

Considered Judgements Again

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I

John Rawls seeks an Archimedean point for judging the basic structure of society according to the principles of social justice. Steven Lukes, among others, believes that that Archimedean point for judging the basic structure of society eludes him (Lukes, 1077, pp. 154–174, and pp. 177–180; Nielsen, 1977, pp. 39–46). Rawls, he claims, has not been able to show us what the underlying design of a perfectly just well-ordered society would look like. He has produced a theory of *liberal democratic justice*, but he has not been able to show us that his theory of justice and his principles of justice are the theory and the principles that rational persons with a sense of justice and fairness would choose if they were reasoning carefully and impartially with the full relevant background information requisite for such impartial judgements.

What is the central reason, according to Lukes, why Rawls has failed? He has failed because, at a very fundamental point, he must resort to an appeal, in establishing his principles, to *our* considered judgements, and to our firmest convictions about what is right and wrong, just and unjust, such as our belief that racial discrimination is unjust or that religious intolerance is unjust. But here, Lukes observes, Rawls is being ethnocentric. These are “our” convictions, meaning by “our” but a tiny segment of the human race, living at a particular time and place. Indeed we are in reality making a quite unproblematic reference only to a subculture of that culture, namely to Westernized human beings of more or less liberal sentiments. How can we justifiably use such culturally specific beliefs, at such a very fundamental point, to check the correctness of our theories and postulated moral principles? And recall that Rawls does in fact appeal, to check our principles and theories, to our firmest considered convictions. That he also advocates checking less firmly embedded convictions by reference to moral principles or that he advocates checking, in a deliberately circular manner, even our most firmly embedded convictions by our favored moral principles and by our favored social theories (social theories that are not normatively neutral), does not gainsay the fact that at crucial points the method of reflective equilibrium requires that we check both our theories and our principles against our most firmly embedded considered convictions. No matter how wide the reflective equilibrium is, there is no

escaping that. But these are, Lukes claims, often culturally specific convictions shared only by a tiny segment of the human race. How then can we escape the conviction that Rawls is being ethnocentric in such an appeal and that his Archimedean point has indeed eluded him?

That this appeal to our considered judgements is no side issue can be seen from the role it plays in Rawls' moral methodology and moral epistemology. It is integral at all levels to his method of reflective equilibrium. Beyond that it should be recalled that Rawls significantly remarks at the end of the first section of Part Two of his *A Theory of Justice*—the part of the book where he displays “the content of the principles of justice” and tries to show how they “define a workable political conception”—that “justice as fairness will prove a worthwhile theory if it defines the range of justice more in accordance with our considered judgements than do existing theories, and if it singles out with greater sharpness the graver wrongs a society should avoid.” (Rawls, 1971, p. 201) He regards his principles of justice as both “a reasonable *approximation to and extension of* our considered judgements.”¹

II

I want to pursue whether there is any way we can tease out of Rawl's account, or construct from a recognizably Rawlsian account, a response that would overcome the charge of ethnocentrism and exhibit a reasonable approximation to an Archimedean point. I think it might initially help if we fasten on the role Rawls gives to *consensus* in justification. At the very end of *A Theory of Justice*, Rawls notes that “proof is not justification.” (Rawls, 1971, p. 581) To justify a conception to some person or group of persons is to give him or them a proof of the principles of that conception from premises *accepted* by all parties to the discussion, where these principles also in turn have consequences which match with the *considered judgements* of the people concerned.² At any rate, this is the ideal where the justification is full. The nature of justification is such that any justification of principles must proceed from some consensus (Rawls, 1971, p. 581).

Justification without consensus, and not essentially relying on consensus, is on Rawls' account a very problematic conception indeed.

However, such an admission seems to show just how pointed Lukes' criticism is. In achieving consensus we seem unavoidably to appeal to particular groups with distinctive considered convictions. If we try to widen the consensus, we do

¹John Rawls, *A Theory of Justice*, (Cambridge, MA: Harvard University Press, 1971, p. 195), italics mine. See here Norman Daniels' s perceptive remarks in his “Equal Liberty and Unequal Worth of Liberty,” *Reading Rawls*, (New York: Basic Books, 1976), pp. 265–266. See also the essays in the same volume by Gerald Dworkin, T. M. Scanlon, Milton Fisk, Richard Miller and Benjamin Barber.

