

**Pragmatism, Democracy, and Justice:  
Why Pragmatists Should be Rawlsians**

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**I**

This paper was stimulated by a few surprising facts about John Dewey's political writings.<sup>1</sup> Although there is ample discussion of freedom, community, individualism, liberalism, and democracy in the corpus, there is almost no mention of justice. Moreover, what Dewey does say about justice tends to be platitudinous and vague.<sup>2</sup> Indeed, the concepts and concerns which drive familiar disputes about justice seem invisible to Dewey.

Of course, Dewey is an egalitarian. Yet the nature of his egalitarianism is difficult to discern. In one passage

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<sup>1</sup> References to Dewey's work will be keyed the *Collected Works*, which are divided into *Early*, *Middle*, and *Later* works. Citations employ the standard formula: (Volume number: page number).

<sup>2</sup> Remarks like the following are typical. "A good society should aim to secure justice, should keep a right perspective as to the various goods which are desirable, should take account of all the human relations, and should move toward raising all men toward that measure of equality and democracy which has been the ideal and aspiration not only of the finer spirits but of increasing multitudes in the modern world" (LW7: 436). "In a word, a man has not to do Justice . . . he has to do justly. And this means that he has to respond to the actual relations in which he finds himself . . . . to do justly is to give a fit and impartial regard to each . . . ." (EW3: 106-107).

of unusual detail, Dewey affirms that "every human being, independent of the quality or range of his personal endowment, has the right to equal opportunity with every other person for development of whatever gifts he has" (LW14: 226-227).<sup>3</sup> This suggests a troubling view. A plausible reading has Dewey affirming that those who are already advantaged have a claim on society to provide whatever is needed to give them an equal opportunity to develop their "gifts," even if these happen to be of marginal or negative social value. Contrast the adult billionaire who has a special talent for origami with a child living in poverty who shows remarkable aptitude in science; are we to say that the latter has no greater claim to the opportunity to develop her talents than the former? Moreover, Dewey's view seems to leave those without many "gifts" severely underserved by society, while allowing those who have many and various gifts to hoard all of the social opportunity for development. What would Dewey make of the fact that the equalization of the opportunity to develop certain gifts requires a considerably greater share

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<sup>3</sup> Compare Dewey and Tufts in the first edition of their co-authored *Ethics*: the "moral criterion" by which we should judge social institutions is whether they "equalize opportunity for all" (MW5: 431). In the second edition, they write, "One person is morally equal to others when he has the same opportunity for developing his capacities and playing his part that others have, although his capacities are quite unlike theirs" (LW7: 346).

of social resources than it would take to equalize opportunity to develop different gifts? Finally, Dewey's view appears to allow a harshly leveled-down arrangement which equalizes opportunity by providing none.

It is obvious that a progressive like Dewey should want to avoid these implications. But it is hard to do so when one claims that opportunity for development must be equalized over potentialities that are not themselves equally distributed and are not of equal value.<sup>4</sup> In the absence of further detail, Dewey's appeal to "gifts" looks profoundly anti-egalitarian. In order to get a clear view of Deweyan justice, then, we must go back to basics.

Many issues need to be addressed. First, we must ask what, according to Dewey, is the relevant metric of equality? Is it welfare (Dworkin 1981a), opportunity for welfare (Arneson 1989), resources (Dworkin 1981b), capabilities (Sen 1980; Nussbaum 2004), "access to advantage" (Cohen 1989), some combination of these (Temkin 2011: 70), or something else altogether that justice

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<sup>4</sup> This suggests one respect in which Dewey is not easily interpreted as an early proponent of capability theory. Dewey advocates equality of opportunity for development not of basic human capabilities, but of whatever gifts one happens to have. In my view, this makes Dewey's view nonviable as an egalitarian conception of justice. McReynolds (2002) argues that Dewey's view is a kind of capability theory, and is superior to Nussbaum's version, but the arguments he supplies in favor of the Deweyan approach strike me as not particularly decisive. Rondel (2007: 121) also sees Dewey as proposing a capability theory, but his analysis of Dewey's view of equality is notably thin.

