bears more resemblances with right-based theories of morality than both goal-based and duty-based ones. In arguing against the justificatory role of the original position, Dworkin draws a distinction between antecedent and actual interests. He writes,

"If the original position furnishes an argument that it is in everyone's interest to accept the two principles over other possible bases for a constitution, it must be an argument that uses the idea of antecedent and not actual interest. It is not the actual best interest of everyone to choose the two principles, because when the veil of ignorance is lifted some will discover that they would have been better off if some other principle, like the principle of average utility, had been chosen" (Dworkin 1975, 20).

Under the conditions of the original position, in which deliberators lack all necessary information, Dworkin argues, people might make a particular choice, thinking that it is their interest. But this is not a good argument, he says, for the fairness of enforcing that choice against them later, when people have greater information.

Dworkin maintains that the underlying difficulty with Rawls' theory, which often appears as a weakness, can be seen as a distinctive feature from another perspective. According to Dworkin, the technique of equilibrium plays an important role in the overall theory. It is based on this technique, I think, that Rawls attempts at deriving *should* from *would*. The technique, as Dworkin describes it, assumes that all human agents have already a sense of just and unjust in either an intuitional or conventional sense.

Dworkin goes on to claim that the purpose of moral philosophy is to help us be confident about these already held immediate convictions. The role of the original position, he says, should be understood in terms of this reflective equilibrium. Thus, he maintains, Rawls thinks, *"the conditions embodied in the original position are the fundamental principles governing our moral powers or, more specifically, our sense of justice"* (Dworkin 1975, 25).

Dworkin claims that Rawls' theory of justice has resemblances with, what he calls, the 'natural model' in the sense that the two principles come out of the theory describe an objective moral reality. According to this model theory of justice it is not originated by men, but is rather

discovered by them, as it is in the world of physics. Thus, Rawls's theory of justice in general, and the idea of the original position in particular can be seen as a cognitive instrument to maintain the equilibrium between highly abstract moral intuitions and the presupposed theory of natural rights and morality.

However, I think it is clear, if we are to accept Dworkin's reading of Rawls, that the whole theory of justice seems to rest on certain assumptions. One of the most important assumptions embedded in the theory, I think, is that our sense of justice is not result of socialization, or in Deweyian terms, of habituation, but rather a reflection of *a-priori* law. The way in which Rawls wants to reach this so-called 'natural' state of 'fairness' looks extremely similar to Kant's treatment of the 'categorical imperative'. Both theories necessarily need to detach men from social constructions based on an unjustified conviction that the essence of and foundation for true morality exists. Rawls himself talks about his Kantian treatment of the conception of the moral.

Kant held, I believe, that a person is acting autonomously when the principles of his action are chosen by him is the most adequate possible expressions of his nature as a free and equal rational being. The principles he acts upon are not adopted because of his social position or natural endowments, or in view of the particular kind of society in which he lives or the specific things that he happens to want. To act on such principles is to act heteronomously. Now the veil of ignorance deprives the persons in the original position of the knowledge that would enable them to choose heteronomous principles (Rawls 1972, 252).

Thus, Rawls seems to reply to my central question of *why should we act on the principles we would agree in the original position?* in accord with Kantian ethics. He wants to say 'Because acting on them is the only fair way' when he writes, "*To act from the principles of justice is to act from categorical imperatives...*" (Rawls 1972, 253).

From the standpoint of personal well-being this particular notion of justice seems to rule out, in a preliminary analysis, at least two different understandings of the good life. As Sandel writes,

[t]he circumstances of justice and especially the assumption of mutual disinterest are thought to introduce an individualistic bias, and to rule out or otherwise devalue such motives as benevolence, altruism, and communitarian sentiments... the original position contains a strong individualistic bias, which is further strengthened by the motivational assumptions of mutual disinterest and absence of envy (Sandel 1982, 60).

One might see great value in living in a highly altruistic way, and by implication of this particular attitude towards life he/she might want to feel precisely a genuine compassion for others. She/he might hate thinking that all what she is wanting and doing (say, she supports the idea of building a society where benefits and burdens are distributed according to the two principles, and she is personally already sharing her talents, income, etc.), in fact, is in her best interest, and her action has nothing to do with pure sentimentality. Since her actions are in accord with the two principles of justice and hence they are just, then these actions are also supposed to bear on her best interest. Some perceptions of personal well-being might obviously want to avoid such an understanding of justice, and hence might object particularly to the second principle.

