

interpretation

a journal of political philosophy

volume 6/2

may 1977

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martinus nijhoff, the hague

edited at

queens college of the city university
of new york

interpretation

a journal of political philosophy

volume 6

issue 2

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interpretation is a journal devoted to the study of political philosophy. it appears three times a year.

its editors welcome contributions from all those who take a serious interest in political philosophy regardless of their orientation.

all manuscripts and editorial correspondence should be addressed to the executive editor

interpretation

building g101 – queens college – flushing, n.y. 11367 – u.s.a.

subscription price

for institutions and libraries Guilders 42.— for individuals Guilders 33.50.

forwarding expenses Guilders 10.— one guilder = \$ 0.385

subscription and correspondence in connection

therewith should be sent to the publisher

martinus nijhoff

9–11 lange voorhout – p.o.b. 269 – the hague – netherlands.

THE CHOICE BETWEEN PERFECTIONISM AND RAWLSIAN CONTRACTARIANISM

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It is Rawls' claim that when we compare his conception of justice with its rivals (average utility, classical utility, and the different kinds of perfectionist theories) that his theory at least appears (a) "to match our common sense convictions more accurately" and (b) more adequately extrapolates to previously unsettled cases¹ (p. 332). While Rawls takes utilitarian accounts to be his most serious rivals, I want here to examine whether Rawls has demonstrated or even made convincing 1) his claim that his principles give a more adequate conceptualization of the basis of justice and morality than does perfectionism and 2) his further and related claim that there is "no basis for acknowledging a principle of perfection as a standard of social justice" (p. 330).

I shall argue that Rawls has not made a compelling case here. If I am not mistaken in the essentials of my argument, and if some reconstruction of Rawls' critique of perfectionism cannot be made which will show such a critique to be essentially sound or at least more compelling than it now appears to be, then his overall theory will be rather considerably weakened, for part of its plausibility turns on his ability to show that rival accounts are inadequate or at least suffer from even greater difficulties than does his own account.

Rawls begins his examination of what he calls "the principle of perfection" by pointing out that there are two variants of the principle (p. 325). In the first—let us call it "extreme perfectionism"—the principle of perfection is the sole principle of a teleological theory which directs "society to arrange institutions and to define the duties and obligations of individuals so as to maximize the achievement of human excellence in art, science and culture" (p. 325). The following quotation from Nietzsche's *Schopenhauer as Educator* illustrates this posture: "man-kind must work continually to produce individual great human beings—this and nothing else is the task—for the question is this: how can your life, the individual life, retain the highest value, the deepest significance? . . . Only by your living for the good of the rarest and most valuable specimens."² Whether the greatest

¹ *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971). References to *A Theory of Justice* are given in the text. There are important remarks about his appeal to considered judgments and the rationale for extrapolation from them on pp. 316–320 of the book. I have critically examined this matter in my "On Philosophic Method," *International Philosophical Quarterly*, (September, 1976).

² Quoted in *ibid.*, p. 325.

number are made happy or not, whether equal liberty is furthered or not, whether all men are taken to be of equal concern or not, the cultural achievements of humankind must be preserved. If, for example, slavery was necessary to attain and preserve the achievements of the Greeks in philosophy, science, and art, then slavery was morally justified in those circumstances.

A second form of perfectionism—let us call it “moderate perfectionism”—is a form of intuitionism in which the principle of perfection is accepted as only one (though a very crucial one) of several irreducible ultimate standards. Such a view can be more or less perfectionist depending on the weight given to the claims of excellence and culture. Applied moderately and reasonably, as a kind of moral basis for conservatism, perfectionists, as a counterpoint to the egalitarianism advocated by Rawls, could argue against the difference principle for a limit to the redistribution of wealth and income once the subsistence needs or the most basic needs of people—including, of course, the least favored stratum of society—have been met. Such a redistribution should be halted when subsistence needs have been met and where such a redistribution tends to undermine the preservation of cultural values; that is to say, instead of using the expenditures in such a situation to enhance the happiness and relieve the suffering and alienation of the more unfortunate strata of society, one should use it to preserve and to add to the flourishing of the arts, sciences, and cultural amenities of life.