²I think it is more plausible to read Rawls here as construing “proof” in a wide manner.

not find, except over some moral truisms, *agreement* in considered convictions.³ Rawls speculates himself whether “agreement in considered convictions is constantly changing and varies between one society, or part thereof and another.” (Rawls, 1971, p. 580) But it surely seems at least that this is so and Rawls’ basis for consensus, or at least a sufficiently wide consensus for his appeal not to be ethnocentric, seems at least to evaporate.

Perhaps in spite of the diversity, both between cultures and over time, there is also some significant overlap, some core set or cluster of really central considered judgements concerning which there is a universal or near-universal consensus at least among peoples having something approaching an adequate set of factual background beliefs. But neither Rawls nor anyone else to my knowledge has shown either that there is such a consensus or, even if there is, that it is sufficient, when coupled with Rawls’ moral methodology or some other methodology, to indicate something of the route to an Archimedean point.

Perhaps the considered judgements that Rawls appeals to as such provisional fixed points, indispensable to the process of justification of theories and principles of justice and morality more generally, are not so distinctively liberal and Western as Lukes contends. But Rawls has done nothing to show that is not so. We will see, if we reflect over the diversity of moral convictions between different societies, that there most certainly does not appear to be any very extensive consensus about considered convictions between different peoples. We, of course, get some consensus, but that is compatible with what appears at least to be the fact of sufficient divergence in considered judgements to make for a number of reflective equilibria.

We also should recognize that in the history of moral theory, there are different moral theories (often coupled with distinctive social theories and conceptions of human nature), many of which are internally tolerably coherent. They can be matched with different sets of considered judgements and in turn, following the method of reflective equilibrium, correct both different moral principles and through them different considered judgements, or correct the same moral principles or through them their matched considered judgements in different ways. There are many different islands of consensus but there is either no overall consensus or at least no non-trivial overall consensus.

When reflective people become aware of that, they will see plainly enough that no Archimedean point has been achieved and that it appears that, at least on Rawls’ account, none is achievable. There are diverse moral theories with their diverse matching considered judgements and different sets of principles of justice

³For a discussion of the role of those truisms, see my “On Needing a Moral Theory: Rationality, Considered Judgements and the Grounding of Morality” *Metaphilosophy*, (1982) in press and my “Reason and Sentiment” in *Rationality Today*, Geraets, T. E. (Ed.), (Ottawa, Canada: the University of Ottawa Press, 1979, pp. 249–279).

with their diverse matching considered judgements. We seem to lack a way of determining which of these various accounts are the superior accounts.

Indeed, as any tolerably attentive student who has taken any competently taught introductory ethics class will recognize, the fact that different peoples have importantly different considered convictions does not in itself establish that these convictions are all equally justified or that they are all equally rational. But that is cold comfort here, for what we still do not have is a method, a basis or any non-ethnocentric way of establishing which ones are justified or are the convictions which reasonable people or people committed to the moral point of view must accept.

Traditionally, moral philosophers, seeking to meet the challenge of relativism, have sought, as an essential element in their programme, to provide a justificatory apparatus—an Archimedean point—to assess moral codes, social structures and conceptions of a good or just society. Such attempts have not been notable for their success. For all the power and systematic coherence of his account, Rawls, not unsurprisingly, appears at least *not* to have succeeded where his predecessors have failed.

III

It has been argued with some force that in the above respects science is on all fours with ethics (English, 1980). If we are going to be skeptical in this way about morality, we should be equally skeptical about science. Their subject matters differ, but the methodology of ethics and the methodology of science, it is claimed, are very similar. They both rely crucially on consensus, they both are fallibilistic and they both employ what Rawls, in talking about ethics, calls reflective equilibrium. The old picture of science was that there were scientific theories and hypotheses which in turn were tested by empirical data. This empirical data was itself theory neutral. It was just the given in experience which we could rely on to test our theoretical constructions. It was, if you will, our squarification base. It provided the infallible foundation for our theorizing. Starting from that, and using careful inductive and deductive methods, we could and—so the claim goes—did construct our scientific accounts of the world. We found a foundation for theory construction and theory acceptance in the brute empirical data which could be specified independently of any scientific theory and which serves to test the comparative adequacy of the theories and theoretical beliefs embedded in the theories.

