

# Why Contemporary Justice Theory Fails: The Missing Common Interest of Human Rights and Reason

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## WHY CONTEMPORARY JUSTICE THEORY FAILS:

### THE MISSING COMMON INTEREST OF HUMAN RIGHTS AND REASON

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*While contemporary justice theory has become the most well-known field of philosophy in recent decades, it presupposes the same first premise of value choice as the ruling disorder. The implicit baseline of rational decision is pecuniary self-maximization.*

Contemporary justice theory assumes, but nowhere justifies this ground of rationality. It is simply the given from which reasoning begins. As John Rawls the originator of contemporary justice theory says in passing reference in *A Theory of Justice* (1971), "it is rational for the parties to suppose they do want a larger share – – The concept of rationality adopted here – – is the standard one familiar in social theory" (p.143). He cites Arrow and Sen and others, but nowhere justifies the assumption they assume as given. It is the first principle of modern rationality, and no-one inside the tradition challenges it. That the assumed rationality is in truth the opposite of reason which seeks to take account of others' interests, not just the furtherance of one's own, does not compute in the market logic which rules. All want more as *rational*. This is the first principle of modern theory, and no-one inside this reigning mind order challenges it.

The ultimate failing in principle is: *all shared life goods* – both natural and social – are blinkered out a-priori. Money income for self stands in as the first principle of value gain, and rights without any life-necessity ground bind competing conceptions. John Rawls reposes on these life-blind first principles throughout, and sets the liberal agenda. Defence of Lockian private property with no limit is the opposed right-wing agenda of Robert Nozick. For over 40 years these much elaborated impressions have ruled official political philosophy across the English-speaking world. At the same time, the reigning money-sequence system itself is off-limits to discuss. Money-capital as the determiner of the real world is an unspeakable in the discourse.

The life substance of both justice and injustice are thus abstracted out a-priori. The central issue becomes, instead, one of money-value "*incentives*" to "*the talented*" to "*serve the*

*least advantaged*”. This is the cover story that is argued over ever since. Anglo-American philosophy on justice is usually about it. The life-and-death problems confronting humanity are thereby screened out within the primary myth of the ruling ideology – that inequality of money gain is based on personal talent.

Since more money-possession comes from assumed “superior talent” of individuals, private control of money capital by inheritance, one-pointed greed, blind luck, dishonesty, tax and obligation avoidance, and so on are all blinkered out. More deeply, the underlying social *structural* issue of ever more money wealth allocated to the few at the ever greater expense of the many with no higher talent involved is suppressed a-priori. All that is discussable now is locked into the terms of the mythic assumption of unequal wealth from ‘superior talent’. One can fashion an imagined set of principles and institutions to base incentives on serving the least advantaged (the Rawls school). Or one can reject the whole premise of any redistributive scheme at all and argue only for absolute right to keep the wealth as one pleases (the Nozick or ‘libertarian’ school) The question of private money capital control as the decider of wealth independent of any personal talent nowhere arises, however, as review of the vast literatures on “the difference principle” confirms.

The examples used are instead deviously selective and disconnected from reality. Nozick features Wilt Chamberlain selling tickets to see him play and his right to have the unequal wealth. The literature on Rawls features the pay for superior performance necessary to get a woman surgeon to do the surgery rather than the gardening she prefers. On the basis of such examples, necessary money incentives to the talented *or* no redistribution of wealth however extreme the inequality stand as the central ideas of social justice.

### **Abstracting Away Everything that Ultimately Matters:**

#### **Mapping High Theory’s Correspondence to the Life-Blind Ruling System**

The general principle from which these hot-house debates are generated, “the difference principle” of Rawls’ *A Theory of Justice*, is more interesting. It is that “the higher expectations of those better situated are *just* if and only if they improve the expectations of the least advantaged members of society”.