Let us consider Rawls' arguments against this moderate form of perfectionism. (In doing this I shall consider some of his criticisms of extreme perfectionism as well, for he believes, and rightly, that they apply to both variants.) Many of his criticisms depend on an appeal to what would be chosen in the original position. Persons in the original position do not “share a common conception of the good by reference to which the fruition of their powers or even the satisfaction of their desires can be evaluated,” so they can hardly “have an agreed-on criterion of perfection that can be used as a principle for choosing between institutions” (p. 327). Such a conception would be utterly empty and inapplicable for them. But this would not be so for rational, impartial people in everyday life capable of a sense of justice, and, if the methodological device of the original position has the effect of excluding consideration of such a substantive theory *simply on those grounds*, i.e., that “O.P.’s (people in the original position) cannot understand or assess such conceptions, then we have in that very fact good grounds for rejecting or at least seriously questioning the use of that methodological device. What we need to know is whether rational and impartial persons in normal circumstances would have good grounds for adopting Rawls' principles of justice rather than either extreme or moderate perfectionism. To say, at least of extreme perfectionism, that a rational person would not adopt such a principle because it might lead

to some curtailment of his own liberties and indeed even to a loss of freedom altogether is not yet to make a non-question-begging criticism of perfectionism, for we have to be given a reason why rational, impartial human beings might not adopt the teleological ideal-regarding principles of perfectionism, principles which commit them to the claim that in certain circumstances some personal liberties (including, perhaps, their own) may "fall before the higher social goal of maximizing perfection," of raising or maintaining the level of culture (p. 327).

Only if we were justified in claiming that a man acts rationally not *if*, but *only if*, he seeks to maximize that which is in his self-interest will such a claim undermine perfectionism. But such a claim about rationality is quite arbitrary; if Rawls is committed to such a conception of rationality, then so much the worse for his conception of rationality.³ If, alternatively, Rawls is saying that, as a simplifying device, we will stipulate that rational persons will take no interest in one another's interests, then so much the worse for such simplification. There are no sufficient reasons for believing that all or even most rational and impartial persons in everyday life operate in accordance with that simplifying device. To set it up so that they must do so, and then to point out that such people will opt for the principle of greatest liberty rather than the principle of perfection, is too obvious a gerrymandering to require further comment. Where is it written or established that no rational man can risk his freedom to further or protect the sciences and the arts?

Rawls—moving to a different kind of objection—cannot, without radically changing his own position, reject perfectionism on the grounds that it is a doctrine which captures nothing which is even tolerably clear, for he avers that "comparisons of intrinsic value can obviously be made" and that, as he puts it, "clearly there are standards in the arts and sciences for appraising creative efforts, at least within particular styles and traditions of thought. Very often it is beyond question that the work of one person is superior to that of another. Indeed, as he points out himself, the freedom and well-being of individuals, when measured by the excellence of their activities and works, is vastly different in value (p. 328). He agrees that the judgments we make here are not so vague that they must fail on that account as a basis for assigning rights.

To point out, as Rawls does, that justice as fairness "allows that in a well-ordered society the values of excellence are recognized" and that "human perfections are to be pursued within the limits of the principle of free association" is not to the point, for the question is one of priority. Even moderate perfectionism must generally give greater

³ I have argued against such a conception of rationality in my "Principles of Rationality," *Philosophical Papers* 69 (1972), and in "Rationality and Egoism," *Studi internazionali di filosofia*, (1975).

weight to principles of perfection than to the Rawlsian principles of justice.

