

Rawls, rationality, and responsibility: Why we should not treat our endowments as morally arbitrary

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Abstract

John Rawls is primarily known for providing his own argument for how political institutions should be organised in *A Theory of Justice*. He argues that we should pick principles of justice only once we remove ourselves from the position we each hold in society today. Rawls argues that if each individual did not know their wealth, race, gender and so on when deciding how society should be organised, it would be rational for each individual to choose political institutions that maximised the position of the least advantaged. This essay aims to show that this would be an irrational decision to make, an argument supported by John Harsanyi. However, this essay also shows that Harsanyi's theory is not totally convincing either. Both Rawls and Harsanyi ultimately fail to acknowledge that it is wrong to treat endowments as morally arbitrary. The qualities that define us today should not be treated as arbitrary, because this belittles individual responsibility and autonomy. Rather, we must consider the importance of a person's choice to develop their own natural assets.

The veil of ignorance is a device used to remove the contingencies of natural and social chance in order to derive principles of justice to which we can all agree. John Rawls denies the contractors who arrive at principles of justice behind the veil of ignorance any knowledge of likelihoods of which social position one will end up occupying (1971: 134), whereas John Harsanyi tells the contractors they are equally likely to take the place of each individual (1975: 598). I will argue that the distinction is vital for the reason that they yield completely different principles of justice. I will then argue that Harsanyi's version is more convincing in both the empirical sense, concerning whether contractors *are able* to use probability, and the normative sense, concerning whether contractors *should* use probability. It is more empirically convincing by virtue of the principle of insufficient reason, also known as the principle of indifference (Dubs 1942). In order to illustrate this, I will argue that in the presence of two criteria, it is convincing to argue that the principle of insufficient reason would motivate the contractors to assign

equal probabilities to the potential outcomes, before establishing that these two criteria are met in the veil of ignorance. I will then argue that Harsanyi's version is more normatively convincing than Rawls' version, because it is necessary to bind contractors to an honest commitment. Given that Harsanyi's version is more convincing than Rawls' version, I will argue that we must reject the difference principle, because its derivation depends on the exclusion of probability. It is at this point where I must illustrate that there are stronger grounds for the rejection of the difference principle, concerning his use of moral arbitrariness. However, it is for this reason that Harsanyi's version of the veil of ignorance must also be rejected. Harsanyi's version is only superior to Rawls' within the given framework that contractors are deprived of knowledge of their endowments. This framework must itself be questioned and ultimately rejected. By providing contractors with only probabilistic and not definitive knowledge of their endowments, Harsanyi, like Rawls, treats these endowments as morally arbitrary. I will demonstrate that this is unjustified. For this reason, neither Rawls nor Harsanyi were 'right'.

I must briefly outline the distinction between Rawls' and Harsanyi's versions of the veil of ignorance before evaluating their comparative merit. Harsanyi concedes that the concept of the original position provides a potentially extremely powerful basis for a theory of justice (1975: 594–5). Harsanyi also shares Rawls' assumption that individuals are rational beings, pursuing ends that are consistent with their own self-interests (Harsanyi 1975: 594). Where they disagree, however, concerns the way in which the contractors derive principles of justice once in this original position. Rawls stresses that contractors 'have no basis for estimating the probabilities of possible social conditions' (2001: 106). By contrast, Harsanyi prescribes that the contractors can assign equal probabilities to the various hypothetical societal outcomes in which they may find themselves (1975: 598).

This distinction is extremely important because each version leads to the derivation of vastly disparate principles of justice. Under Rawls' veil of ignorance, it is rational for contractors to choose principles of justice that maximise the worst-case scenario, as heuristically prescribed by the maximin principle (2001: 97–8). This is because contractors would not risk a basic standard of living for the sake of gaining a slightly better one provided by the utility principle (Rawls 2001: 98). By contrast, it is entirely rational for the contractors to select principles of justice in accordance with this principle of utility when the contractors believe they are equally likely to take the place of each individual (Harsanyi 1975: 594). This is because it is irrational to make choices dependent on unlikely and unfavourable possibilities (Harsanyi 1975: 595). Given that there are many hypothetical outcomes, all of which are equally likely, the possibility of taking the place of the very worst-off individual is very low (Harsanyi 1975: 598). For example, if there are 10 equally populated levels in society, the probability of belonging to the lowest level is one in 10, which is far less likely than the probability of ending up in any of the

other levels, which is nine in 10. Thus, it is more rational to select principles that maximise one's average utility than to select principles with low average utility for the sake of maximising an unlikely worst-case scenario (Harsanyi 1975: 598).

Firstly, I will ascertain which version is more empirically convincing, asking whether it is possible for the contractors to assign equal probabilities in the original position. Harsanyi's version is more empirically convincing than Rawls' version by virtue of the principle of insufficient reason. According to the principle of insufficient reason, when there is insufficient information to assign greater or lesser probabilities to several outcomes, it is rational to assign equal probabilities to each of them (Dubs 1942: 123). In order to satisfy the principle of insufficient reason, Hans-Werner Sinn outlines two criteria that must be met: the decision-maker must know the possible outcomes; and the decision-maker must lack information about the plausibility of each outcome (Sinn 1980: 493). I must then establish why, in the presence of these two criteria, the principle of insufficient reason motivates the contractors to assign equal probabilities. After this, I will illustrate that these two criteria are present in the veil of ignorance. Therefore, I will be able to establish that the principle of insufficient reason is convincing, rendering Harsanyi's version superior to Rawls'.