While Rawls and high-end justice theory appear to propose a high standard here, all the ultimate questions of social justice are blinkered out. *The ground of private property itself, money-capital right to become more with no burden, natural resources left over for others, the non-waste obligation, the protection of common life support systems, organic means of existence and the production of them, the rights and duties justly assigned to ensure their provision, and how humanity is to live with Nature so as not to despoil it – – All of these issues are abstracted away along with the real world and the life-and-death problems of a just social order.*

From here, critical discussion turns on how *inequality of the income of the ‘more talented’ can be justified*. The implicitly cordoned-off areas of discussion are worth identifying to comprehend how this framework of analysis of social justice preconsciously conforms to the ruling money-sequence program of rule. However ultimate their importance to our lives and their right regulation, the following foundational areas of concern are blocked out:

(1) the biophysical world itself and its universal requirements of reproduction;

- (2) human needs, their nature, criterion and universal structure;
- (3) production of the means whereby societies live, and its organizing principles of regulation;
- (4) the nature of actual money-capitalist society and its money-profit sequence;
- (5) the conception of any of (1) to (4) as normative issues or questions;
- (6) any right or obligation of justice not based on contractual agreement of atomic individuals;
- (7) any resource to repudiate any social regulator as evil;
- (8) any allowance of method to ground in or introduce (1) to (7) as what must be addressed by a theory of justice.

“What is left that *matters?*” one might ask. This is a question that does not arise within the field. The field of real-life problems of social justice is ruled out by *the life-blind syntax of argument itself*. The universal human life necessities and goods, the just organisation of their provision and the civil commons principle, the natural life-ground and the human vocation are a-priori expelled from this meaning and value structure. At the same time, the actually ruling capitalist system, its money-sequence logic and destruction of social and ecological support systems are effectively off-limits to evaluate. In these ways the reigning philosophical vision of social justice is life-blind like the ruling system, and taboo against raising questions is by a-priori device rather than by censorship or a gun. From the start, discussion of “the difference principle” is linked to the neo-economic standard of “*Pareto optimality*”, a touchstone of modern social and philosophical sciences. Although Pareto himself does not define the principle in natural language, it means a condition in which *no-one can be made better off without someone being made worse off*. Against surface appearance, however, the Pareto principle is consistent with the most extreme immiserisations of most human beings. For example, if the given distribution is a very small fraction of society in control of most of its money-capital assets – as today – Pareto “optimization” would leave all their wealth intact with no redistribution because this would make the super-rich ‘worse off’, and thus be a violation of Pareto efficiency. Rawls recognises a problem here, but *shifts* it to the deplored feudal past. “It may be that under certain conditions”, he says with emphasis added, “*serfdom* cannot be significantly reformed without lowering the expectations of some representative man, say that of landowners (p. 12).”

### **G.A. Cohen’s Egalitarian Rescue Remains Within the Ruling Alibi as First Premise**

Former Marxian scholar, G.A. Cohen, goes with Rawls to the Pareto principle in *Rescuing Justice and Equality* (2009), but he too rejects it as inadequate for justice. Both he and Rawls, however, entirely sidestep the capitalist world reality of *allocating money to money-capital profit without limit or desert*. This is the ticket in the door. Global capitalism itself is off-limits to discuss. Indeed none in this dominant discourse ever engages the actually ruling structure of global injustice, nor develops a principled alternative to its regulating mechanism.

Since the elephant in the room is not there, the human and ecological world being trampled does not enter as an issue. As Antonio Gramsci has observed, *hegemonic ideas never touch*

*the essential core of ruling economic relations.* While standing against any inequality, Cohen declines also to question Rawls' position that inequality-producing incentives *do* get people to produce more real goods from which the poor benefit. Instead just-so stories continue to stand in for reality to reflect the reigning myth of the system: to wit, *there are specially talented and productive individuals, they alone can produce what people need more of, and the issue is whether to give them higher money incentives to perform their superior work.*

Life-coherent reason does not go down this primrose path. It observes there is no criterion of *life need* here, nor account of the *actual productivity* of life goods by the higher paid, nor sound *correlation of incentives* to either. All this is taken for granted in accord with the ruling myth. What is *not* reflected from the wider world, however, is any trace of the actually ruling system of inequality to which no part of the myth applies. In the real world, it is not talented individuals receiving more merit pay, but a financial sect's control of money sequencing to more private money with no productive merit required and at steeply rising costs to the majority's lives and their common life support systems. The basic structure of injustice is thus pre-empted from view to attend to the unrecognised myth.

With life-value, money-capital profit and the common life-ground all unspeakable within this disconnected framework, in short, the multiplying assumptions at work construct an ideological illusion which is uncritically reproduced by radical justice theory itself. Money inequality is correlated with superior persons and their performances of value for others – the ultimate *alibi* of the corporate system made first premise. Its popular version, which Rawls emulates without notice, is: “the rich create a larger social pie from which the poor benefit”.