demands we equalize?<sup>5</sup> Then we should ask where Dewey stands on the "luck/choice" distinction (Cohen 1989: 907; Tan 2008). Given the statement quoted above, it may seem that Dewey thinks that justice must be insensitive to endowments; but does he hold also that it must be sensitive to ambition (Kymlicka 2002: 75)?<sup>6</sup> And how does Dewey propose that we should make the "cut" between endowment and ambition, luck and choice (Cohen 1989: 916)? Would Dewey regard someone's having "expensive tastes" a matter of luck (Dworkin 2000: 48-50; Cohen 2004)? Once these questions are answered, we must ask what Dewey's view implies about global matters. Do citizens living in relatively wealthy states owe duties of *justice* to those living in impoverished countries, or are there only duties of *charity* or *assistance* among citizens of different states?<sup>7</sup>

With these details in place, we would be well on our way towards formulating a Deweyan conception of justice; however, Dewey's writings supply strikingly little guidance on how to proceed in addressing these matters.<sup>8</sup>

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<sup>5</sup> See Scanlon 1986; Anderson 1999; Matravers 2002; and Scheffler 2003.

<sup>6</sup> Arneson 2011 provides a comprehensive review of these issues.

<sup>7</sup> See, for example, Miller 1998; Rawls 1999; Nagel 2005; and Pogge 2008.

<sup>8</sup> None of Dewey's major works in political philosophy-- *The Public and its Problems* (LW2), *Freedom and Culture* (LW11), *Individualism: Old and New* (LW5), *Liberalism and Social Action* (LW13)-- contains a detailed analysis of justice. The most sustained discussions occur in the

My intention is not to trash Dewey for this failure. My aim rather is to make some progress in thinking through the question of what pragmatists-- particularly those who incline towards Deweyan pragmatism-- should think about justice. My conclusion is that pragmatists should embrace John Rawls's two principles of justice, as well as the kind of justificatory device he employs in defending them.

This enterprise will strike some as odd. And there's at last one respect in which I would agree. I would have expected Rawls's views to be appealing to pragmatists; indeed, Rawls's fundamental methodology-- reflective equilibrium (1999a: 18)-- has its origin in the pragmatism of Nelson Goodman (1955). But when I looked to see what contemporary self-described pragmatists have said about Rawls, I was shocked. Instead of engaging with Rawls's arguments, objecting to his conclusions, or challenging his two principles, contemporary pragmatists opt for name-calling and vague complaints about the character of what they understand to be Rawls's project.<sup>9</sup>

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*Ethics* (MW5; LW7); but there justice is discussed as a component of leading ethical theories and no positive account is offered.

<sup>9</sup> For example, Gregory Pappas (2008: 30) declares Rawls a "reductivist"; Melvin Rogers (2009: 133) calls Rawls a "rationalist"; Larry Hickman (2008: 27) applies the label "universalist"; according to Colin Koopman (2009: 159) Rawls is a "rationalist utopian"; and Ray Boisvert (1998: 9) contends that Rawls is an advocate of "Galilean Purification," whatever that is.

Anyone who brings even the slightest degree of philosophical charity to Rawls's work will emerge from the current pragmatist literature with the sense that something has gone terribly wrong. There is a story to be told about the palpable hostility contemporary pragmatists feel towards any influential philosophical program that does not originate with pragmatism. I've tried to tell that story elsewhere (Talissee 2007) and I will not go into it here. Instead, I turn to the issue at hand: What should pragmatists think about justice?

## II

The term *pragmatism* instantly supplies an obstacle. I would call it an "essentially contested concept," but pragmatists are supposed to avoid talk of essences. Such is the depth of the controversy. Our only recourse is stipulation. To wit: Pragmatists are fallibilists, experimentalists, and pluralists about inquiry.