Rawls rightly argues that the principle of perfection provides an insecure foundation for equal liberties and would depart widely from the difference principle. A criterion of perfection will be such that rights in the basic structure are to be assigned so as to maximize the total intrinsic value. And even the moderate perfectionist and the Rawlsian contractarian will not find a basis for a lower-level agreement in a mutual commitment to the indispensability of human equality, for the equality of rights does not follow from the equal capacity of individuals for the higher forms of life. It may well not even be true that we have such equal capacities, but even if we do, that by itself would not commit a perfectionist who accepted it to a Rawlsian doctrine of equal rights as well. From the fact (if it is a fact) that impartial rational agents would commit themselves to a principle of perfection it does not follow that they would be, if they are consistent, committed to a conception of right which would in turn commit them to the principle of equal liberty. Maximization of the total of intrinsic value (defined in perfectionist terms) may or may not be compatible with a principle of equal liberty. Whether it is or not will depend on particular circumstances. Thus in a perfectionist account there is no secure foundation for a key pillar of justice as fairness, namely, the principle of equal liberty.

However, against Rawls, it could be responded, "So what?" Perhaps it is more reasonable and, morally speaking, better to stick with a principle of perfection with different principles of justice subordinate to that principle. Why must it be the case, and indeed is it the case, that rational and impartial people with a capacity for a sense of justice must opt for the priority of a principle of equal liberty rather than the priority of a principle of perfection when the two are in conflict? As far as I can see, Rawls has done nothing to show that they must or even that they should.

It would be reasonable for Rawls to respond that in arguing about morals and in arguing morally, it should be evident that at "some point we cannot avoid relying upon our intuitive judgments" (p. 320). In the above argument we were forgetting that in comparing the adequacy of these rival moral postures, we must at some point appeal to our *considered convictions* (p. 318). He might add that we need, as well, to develop more fully the consequences of these principles; indeed, we need to develop them in detail and see where they lead (p. 319). In particular, we need to see whether they have consequences that conflict with our considered convictions. Some of these considered convictions, Rawls reminds us, "are fixed points . . . that we seem unwilling to revise under any foreseeable circumstances" (p. 318). The point, Rawls could claim, is that justice as fairness harmonizes better with our considered convictions, including those deepest convictions

which are fixed points we are not willing, except purely in theory, to revise (pp. 381-20).

We must, however, be careful with the use of "we" and "our" here. Rawls has not succeeded in drawing implications from the perfectionist principle which clash with any such considered convictions of mine. I am not trying, as Hare and Singer do, to challenge such an appeal to considered convictions; I am only remarking (accepting at least for this discussion, the legitimacy of such an appeal) that in appealing to such considered convictions, Rawls has not, as far as I can see, given us grounds for opting for justice as fairness over perfectionism.⁴

It may be the case that Rawls' considered convictions, including his most fixed considered convictions, differ rather radically from mine. If that is so, and if we are both rather representative of different groups of people, then Rawls' account is in deep trouble. Why should we accept as normative for humankind the considered convictions of his particular group? If, as I think more likely, Rawls' considered convictions and mine are not very different, then Rawls is also in deep trouble, for he has not been able to achieve a reflective equilibrium between, on the one hand, principles, rational beliefs, the facts in the case and, on the other, our considered convictions which will register against perfectionism and for justice as fairness. In either case he has not shown why rational, informed, impartial men with a sense of justice (a moral understanding) should opt for his two principles rather than the traditional teleological principles of perfectionism.

Where we accept a moderate perfectionism and do not insist on any claim that the principle of perfection provides the sole ultimate criterion for what we are to do, Rawls is particularly vulnerable. Moderate perfectionists argue that we are to balance fundamental moral principles, including the principle of perfection and Rawls's two principles of justice, much as W. D. Ross argued that we should balance what he called *prima facie* duties, sometimes shifting in favor of one weighting of the principles and sometimes another. Through engaging in this activity, we come to appreciate in a particular circumstance what is suitable to the situation. The moderate perfectionist, like a pluralist such as Ross, is contending that we cannot reasonably generalize beyond this. (Indeed, it seems to me that such a perfectionist is a rather distinctive kind of pluralist.)

