Rational and moral action : a critical survey of rational choice theory

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PART IV

WELL-BEING AND DISTRIBUTIVE JUSTICE
Ethical theory is the third of the three interlocking theories that together, in the view of Harsanyi, constitute rational choice theory. In the chapters to come I discuss three ethical theories that are compatible with rational choice theory. Their relative merits and shortcomings will be established and compared. In this evaluation I shall particularly address questions of distributive justice.

I present the theories of three authors: Harsanyi, Gauthier (together with Nozick) and Rawls. All three authors endorse, some variant of, the political theory of liberal individualism. It can be characterized by its conception of the good and its conception of the individual. Harsanyi’s and Rawls’s theories both belong to a class of theories which are called “hypothetical choice theories”, i.e., theories which say that the right answer to some question is the answer that a person or a group of persons would choose if subjected to certain conditions. Both employ the device of an “Original Position”. Gauthier uses the device of an “Archimedean choice” which has the same function as the original position. Besides this device Gauthier (and Nozick) take as their point of departure a “the state of nature”. A state of nature is conceived as the
state that existed before any government ruled. The test whether a certain political institution is justified is to ask whether individuals living in that state of nature would have consented to that constitution as part of a contract in which they established a government. Nozick and Gauthier both are inclined to believe that they are also describing an actual historical process, but most theorists consider the state of nature as just a point of departure as in traditional contract theory.322

The important thing to notice about the people in the original position is to know to which conditions they are subjected; i.e., what are they allowed to know. They know that society exists and that it consists of a collective of people with varied tastes and interests and that each person in the original position is to become a person in that society. In contrast to Rawls’s construction, the people in the original position/state of nature in the theories of Harsanyi and Gauthier know a lot about the current society, but a common element in all theories is that they do not know which person they will become. All authors mentioned work with some conception of a social contract. We may think of contractualism as a family of views that seek to justify morality or political institutions by reference to rational agreement.

What inspires contractual views of ethics is that moral principles must be rationally acceptable to every agent who is willing to take up a perspective that recognizes the common need for agreement. The contract notion is attractive because it links justice to consent and to rationality. Contractualism comes both in a Hobbesian and a Kantian form. Hobbesian versions attempt to explain moral constraints in terms of individual advantage. Morality is instrumental to non-moral interests. In contrast, on Kantian versions, practical reason expresses itself as a fundamental commitment to act in

322 The original position in the theories of Harsanyi and Rawls refer also to a ‘state of nature’ in that it precedes any social state. But it is a hypothetical construction; they do not claim to describe an actual historical process.
accordance with principles to which all rational beings would agree.

Harsanyi, Nozick and Gauthier follow the Hobbesian approach. It is a simple perception and it provides plausible answer to questions as: "how are moral rules justified?" "By showing that they are necessary if we are to cooperate for our mutual advantage". Or, "why is it reasonable for us to follow those rules?" "Because it is in our interest to live in a society in which the rules are accepted". Rawls's approach entails a reconsideration of Kantian morality. The autonomous agent must only act on principles that he would be willing to have everyone follow them 'as a universal law'.

While describing these three moral theories I will question their view on the subject of distributive justice. The subject of justice is the distribution of rights, entitlements, privileges, powers and opportunities and the command over material resources. Therefore, I will evaluate these ethical theories with an eye to the way benefits and burdens are distributed.