Harsanyi convincingly argues that where there is insufficient information regarding the likelihood of several alternative circumstances, it is rational to assign equal probabilities to each potential outcome (1975: 598). This is because, if we are ignorant of the ways in which outcomes arise, we have no reasonable basis to deduce that one outcome is more likely than another. Kristen Shrader-Frechette undermines Harsanyi's use of this principle, because it is only applicable to individual, not social, choice (1988: 504). Shrader-Frechette is justified in claiming that 'in the individual case, the risk is freely chosen by one person, but in the societal instance, it is involuntarily imposed on a group without consent' (1988: 506). However, the veil of ignorance is a device used to derive principles of social cooperation to which all individuals can reasonably agree (Rawls 2001: 85). Shrader-Frechette therefore fails to recognise that in the original position, individual rational self-interest achieves the same as social choice. In the presence of the two aforementioned conditions, it remains plausible to argue that the principle of insufficient reason leads to the assignment of equal probabilities. What remains to be substantiated is whether the two conditions outlined in the previous paragraph are present in the veil of ignorance.

The first condition requires that people know the possible outcomes of the hypothetical situation. This condition is met given that the contractors have knowledge of 'the general facts [and] circumstances of human society' (Rawls 2001: 87). The contractors can use such information to infer that there are individuals with various natural endowments placed in various levels of society. Thus, the contractors know the possible states of the world. David Lyons affirms that, because of this, there is 'no reason why one cannot use such information

for calculating the likelihood of one having certain natural endowments and the likelihood of one's society being in a certain broadly defined condition' (1972: 544). Ultimately, Lyons is unjustified in this conclusion, because the contractors do not have access to any facts that provide them with the grounds for assigning accurate probabilities. However, Lyons inadvertently highlights an important point. By denying contractors this information, Rawls creates the very setting of uncertainty that satisfies the second condition.

Rawls affirms that the veil of ignorance deprives the contractors of the information required to assign accurate probabilities in the original position (1971: 134). There is an absence of empirical facts, such as the number of individuals belonging to each social position (Rawls 1971: 134–5). This is why Lyons is erroneous in his aforementioned conclusion. Yet by denying the contractors this information, Rawls creates the sort of uncertainty that satisfies the second condition of the principle of insufficient reason. Shrader-Frechette opposes this, affirming that 'if there is no justification for assigning probabilities, because [of] uncertainty, then there is no justification for assuming the states are equally probable' (1988: 508). This generates 'knowledge out of ignorance' (Shrader-Frechette 1988: 508). Shrader-Frechette is not wrong to highlight the relationship between knowledge and ignorance. The contractors know that there are different levels of society, but do not know how many people make up each level. However, it is because of such ignorance that the contractors have no reason to believe that ending up in each position is more likely than any other. Thus, they must assume they are equally likely to take the place of each individual. Harsanyi's version is more empirically convincing than Rawls', given that the theory of insufficient reason motivates contractors to assign equal probabilities to each potential outcome.

It has been established that Harsanyi's version is more empirically convincing than Rawls'. However, it must also be normatively substantiated that probabilities *should* be used in the veil of ignorance. Contractors should assign equal probabilities in order to ensure the participants are compelled to obey the principles that have been derived. This is supported by Richard Millar, who argues that no honest commitment is possible if estimates of probabilities are excluded (1974: 190). This is important to Harsanyi, who claims that a contract is futile unless everyone is committed to obey its terms (1987: 339). For Rawls, on the other hand, the utility principle may generate inequalities that are 'deep and pervasive ... and hard to accept' (Rawls 1974: 144). However, it is harder to accept social changes that address these inequalities for the reason that Millar gives; if an individual is placed in society as one of the most advantaged, they will be unwilling to accept the social changes required if they subsequently realise that it was unlikely to have ever been placed in the lowest tier in society (Millar 1974: 190). This realisation would have been possible if contractors knew they were equally likely to take the place of each individual. Assigning equal opportunities ensures that the participants feel compelled to obey the derived principles of justice. Harsanyi's version is therefore more normatively convincing than Rawls'.

I must consider one possible objection to this. For Rawls, 'injustice exists because basic agreements are made too late' (1974: 141). Preventing contractors from deciding whether they would accept principles of justice based on their position in society is precisely the purpose of the veil of ignorance. However, the reason for doing so is compatible with Harsanyi's version and so this objection falls apart. Contractors are prevented from deciding whether they would accept principles of justice based on their position in society in order to fulfil a higher aim: to create an equal bargaining process (Rawls 1971: 12). Assigning equal probabilities is entirely consistent with this higher aim and therefore it becomes insignificant that contractors ultimately accept principles of justice based on their hypothetical position in society. All contractors are in the same situation of uncertainty, as they still do not have any information that separates their participant from the others (Harsanyi 1975: 594). Assigning equal probabilities does not violate the equal bargaining process and so this objection fails. Harsanyi's version remains more normatively convincing than Rawls'.