Rawls tells us that so construed the principle of perfection, as distinct from his principles, will not provide us with a single standard of social justice. "Criteria of excellence," he claims, are too "imprecise as political principles and their application to public questions is bound to be unsettled and idiosyncratic" (p. 330). Presumably, his

⁴ R. M. Hare, "Rawls' Theory of Justice' I," *Philosophical Quarterly* 28 (1973): 144-55; Peter Singer, "Sidgwick and Reflective Equilibrium," *Monist* 58 (1974): 490-517.

remarks about their public ascertainability made two pages earlier and at least seemingly in conflict with this last remark, were meant as part of some narrower tradition and community of thought. The claim is that we can, using Rawls' account, determine rather more exactly than can the perfectionist what we are to do. We know on Rawls' account rather exactly when liberty or freedom can be restricted, namely when it violates some obligation or natural duty or interferes with the basic liberties of others. And, as the least favored stratum can be identified by its index of primary goods, we can apply the difference principle fairly precisely, for we can ascertain in a rather straightforward manner "what things will advance the interests of the least favoured" (p. 320).

Indeed, as Rawls recognizes, ethical principles are, as we have known at least since Aristotle, vague, but, he continues, "they are not all equally imprecise, and the two principles of justice have an advantage in the greater clarity of their demands and in what needs to be done to satisfy them" (p. 321). Perfectionist principles, he claims, are less determinate: with them there is less general agreement. The consensus model would not work nearly as well for perfectionism, for over such matters "we are likely to be influenced by subtle aesthetic preferences and personal feelings of propriety; and individual, class and group differences are often sharp and irreconcilable" (p. 331).

Surely, if there actually is such a comparative non-vagueness, it counts in favor of the principles of justice as fairness over the principle of perfectionism. Yet how decisive this is is far from evident. Matters such as personal feelings of propriety can, at least in theory, be eliminated. Moreover—to take a distinct consideration—perhaps the Rawlsian doctrine in counterdistinction to perfectionism does not leave enough scope for *ideal-regarding* considerations? In defending perfectionism one might argue against Rawls, as Stuart Hampshire has, that Rawls' account suffers from a one-sided emphasis in explaining "the virtue of justice, and even more the other essential virtues, as rational consequences of planned cooperation in a rational social setting."⁵ Hampshire queries whether this is the most fundamental role of justice or of morality, and goes on to claim that "to adopt the moral point of view . . . is to think what kind of character and aims men should have, or try to have, and what kind of life they should lead."⁶ To have a moral point of view is among other things, but still quite centrally, to have a *conception*, vague though it may be, "of the wholly admirable man, and of the entirely desirable and admirable way of life."⁷ But this is—or so it seems—to commit oneself

⁵ Stuart Hampshire, "What Is the Just Society?" *New York Review of Books* 18, No. 3 (1972), p. 38.

⁶ *Ibid.*

⁷ *Ibid.*

to a form of perfectionism as a still more fundamental feature of morality than anything to which Rawls appeals.

Rawls admits that such perfectionist conceptions are involved in morality but denies that they are as fundamental as are his principles of justice in thinking about the necessary bases of rational cooperation for a well-ordered society. However, as Hampshire points out, where such a position is taken, it is not obvious how the issue can be rationally settled as to the comparative *adequacy* of Rawlsian contractarianism and moderate perfectionism. Hampshire further remarks plausibly, as Nowell-Smith has as well, that this indecisiveness is inescapable in moral philosophy.⁸ But Hampshire, admittedly indecisively, offers as "evidence" for perfectionism the following "considerations capable of determining the intellect"—considerations of the same order of rigor as the ones to which Rawls feels that he can legitimately appeal (p. 125). The "evidence" in question is from the history of reflective moral opinions and from the psychology of moral sentiments, respectively.