This kind of traditional empiricist theory is being replaced by an account of science which denies that there is any significant theory-neutral observation and indeed that any suitable distinction between theory and observation can be drawn.⁴

⁴Powerful and current as this claim is, it should be balanced against Ernest Nagel's judicious attempt to provide a defense of something closer to, though not identical with, the traditional view. See Ernest Nagel, *Teleology Revisited*, (New York: Columbia University Press, 1979, pp. 29–48).

There is nothing in actual scientific practice like an infallible foundation in theory-neutral observation. Rather we are caught in a circular procedure, a (if you will) hermeneutical circle, in which theory non-neutral observations correct theory, but theory in turn corrects observation. Scientific methodology in turn functions as a mediator in this process and is itself corrected in turn by both theory and observation. There is, as in reflective equilibrium in ethics, a mutual shuttling back and forth and a reciprocal correcting of theories, observations and methodologies until we get, in what develops out of it, a more adequate but still fallibilistic and continually changing but also improving overall account.

Imagine the corpus of a scientific account, say biochemistry, as a cluster of interconnected sentences. In that cluster, the sentences which are the “observation sentences”—the sentences which are taken to record evidence or give “the observational base”—are the sentences in that corpus which the scientists who do that particular science, at that particular time, use to make statements to which they will ultimately retreat in justifying their theoretical claims. That will, of course, if there is to be any communication at all, involve a consensus. We can justify a statement *S* to a person *P* if we can support *S* with evidence *P* accepts. Justification is relative to that acceptance and if there is no consensus here, there will be no science—there will be no ongoing procedure that is recognizably scientific. It isn’t that there is some data there simply to be observed which will confirm or disconfirm our theories, whatever our prior conceptions and theories. We cannot get *this kind* of impartiality. Rather we must start with statements that we can agree on. Working with them, together with our conceptions about simplicity, induction and analogy, we can, enmeshed in this consensual basis, develop our scientific theories.

We seek, as we do in ethics as well, patterns of coherence. “We,” as Jane English well puts it, “initially accept the testimony of others and the recorded data from the past. Then we proceed to construct a theory which fits with as many of these starting beliefs as possible. We next test our conjectures by applying them to new observational situations. Observation corrects theory; then theory in turn is used to correct testimony, recorded data, intuitions about simplicity and even our own observations.” (English, 1980) Just as in ethics, deeply embedded considered convictions, e.g. “It is wrong to allow people to starve when you can help them,” or traditional central principles, e.g., the principle of utility, are only reluctantly abandoned by people whose deeply embedded considered convictions or principles they are, so in science central beliefs and those beliefs more tightly woven into the scientific corpus are more reluctantly abandoned than peripheral or new ones. In both cases, agreement or consensus forms both the starting point and a point of inescapable return in the quest for justification. Neither in ethics, nor in science, is any statement or claim permanently immune from revision in this shuttling process. Our convictions, even our most deeply embedded and cherished considered convictions, are regarded by Rawls as “provisional fixed points which we presume any conception of justice must fit.” (Rawls, 1971, p. 24) In both eth-

ics and science, fallibilism, on this conception, reigns throughout. As Rawls puts it:

In arriving at the favored interpretation of the initial situation there is no point at which an appeal is made to self-evidence in the traditional sense either of general conceptions or particular convictions. I do not claim for the principles of justice proposed that they are necessary truths or derivable from such truths. A conception of justice cannot be deduced from self-evident premises or conditions on principles; instead, its justification is a matter of the mutual support of many considerations, of everything fitting together into one coherent view. (Rawls, 1971, p. 25)

The stress here is on the coherence of many mutually supporting factors and an underlying consensual acceptance of these factors. But just as neither observation statements nor any scientific theory is immune from the possibility of revision, so for Rawls no considered convictions or principles, including of course his own, are immune from revision.⁵ It is natural, at least when such thoroughgoing fallibilistic reasoning is unfamiliar, to hanker after a greater certainty. But if this new account of science is sound, and if Rawls' moral methodology is sound, or approximately so, then such a Cartesianism, even if supplemented with all of Sidgwick's care and erudition, is a spitting into the wind.