Harsanyi uses the construction of an "original position" for the purpose of letting individuals choose between alternative social systems from behind "a veil of ignorance". They know the whole history of the world, but they do not know what their personal position will be under any system. They would have the same probability of taking the place of the worst-off or of the best-off or of any position in between: this is the equiprobability assumption. He asks himself: "which decision rule would rational individuals use in this model." Now suppose that an individual would have to choose between two social situations in complete ignorance of what his personal position would be in either situation and that he would have the same probability of occupying any of the available social positions, then his choice would fully qualify as a moral value judgement. Obviously he would, utilitarians believe, choose the situation providing a higher level of average utility to the individual members of society. The utilitarian doctrine prescribes that we choose that alternative, of those available to us, which maximizes the preference-
Rawls locates the basis of reasonable agreement not on the claims of individual preferences, but on the fact that they are to be conceived of as citizens, who seek areas of agreement in building the basic principles and institutions of their shared political life. The justice of social and political institutions is measured by their tendency to counteract the material inequalities deriving from birth, talent, and circumstances. His point of departure is the same as that of Harsanyi: an original position characterized by a veil of ignorance. What would be the appropriate claims to make on behalf of the citizens? Rawls argues that in the special circumstances of deciding behind a veil of ignorance it is rational first to seek to safeguard basic political and personal liberties and second to minimize the costs of winding up at the bottom. Therefore the parties in the original position will judge basic social and economic institutions according to the capacity to secure basic liberties and to promote the interests of the least well-off social group. When the parties consider both themselves and their companions as free and morally equal, an equal division is the most obvious option. The reference point for the division of all-means (or primary) goods is, therefore, an equal division. But the size of the societal product is not fixed; rather it depends on individual incentives. It is the incentive problem, which moves Rawls away from strict equality. Inequality in the division of primary goods is therefore allowed if it increases the size of societal product and is in the interest of the group who is worst off. This condition is laid down in the “difference principle”.

From Gauthier’s point of view morality arises from market failure. Gauthier believes that the market may fail in two respects: free riding on public goods and parasitism because of externalities. It is because of these two market failures that a moral zone, a zone of justice, in which these failures are eliminated, is needed. To overcome the situation that mutually advantageous projects of cooperation will not be realized because each agent follows his own self-interest,
agents have to constrain themselves, that is adopt an impartial, attitude. Once agents constrain themselves cooperative projects can be realized and the agents will be able to reap the fruits of cooperation. The next question is how this 'cooperative surplus' will be divided. When is a fair outcome reached? According to Gauthier, rational persons will, in bargaining, act on a measure of relative concession, in particular on a principle of minimax concession. This means that the bargainers examine all possible outcomes and agree on the outcome that requires the smallest relative concession from the individual conceding the most. This principle may be formulated equivalently as a principle of maximin relative benefit.

As Gauthier points out, his theory has nothing to say about "equalizing" or "meeting needs". People who do not contribute to the social surplus do not have any entitlement to it, and thus he rejects out of hand respecting those with whom we have no need of cooperating, as elderly, retarded children and handicapped. Gauthier admits that his approach to morality does not correspond to conventional morality. The explanation is that morals by agreement are the morals of economic man. In his relations to other persons, economic man exhibits a radically contractarian view of human relationships. He is concerned with society as an instrument or tool for the attainment of his personal ends.

The device of a hypothetical choice situation is applied to create the circumstances in which people can make an impartial, and, therefore, moral decision concerning the initial conditions of a society they would like to live in, or concerning the social state they would like to see realized, or to choose some definite moral principles which would define a well-ordered society.

The authors we discuss have applied two, very different, models of the original position. One involves a thin veil, which is combined with a thick theory of the good. This construction has to guarantee that the chosen principle is rational; i.e., that it contributes to the good of the individuals
concerned. The other construction is characterized by a thick veil of ignorance and a thin theory of the good to warrant that the rational deliberations are in such a way embedded in moral considerations that the principles agreed to are reasonable. Why these different constructions?

The explanation is that the construction of the first kind serves to produce principles which are instrumental to the living standard or the well-being of the citizens, while the construction of the second kind is meant to produce plain, moral safe-guards, i.e., to guarantee basic rights and protection against exploitation. This also teaches us that it is very difficult to compare the recommended principles because they more or less follow from the chosen construction.

Therefore, I discuss the issue of distributive justice in the last chapter without departing from some hypothetical construction, but by a direct appeal to the arguments for equality and liberty. It appears that these arguments can ground the difference principle.