

Main Arguments, Nozick vs. Rawls

1. What difference cooperation makes (pp. 184ff.) – Why does cooperative activity give rise to a problem of justice that we need Rawls's theory to answer?
 - a. Explain the two ways of conceiving the problem of distributive justice that Nozick distinguishes on p. 184
 - b. Suppose that each individual is a miniature firm, and each person's contribution is readily identifiable and exchanges occur openly at competitive prices → appropriate set of holdings is the one that actually occurs.
 - c. Now drop assumption that people work independently. If there is such a thing as identifiable marginal product. If so, that is what people will receive in exchanges.

The idea seems to be, under conditions of full information, buyers will know roughly what difference there would be in the product were the seller not part of the process, and – wanting one to be part of the process – they'll pay the value of the difference. (More and it would be irrational to buy; less and it would be irrational to sell.)

- i. If marginal productivity cannot be identified – go with the entitlement theory.
- ii. Rawls's theory presupposes that marginal product can be identified.
 - (1) Incentives allowed if they work and are known to work to greatest advantage of the least advantaged.
 - (2) An incentive will be known to work to the greatest advantage of the least advantaged only if it is known to lead the person who receives it to produce more than he would if he received no incentive or if he received some other incentive.
 - (3) An incentive is known to lead the person who receives it to produce more than he would if he received no or some other incentive only if the difference the incentive makes to his productivity is known.

C: So Rawls's theory presupposes that marginal product can be identified.

In sum, the argument seems to be:

- We have a serviceable notion of marginal productivity, and so go with entitlement theory.
- If we didn't have such a notion, we should still go with entitlement theory.
- Rawls's theory presupposes that we have such a notion.

This seems right, but it doesn't have the consequence Nozick wants. We might still worry that the consequence of allowing inequalities over time is unjust.

2. Terms of cooperation and the DP (pp. 189ff.) –

- a. Under what conditions do we say that G has less *because* F has more? The truth of the subjunctive "If F had less G would have more" is usually not enough.
- b. Does Rawls have anything to say to the better-off person who thinks he should derive greater benefit from social cooperation than the difference principle allows?
 - i. Nozick raises the possibility that the worst-off need the cooperation of the talented, rather than vice versa, and so already benefit more from being included in social cooperation than the more talented do, since a coalition of the more talented could secede.
 - ii. Recall Rawls's argument in *TJ* §17 re: rewarding the talented twice over.

3. The OP and End-Result Principles – OP is s.t. Historical Principles can't be chosen; rather, it guarantees that end-state principles would be chosen because parties in the OP treat things to be distributed as "manna from heaven".

a. Arguments:

Argument 1

- (1) Each person engages in calculations to decide whether it will be in his interests to accept a historical principle of distribution
- (2) Grades, under the historical principle, depend upon developed intelligence and work
- (3) So each person will estimate the probabilities of where he will fall along these dimensions
- (4) [parties in the OP have no way of estimating whether they will be among the most deserving of the least deserving]
- (5) Any probability calculation of self-interested persons in the OP will lead them to rank the entitlement and reverse-entitlement principles equally.

C: So they would not accept the entitlement principle.

Argument 2

- (1) Self-interested person evaluates any principle on the basis of how well it will work out for him.
- (2) Thus for any principle, the person in the OP will look at the distribution it will lead to.
- (3) So the principles drop out, and parties in the OP makes a choice among end-state distributions.
- (4) So either parties agree to end-state distributions or the fundamental principles agreed to are end-state principles.

C: The parties are limited to end-state principles.

b. Nozick thinks the deep criticism of Rawls's theory is that the veil of ignorance keeps entitlement from grounding principles of distributive justice. Is this a problem? Why or why not?

4. Micro and Macro

a. Dilemma: Rawls seems to think process is great (because the OP uses pure procedural justice), but he can't think it's great because the OP can't yield process-principles, only end-state ones.

b. Two properties of the DP:

- i. The DP is *organic*: if we delete some people and their holdings, no guarantee that what remains is just → justice is a property of the whole distribution
- ii. The DP is *non-additive*

c. Is Scanlon right that there is no plausible candidate between equality and the DP?

i. This fails to take egalitarianism seriously. For the egalitarian assigns a cost to inequality:

- (1) An inequality is justified only if its benefits to the worst-off is greater than the cost of the inequality
- (2) An unequal system U is justified only if (i) its benefits outweigh its costs and (ii) there is no other unequal system S with less inequality s.t. the extra benefits of U over S do not outweigh the extra costs of U over S

This argument just shows Rawls is not an egalitarian!

d. Put people who have been raised in the WOS in the OP and see what is chosen

5. Natural Assets and Arbitrariness (pp. 213ff)

- a. Can the exalted picture of persons and their choices that the theory is supposed to support be squared with the rejection of natural liberty?

Perhaps what's exalted are the choices people make under fair conditions.