IV

In science, or more accurately in a particular scientific endeavour, such as biochemistry, we start, as I remarked earlier, with particular beliefs upon which we—that is “the we” of the appropriate scientific community—can all agree. In ethics, Jane English stresses, we similarly should start with “moral beliefs upon which we can all agree.” (English, 1980) But whatever may be the case in science—and it *may* not be too dissimilar there—in ethics we still have Lukes' problem about who are the we that agree. Even within our own culture, we are very different. There are, as he reminds us, ultraconservatives, clerical authoritarians, libertarians, Empire Loyalists, fascists, racial separatists, Saint-Simonian technocrats, liberals, radical egalitarians, anarchists and Marxists. There can be very little that they can all agree on. And though there are a few instances of really panhuman considered convictions, Rawls' particular starting point appears at least to be a distinctively liberal one, though it is also possible, given a certain turn in the dialogue, he could, over some important points, secure agreement with Marxists and Anarchists and perhaps, in some measure, with libertarians as well. (I am speaking here of agreement over a tolerably significant number of deeply embedded considered convictions.) But the central point is that if we do not ini-

⁵Nagel *op. cit.* sensibly remarks that while everything is in principle open to revision, some beliefs in fact are quite safe from revision. The recognition of this may have a certain importance in resisting some kinds of skepticism in ethics.

tially limit our group to something like those people who are broadly within the liberal consensus, we are going to find very little of significance, on which we do agree. (Perhaps we should be wary here of the qualifier “significance?”)

Whatever we say about this, it is, I suspect, right to claim, as Jane English does, that whatever consensus we can get, particularly if the “we” is tolerably wide, it will be attained not on universal judgements, such as ‘Theft is wrong’, but on “specific case histories such as a detailed story about stealing a loaf of bread to save one’s dying mother.” (English, 1980) English goes on to add that *some* “case histories would generate nearly universal agreement as for what is the right action, [while some other cases would not].” (English, 1980) It is these cases which form, or rather should form, the starting point for ethical justification. In seeking out what would be a set of justified moral principles, the careful and extended use of cases is crucial and, where this is done, it is perhaps not unreasonable to hope for consensus. We might get here, if we really concentrated on giving the detail in an ideologically and theoretically unramified manner, the wide consensus—the wide ‘we’—Rawls needs and Lukes thinks he cannot get. But while such a consensus might very well turn out to be wide in the sense that there are *some* considered convictions which are universally accepted, it might very well not be wide in the sense that there would actually be many such propositions which have such near universal acceptance.

Even if we are unable to *start* with any wide basis or consensus, we may be able to attain a wider base by carefully operating with the method of reflective equilibrium. English remarks interestingly that Rawls does not maintain “these consensus beliefs are correct, let alone infallible or theory-neutral or culturally neutral.” (English, 1980) No matter how anomalous they are in this respect, we start with them and attempt to articulate general moral principles “which would generate as many of these judgements as possible.” (English, 1980) We also test our general moral principles by seeing whether they match with the considered judgements we make in these new situations. As in the science case, the low level beliefs and the theoretical beliefs are mutually correcting.

This is admittedly a circular procedure. We correct theory by data and data by theory and method corrects both and in turn is corrected by them. We must start with consensus and we end with consensus if justification is to be possible at all. To the challenge that circular procedures are plainly illicit, English replies by trading metaphor for metaphor: “if the circle is a *spiral* and not a *vicious* circle, if it is a spiral circle moving us gradually closer to the truth,” it is plainly not illicit. But can we know, have reasonable grounds for believing, or even make a good educated guess that this is so—that this spiral movement is historically in place? (The shades of Hegel are with us here!) English remarks interestingly:

Unfortunately, it seems that we will never be able to prove that this method is an upward spiral rather than a vicious circle. There is no way we can “step outside the circle,” so to speak, and take an objective look at The Truth in order to compare our progress. If we could, we would have no need for the circle. The best we can do is to

marshall some evidence for progress: that we seem to attain later theories which work better in some sense than the earlier ones did. But this is mere evidence—no proof—that our spiral is moving us closer to the truth. Admittedly, it would be preferable to have an infallible input and an *a priori* method for generating theories. But it seems that this will not be available. Are beliefs so justified worthy of the name “knowledge”? If knowledge requires certainty, they are not. We may have to settle for something less than certainty. (English, 1980)

English need not have invidiously compared “mere evidence” with “proof.” If that is all that was worrisome here, we could be quite satisfied with the having of the evidence as long as it is good evidence and ample.