Another person, whose understanding of a flourishing life does not reserve any room for altruistic action, might also object to the same principle for different reasons. He might argue,

for instance, that the ‘difference principle’ is trying to force him to act in an altruistic way without his consent. As Kelley writes, an individualist, for instance, might say that the theory rests on the assumption that individual ability is an asocial asset. Moreover, this assumption in itself reflects, according to Kelley, an unjustified altruistic conviction. He writes,

The assumption is not merely that the individual may not use his talents to trample on the rights of the less able. Nor does the assumption say merely that kindness or generosity are virtues. It says that the individual must regard himself, in part at least, as a means to the good of others. And here we come to the crux of the matter. In respecting the rights of other people, I recognize that they are ends in themselves, that I may not treat them merely as means to my satisfaction, in the way that I treat inanimate objects... Why then is it not equally moral to regard myself as an end? Why should I not refuse, out of respect for my own dignity as a moral being, to regard myself as a means in the service of others? (Kelly 1994).

Thus, it seems that an educational program that rests on A Theory of Justice would lack some necessary and sufficient conditions to be considered as a self-contained nation of social justice. The theory does not present a convincing argument that inducing pupils to internalize the two principles of justice should be one of the duties of, say, a Personal Social Educator. Rawls presupposes that people in real life should and will act homogeneously in accord with what the original position dictates. According to Sandel, Rawls at the same time encourage “*adjusts both the principles and the original position in order to yield results that would...encourage people to be the sorts of citizens who would naturally and willingly cooperate in and support the institutions dictated by the suitably tailored choice problem*” (Sandel 1982, 187).

Rawls seems too convinced that people should act on their decisions, which they would make in the original position. Moreover, he goes on to say that they should keep acting appropriately in a consistent way. When Barry comments on the issue of stability in Rawls’ theory, he writes, “*A society is ‘stable’ ...if there are adequate motives in human nature (supported by appropriate methods of childhood socialization) to enable people to live to publicly recognized standards of justice without requiring a great deal of coercion*” (Barry 1973, 14).

Thus, it seems hardly possible to derive a sufficiently plausible argument out of A Theory of Justice for the justifiability of education for justice. Because, as Sandel argues,

The logical status of Rawls’s theory is unclear...in addition to his conception of rational choice and his settled moral convictions about particular matters of social justice, Rawls also has an extremely powerful commitment to an Idealist conception of the harmonious and organic society (Sandel 1982, 190).

How useful is the Theory of Justice as an educational content?

So far I have tried to discuss the point that Rawls’s theory has certain difficulties in regard to its moral-philosophical assumptions. However, these difficulties, I think, do not disqualify the idea of *education for justice* based upon *A Theory of Justice* as a social preference, even though they do as a sound-rational argument. In other words, provided that the theory in general reflects a picture of a desirable society for at least those people who will take part in it, an appropriate room can be reserved for it in education. According to Rorty, Rawls’s theory succeeds in being

one of the ‘constructs of the tradition’ along with many others in the sense that they all take solidarity as *prima facie*. He writes,

[t]he core of the intellectual culture of the modern West is a conviction common to Rawls, Kant, Marx, John Stuart Mill, John Dewey, and practically every interesting modern Western philosopher you can mention, except Nietzsche – namely that every human being has a prima facie duty to come to the help of any member of the species who is suffering unnecessarily (Rorty 1999, 3).

Nevertheless, I think *A Theory of Justice* would be of value in the educational sense in so far as its elements such as the original position, veil of ignorance, difference principle and the concept of maximum are used to spark open and dialogic discussions in a reflective study of ethics and justice, rather than a self-contained theory based upon which young members of society are inculcated in an objective and universal understanding of justice. In proposing Rawls’ theory as an educational content, what I have in mind is basically John Wilson’s notion of the direct teaching of moral thinking. No doubt, neither morality nor justice is reducible to each other, and hence we cannot apply what Wilson wrote for moral education directly to education for justice. Yet, I think the concept of direct teaching as in Wilson’s notion is in many ways profitable. Wilson distinguishes the ‘direct teaching of moral thinking’ (classroom periods) from the ‘non-academic moral education’ (social arrangements, such as creating a good atmosphere in the school) (Wilson 1990, 165). Briefly stated his account of moral education embraces both approaches, but according to him, “*the most obvious method to use, if we are interested in moral education, is what we call the ‘direct method’*” (Wilson 1973, 90).

He argues for the possibility of talking morality as a subject with its concepts, methodology and procedures. If this is so, he writes, “*then our pupils can study it just as we can ourselves. Such study will not necessarily make any radical changes in their behavior, but it will at least help them to take morality seriously*” (Wilson 1973, 90).

I think Rawls’ theory of justice provides the educator with much of the material necessary for conducting a direct-reflective teaching, in the Wilsonian sense, to make pupils aware of the basic issues, concepts and ideas constituting what we call justice. The rich content of *A Theory of Justice* can also inspire various games, workshops, role playing, and the like, that together could help the student gain insight into the otherwise highly abstract nature of justice problems. Provided that the theory is used as an educational material by means of which a reflective program is carried out, but not as a ‘truth’ or as ‘the principles of a fair society’ to which pupils are inculcated, I am convinced that it can serve to an important extent in education.

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