### **Economic Science and Pareto Optimum/Efficiency Unmasked in Principle**

The man behind this idea is Pareto, the leading mantra-name in rational choice theory. His position is worth briefly visiting not only because Rawls and Cohen do not, but because it discloses the pedigree of the principle from which the reigning discourse on justice comes. To begin with, Pareto's canonical *Manual of Political Economy* itself repudiates any equalising mechanism as economic nonsense.<sup>[9]</sup> It is only used “to get rid of one aristocracy and replace it with another” (p. 93), he says, with aristocratic rule as “what always exists” (pp. 311-12). It is a law of nature which only “decadent” and “degenerate” members of the ruling class oppose, he declares as self-evident in echo of the rabid Friedrich Nietzsche.

These ‘decadents’ are only moved to by a “morbid pity” or because they are “eager for perverse enjoyment” (p. 73). Pareto thus affirms war and the mass killing as necessary to “European civilization” whose advance he regards as “the fruit of an infinite number wars and of much destruction of the weak – – [by whose] sufferings the present prosperity has been acquired” (p. 48). “Very moral civilized people”, he asserts, “have [also] destroyed and continue to destroy, without the least scruple, savage or barbarian peoples”. All the “so-called liberal professions [medical care and education, for example]”, he declares in implicit pre-emption of any compensating services to the poor, “derive their income from factory owners” who would be deterred from producing wealth for society by such “humanitarian absurdity” (p. 304).

We may thus see in Pareto the core intellectual program of the global corporate system of rapacious greed which economists pervasively justify as “Pareto-optimal”. While it seems paradoxical that liberal egalitarians would appropriate Pareto to their apparently opposite cause, there is less paradox than first appears. Pareto's principle of “*equilibrium*”, as he

calls it, in which none can be made better off without others being made worse off – is a logic of status-quo adhesion. It is consistent with the most extreme and growing life-value deprivation of the majority in the name of a bigger pie for all, as he recognises.

### **Rawlsian Justice as Trickle-Down Myth in Formal Costume**

This is where the Rawlsian difference principle *seems* to ensure fairness and justice where the Pareto principle does not. Yet when we examine it more carefully, we find that it has no criterial limit on justifiable inequality to ensure that it not as permissive of the inequality which the capitalist idea of ‘trickle-down’ has justified in the decades since Rawls’ famous *A Theory of Justice* was published. In fact, almost every capitalist gain-scheme advocated in the world since – global free trade and investment without borders, ever lower taxes and regulation, ‘right to work’ breaking of unions, and so on – has been represented as a *policy to benefit the poor*. Now even the IMF now calls its privatizing-pay-bank-debt programs “poverty alleviation programs”.

With no life-value standards grounded in, people’s life necessities and goods can be relentlessly degraded and deprived and so long as money-income rises a few cents for the poor, “the least advantaged” or “poorest” are believed to have been “uplifted out of poverty” and “justice” thus served. We see here how income stand-in for human life necessities and goods can lead to the most unjust results without notice – especially when, as now, average or mean quantities erase the low extremes from view, and “out of poverty” elevation occurs at two dollars a day.

Consider here subsistence farmers driven from their farmland, their family and their community supports into the city – as hundreds of millions are every decade – with nothing but the price of a coffee in new income counting as “millions lifted out of poverty”. We hear variations on this story non-stop. Where does philosophy of social justice then turn? Only by grounding in a defined set of means of life themselves universally necessary to human survival and flourishing is the problem soluble; and only civil commons evolution led by the life-coherence principle of validity builds the process of social justice in life-value terms.

Since more money-possession comes from the “superior talent” of individuals, the issue of private control of money capital by inheritance, one-pointed greed, luck, dishonesty, tax and obligation avoidance, and so on disappears. So does the underlying social structural issue of ever more money wealth being allocated to the few at the ever greater expense of the many because it is a corruptly life-blind system out of control. All that matters now is to work from the myth of unequal wealth from ‘superior talent’. One can argue for absolute right to keep the wealth as one pleases with redistribution outlawed (Nozick) or to fashion an imagined set of principles and institutions to base incentives on serving the least advantaged (Rawls). The question of private money capital control without desert is evaded as if it did not exist.

In these ways the reigning philosophical vision of social justice is life-blind like the ruling system. Silencing of questions about it is not recognised because it is by a-priori device. The real world of monstrous injustice is simply blocked out by just-so stories – the very same device which reigns in economic theory. The universal life-and-death necessities of a just versus unjust social order are left with *no place* in the conversation. As in the wider world, grounding justice in what we all need to live as human is erased as a thinkable possibility. Only income proxies and rights without life content remain.

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