The distinction between Rawls' and Harsanyi's versions of the veil of ignorance is extremely important. This is because, if it is accepted that Harsanyi's version is more convincing, Rawls' derivation of certain principles of justice falls apart. I will focus on the difference principle. The difference principle prescribes that inequalities are only permitted when they benefit the least advantaged (Rawls 2001: 64). The derivation of the difference principle depends on the exclusion of probability. Contractors ensure inequalities serve the least advantaged members in society, because they are unaware of the slim likelihood of being part of this least advantaged tier. However, in Harsanyi's version, contractors are aware of this slim likelihood. Therefore, it is more rational for the contractors to choose a social system that yields the highest average utility, rather than maximise the worst-case scenario via the difference principle (Harsanyi 1975: 596). When contractors assign equal probabilities in the original position, it is irrational to choose the difference principle and therefore its derivation falls apart. The distinction between Rawls' and Harsanyi's version is extremely important, because by illustrating the superiority of Harsanyi's version, it means Rawls' derivation of the difference principle is invalidated.

It should be noted that there is a deeper reason why we should reject the difference principle. For this deeper reason, I must ultimately reject Harsanyi's version of the veil of ignorance. The fundamental purpose of the veil of ignorance is to deprive the contractors of any knowledge that separates their participant from any other (Rawls 2001: 87). The discussion hitherto has taken this fundamental assumption as a justified and acceptable basis upon which Rawls and Harsanyi have presented their differing interpretations. Only within this framework has it been established that it is more empirically and normatively convincing to tell the contractors that they are equally likely to take the place of each individual, as opposed to exclude all knowledge of likelihoods. However, it is yet to be questioned why it is acceptable

to deprive the contractors of certain pieces of information in the first place (Rawls 2001: 87). This framework must itself be questioned, leading to the rejection of both Rawls' and Harsanyi's versions of the veil of ignorance.

The difference principle must ultimately be rejected because it wrongly treats endowments as morally arbitrary. A central justification for the difference principle is that people's endowments are morally arbitrary and so inequalities should serve the least advantaged, given that no one should be punished from purely accidental circumstances (Rawls 2001: 76). However, endowments should not be viewed as morally arbitrary and therefore this justification is unconvincing. In saying that 'we do not deserve our place in the distribution of endowments' (Rawls 2001: 74), Rawls removes all responsibility from persons' successes and failures. Robert Nozick emphasises the irony of this, proclaiming that denigrating a person's autonomy in such a way is risky 'for a theory that otherwise wishes to buttress the dignity and self-respect of autonomous beings' (Nozick 1974: 214). Nozick effectively exemplifies how Rawls fails to consider the importance of persons' choices to develop their own natural assets. It is wrong to justify the difference principle on the grounds of moral arbitrariness, because it results in the belittlement of individual responsibility and autonomy. It is for this reason that the difference principle must be rejected. It must now be established why this criticism is relevant to the question regarding the use of likelihoods in the original position.

It is for the reason above that we must reject both Rawls' and Harsanyi's version of the veil of ignorance. If it is accepted that endowments should not be treated as morally arbitrary, it follows that we must have definitive knowledge of them and of others' endowments when deriving principles of justice. Contractors must have definitive knowledge of whether their participant is, for example, hardworking, because this will affect the principles of justice their participant is willing to accept. Rawls' version must be rejected because contractors do not even have probabilistic knowledge of possessing certain endowments (Rawls 1971: 197). In Harsanyi's version, contractors know that their participant is equally likely to be as hardworking as any other participant. Yet this is still insufficient. By denying contractors definitive knowledge of their endowments, injustice is created rather than removed. This is because inequalities that are being addressed may be a result of choices and not circumstances. By providing only probabilistic knowledge of individuals' endowments, there is no way of knowing to what extent an individual is willing and able to contribute to the welfare of others. By assigning equal probabilities, Harsanyi impermissibly treats endowments as morally arbitrary. Therefore, despite being more convincing than Rawls' version, Harsanyi's version cannot be considered compelling.

The decision to either include or exclude probabilities from the veil of ignorance is a pivotal one. Harsanyi's version of the veil of ignorance is superior to Rawls'. This is because probability *can* and *should* be used in the original position. Where

there is insufficient reason to assign greater or lesser probabilities to several alternative circumstances, it is rational to assign equal probabilities to each potential circumstance. Assigning equal probabilities guarantees an honest commitment to the derived principles of justice whilst maintaining an equal bargaining process between the contractors. Because of this, Rawls' justification for the derivation of the difference principle falls apart, because it is not something the contractors would rationally choose. However, Harsanyi's version ultimately fails to provide a convincing theory of justice. This is because it is trapped within a given framework that denies contractors knowledge of the participants' endowments. This framework must be rejected, because it is wrong to treat endowments as morally arbitrary. Therefore, neither Rawls nor Harsanyi defend correct principles of justice.

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