The kind of reflective moral opinion Hampshire is appealing to centers around the claim, reflected in the moral beliefs of many intelligentsia, that it is not the justice of the prevailing practices and institutions which are at the center of moral concern but a conception of what kind of person to become and of what kind of relations are ideally to obtain among people. Such an argument from the psychology of moral sentiments stresses that the virtue of justice is more "associated with the conceptions of guilt and innocence, of law and due procedures of law, of separation, of impartiality in judgment," and is less centrally associated "with the rational distribution of goods in society."⁹ On Rawls' own positive account just the opposite is the case.

To this I think Rawls could and should respond, particularly to the point about the psychology of moral sentiments, that although genetically and historically speaking these ideas have had a very considerable role and indeed that an understanding of their origins should not be lost, yet when one reconstructs the basis—the rational foundation—of morality, the conceptions Rawls refers to and utilizes are more central, for without a basis of rational cooperation—a basis for adjudicating conflicting claims, aims, and interests and for setting out the grounds of human cooperation—the other moral considerations referred to by Hampshire would have no point. The considerations of justice Hampshire talks about and the possibility of finding a truly admirable way of life, a rational and thoroughly desirable life plan, are dependent for their very possibility on the considerations Rawls concerns himself with. Thus in that obvious way they are more funda-

⁸ *Ibid.*, pp. 38–39. See also P. H. Nowell-Smith, "A Theory of Justice?" *Philosophy of the Social Sciences* 3 (1973).

⁹ Hampshire, "What Is the Just Society?" p. 39.

mental than the others; i.e., the others depend on them. If *they* are not coherently set out and rationally justified, the rest would be a shambles.

There is a lot of metaphor here which may resist more literal statement, but, that consideration aside, even if Rawls' considerations provide the base, it does not follow that the rest of the edifice is less important. My house would not stand without its foundations, and it would not be the house it is without its basement, but it by no means follows that my basement is the most important room in my house. Perhaps, as Hampshire points out, Rawls' considerations give us the theory of the kind of social order—a theory of just institutions—which provides the machinery “that makes a desirable, natural and admirable way of life possible,” but from that it does not follow that such considerations, rather than considerations about what constitutes the most truly desirable way of life—with its concern for *ideals* of perfection—are at the core of moral philosophy, i.e. an inquiry into the reasonable foundations of morality.

What we must recognize from the above discussion is that we have not yet settled, as Rawls thinks we have, the issue of whether justice as fairness or perfectionism provides the more adequate articulation of the foundations of morality or even the foundations of social justice.¹⁰ Perhaps we should say something eclectic such as this: neither gives the whole or even the most central aspects of the picture of what morality is all about, but both, perhaps with conceptions taken from utilitarianism as well, are essential and indeed essentially complementary in any more adequate account of morality. And perhaps this in effect points to the superiority of some form of pluralism encompassing all of these elements and eschewing anything like priority rules.

¹⁰ Rawls might stick to his guns and respond that in much of what I have said I have assumed mistakenly that the standard of perfection is a principle of justice; on the contrary, though it is a moral principle and a principle concerning which moral arguments can be made, it is *not* a principle of justice. This perhaps is true, but even if it is true it would not touch the essentials of my argument. Rawls acknowledges that perfectionist principles are rational moral principles. The crucial question involved in the above argument is whether Rawls has shown that his principles, rather than the perfectionist principles, should be said to be the most basic elements of morality and which principles, where they conflict, should take pride of place. Rawls claims that the principles of justice as fairness should take pride of place. My argument has been that he has not established this essential point, and my argument would hold here even if (a) perfectionist principles are not principles of justice and (b) the moral terrain is so complex that we should not say that either form the most basic elements of morality but that they both are indispensable parts of the moral terrain. See here Stephen Toulmin, “Is There a Fundamental Problem in Ethics,” *Australasian Journal of Philosophy* 33 (1955): 1–19.