Rawls, in his concluding remarks on justification, states that “mere proof is not justification,” (Rawls, 1971, p. 581) after all proofs simply “display logical relations between propositions.” (Rawls, 1971) Ideally “to justify a conception of justice to someone is to give him a proof of its principles from premises that we both accept.” (Rawls, 1971) Moreover, “proof” can be used, quite legitimately in a wide way, as when Bentham and Mill use it to mean “pragmatic vindication,” in attempting to prove their principle of utility.⁶ (It is not the form of the proof here but its contents that is challengeable.) Rawls significantly remarks: “Proofs become justification once the starting points are mutually recognized, or the conclusions so comprehensive and compelling as to persuade us of the soundness of the conception expressed by their premises.” (Rawls, 1971, p. 581)

The possibly worrisome part is not the part about “mere evidence” but the fact that the evidence we can marshal for progress has the appearance at least of being tainted. We are to show that the later theories work better *in some sense* than the earlier ones. But that claim, particularly with the “in some sense,” is indeed vague. Still, that may be the best we can ask for here. And, in spite of its vagueness, it still appears to be considerably better than nothing. However, have we shown anything other than that *from the perspective of the later theories* the later theories “work better” than the earlier theories? But that is hardly significant. What is not clear is that we have any objective, non-question begging, perspective-free conception, of either working better or failing to work better here. Maybe we do? But it needs to be shown by being worked out and defended. Moreover, it is perhaps not unreasonable to say, *vis-a-vis* moving closer to the truth, that we might very well suspect that we need to have a little firmer and less contested conception of what we are moving closer to to be very sanguine about whether we have a spiral. Though we should not forget the important Hegelian point that we can often see, when we look *backward*, that at time T_2 position P_2 was more developed or more adequate than P_1 at time T_1 . We can’t overleap history, but from our historical perspective we can understand and appraise what went on before us.

⁶On Bentham’s and Mills’ approach here, see E. W. Hall, *Categorical Analysis*, (Chapel Hill, NC: North Carolina Press, 1964, pp. 93–132) and my “Mill’s Proof of Utility” in *New Dimensions in the Humanities and Social Sciences*, Harry R. Garvin (Ed.), (London: Associated University Presses, 1977), pp. 116–123.

But still, why assume our movement is that of a spiral? Perhaps confidence in induction is all right here. Don't we have something that at least looks like evidence for a spiral?⁷

Perhaps what we can reasonably say is that it is not unreasonable to have such hopes and that, much philosophical mythology to the contrary notwithstanding, basically the same epistemological methodology obtains in both science and ethics. If it is reasonable to believe there is progress and rational development in science, it is reasonable to believe there is a similar type development in ethics as well.⁸ It is not as fast or dramatic and the twentieth century has been the scene of some of humankind's worst horrors. But it is also true that there is a wide recognition of that and many things, such as racial prejudice or simply firmly and with a good conscience keeping the lower classes in their place, can no longer, with more and more people, simply go without saying. But—to end on a pessimistic note—if Germany had won the war what would most of us now think? Would we, in a whole range of significant matters, have the same or even very similar considered judgements to the ones we have now?

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⁷In a series of brilliant, closely reasoned articles, Norman Daniels develops a case for a wide reflective equilibrium that might give us something of an objective basis here. See his "Wide Reflective Equilibrium and Theory Acceptance in Ethics," *The Journal of Philosophy*, Vol. 76, No. 5 (May 1979, pp. 256–282), "Moral Theory and Plasticity of Persons," *The Monist*, July, 1979, 62 (3), "Reflective Equilibrium and Archimedean Points," *Canadian Journal of Philosophy*, March, 1980, 10 (1) and "On Some Methods of Ethics and Linguistics," *Philosophical Studies*, October, 1978 + i 37 (2). For some of my animadversions about Daniels' case here, see my "On Needing a Moral Theory: Rationality, Considered Judgements and the Grounding of Morality", *Metaphilosophy*, 1982, in press.

⁸D. M. Armstrong says some tolerably simple but sensible things on this tangled topic in his "Continuity and Change in Philosophy," *Quadrant*, Vol. 17, No. 5-6 (September-December 1973, pp. 19–23).

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