- b. Argument against natural liberty blocks the introduction of actions, choices and results only by attributing everything noteworthy about the person to external factors. Is this consistent with the view of individual dignity the theory is supposed to exalt and embody. (p. 214)

What Rawls wants is to establish social conditions in which people are responsible for their choices, or in which their choices are dignified?

6. Positive Arguments for nullifying differences in holdings stemming from differences in natural assets:

a. Argument A

- (1) Any person should morally deserve the holdings he has; it shouldn't be that persons have holdings they don't deserve.
- (2) People do not morally deserve their natural assets.
- (3) If a person's X partially determines his Y, and his X is undeserved, then so is his Y.

C: People's holdings shouldn't be partially determined by their natural assets.

Rawls does not accept (1), so this can't be the argument

b. Argument B

- (1) Holdings ought to be distributed according to some pattern that is not arbitrary from a moral point of view.
- (2) That persons have different natural assets is arbitrary from a moral point of view.

C: Holdings ought not to be distributed according to natural assets.

The conclusion is ambiguous. Does it rule out distributions that are according to differences in natural assets, even if the natural assets do not give rise to the differences? Presumably not.

c. Argument C

- (1) Holdings ought to be distributed according to some pattern that is not arbitrary from a moral point of view.
- (2) That persons have different natural assets is arbitrary from a moral point of view.
- (3) If part of the explanation of why a pattern contains differences in holdings is that other differences in persons give rise to these differences in holdings, and if these other differences are arbitrary from a moral point of view, then the pattern also is arbitrary from a moral point of view.

C: Differences in natural assets should not give rise to differences in holdings among persons.

Nozick raises a couple of questions:

- Will the DP run afoul of (3)?
- Why should holdings be patterned, as (1) asserts?
 - Liberty will upset patterns
 - Things are not manna from heaven; they come into being held and there is no separate distribution for a theory of distributive justice to be a theory of.

d. Argument D

- (1) Holdings ought to be equal, unless there is a weighty moral reason why they ought to be unequal.
- (2) People do not deserve the ways in which they differ from other persons in natural assets; there is no moral reason why people ought to differ in natural assets.
- (3) If there is no moral reason why people differ in certain traits, then their actually differing in these traits does not provide, and cannot give rise to, a moral reason why they should differ in other traits, for example, in holdings.
- (4) People's differing in natural assets is not a reason why holdings ought to be unequal.

C: People's holdings ought to be equal unless there is some other moral reason (such as, for example, raising the position of the worst off) why their holdings ought to be unequal.

But why accept (1), that there is a presumption in favor of equality?

- Differences in treatment don't always need to be justified.
- Government's differential treatment needs to be justified, but government action is not at issue

But why not: Holdings ought to be distributed as parties in the OP would agree. They would agree to (1).

7. Negative Argument

e. Argument E

- (5) People deserve their natural assets.
 - (6) If people deserve X, they deserve any Y that flows from X.
 - (7) People's holdings flow from their natural assets.
 - (8) People deserve their holdings.
 - (9) If people deserve something, they ought to have it, and this overrides any presumption of equality there may be about that thing.
- C: So people ought to have their holdings.

Rawls would deny (1).

e. Argument F

- (1) If people have X and their having X (whether or not they deserve it) does not violate anyone's Lockean right or entitlement to X, and Y flows from X by a process that does not itself violate anyone's Lockean rights or entitlements, then the person is entitled to Y.
- (2) People's having the natural assets they do does not violate anyone else's Lockean rights or entitlements.

Why should we accept (1)?

g. Argument G

- (1) People are entitled to their natural assets.
 - (2) If people are entitled to something, they are entitled to whatever flows from it (via specified types of processes).
 - (3) People's holdings flow from their natural assets.
 - (4) So people are entitled to their holdings.
 - (5) If people are entitled to something, they ought to have it (and this defeats any presumption of equality).
- C: So people ought to have their holdings.

Mightn't Rawls ask: what does (1) mean? What does it mean to be entitled to one's natural assets?

8. Collective Assets (pp. 228ff.)

a. The DP is consistent with treating people as ends and not means only if one distinguishes people from their assets.

(1) Suppose I can profit from my natural ability only if a social system in which I receive that profit is to the greatest advantage of the least advantaged.

(2) Then the social system uses my natural assets to benefit the least advantaged.

(3) So my natural assets are being used as a means to benefit the least advantaged.

(4) The social system restricts my liberty to use my assets as I would like to benefit myself.

(5) So my natural assets are used merely as a means to benefit others.

C: So I am being used merely as a means, and not also as an end.

Nozick thinks can evade this only by distinguishing me from my assets, and so blocking the move from (5) to C. This, he thinks, misses the point. What is salvaged is of no moral significance. But why not?

Nozick needs the move from (4) to (5), otherwise he can't get a conclusion about "merely as a means", which is what he needs. But why grant this?

- Why is it that if people can't do what they'd like, they're treated as means?
- Maybe they're not treated as means because the restriction on use of assets is one to which they would consent.
- Even the talented person is better off than he would be under equal distribution, so what is the ground of the complaint?