*Fallibilism* is the view that even impeccably-conducted inquiry into the simplest problem can bear flawed results. *Experimentalism* is the view that the results of even impeccably-conducted inquiry must be regarded as hypotheses to be tested in subsequent experience and, if necessary, revised or even abandoned. *Pluralism* is the view that even

impeccably-conducted inquiry can produce results that underdetermine the proper response to the problem at hand; that is, proper inquiry can yield several mutually incompatible responses to a given problem.

This characterization is surely incomplete. There are other commitments that are distinctly pragmatist, and there are non-pragmatist views that share this view about inquiry; furthermore, there is a lot more to say about what pragmatists think inquiry is. Yet it seems to me unbecoming for a pragmatist to insist that we begin with a full set of necessary and sufficient conditions for pragmatism before embarking on a philosophical inquiry. So we move forward. (If it helps, think to yourself that I'm talking only about a certain *kind* of pragmatism.)

Now, pragmatists hold also that inquiry is in some sense central to human life. Indeed, Dewey seems to think that life itself is ongoing inquiry, and that competent inquiry is a necessary component of the good life. We can leave to the side questions about whether he's correct. For our purposes, we need to claim only that pragmatists see inquiry as the key to properly-ordered moral, social, and political lives. It is safe to say that, as far as these matters go, pragmatists hold that our individual and collective lives ought to be governed by inquiry.

This is why pragmatists tend to see their philosophy as intrinsically allied with democratic politics. Pragmatists see democracy as self-government by means of collective inquiry; they say that democracy is not simply a form of government, but an ongoing social and moral experiment in which communities of individuals apply processes of collective intelligence to shared problems. In short, pragmatists hold that democracy is the political manifestation of their commitment to inquiry. Applying some current nomenclature, we may say that pragmatists advocate an *epistemic* conception of democracy; they contend that democracy's choiceworthiness is largely due to the *epistemic* dimension of democracy and the modes of life it enables. In other words, pragmatists hold that what recommends democracy as a mode of social organization is the way in which democratic norms and principles guard, enable, and encourage processes of collective inquiry.

None of this is news. So here is a consideration that is less often rehearsed. Pragmatists are notoriously wary of dualisms; however, there is a distinction worth making between, on the one hand, the policies experimentally enacted as responses to shared problems within a democratic society, and, on the other hand, the commitments which govern the *basic structure* of a democratic society. Put

otherwise, there is a difference between the measures taken by a democratic community in response to a shared problem, and the norms and principles that *constitute* a community as democratic. We might say that certain norms and principles are such that they *must* be honored if a society is to count as democratic at all, while other policies are democratic just in case they are the products of the collective decision of a democratic community. If this sounds suspicious, consider that it is my means of some such distinction that we are able to recognize that although different democratic states may enact different laws regarding, say, military conscription, no state can sustain its claim to be democratic while denying the equal citizenship of women. In denying the equal citizenship of women, a community thereby *invalidates* its democratic credentials; by contrast, in adopting a policy of compulsory military service, a democratic community does something wise, foolish, or perhaps even unjust, but if such a policy is enacted according to proper democratic procedures, the community does not thereby render itself a sham democracy.

This distinction does not require us to posit a difference in *kind* between core democratic norms and the democratically-decided laws of a given democratic society.

One can think of this distinction as one of *degree*, and one can see the norms appropriate to the basic structure of a democracy as historicized, contextualized, constructed, transcendental, God-given, or what have you. The point, again, is this: In order for a community's response to a shared political problem to count as *democratic*, the processes which produced it must have instantiated certain core democratic norms, such as political equality, liberty, autonomy, inclusion, and so on.

There's nothing in this distinction that pragmatists should reject. Indeed, there's nothing here that any theorist of democracy-- pragmatist or otherwise-- could reject. It is by means of this distinction that we are able to recognize the crucial fact that justice and democracy are distinct in that sometimes democratic communities make morally suspect or even positively unjust collective decisions without thereby rendering themselves fundamentally undemocratic. Injustice at the level of the basic structure is typically sufficient to render a community undemocratic; such injustice typically marks a failure of the community to constitute itself as democratic. By contrast, all but the most egregious forms of injustice at the level of day-to-day collective decision are consistent with a community's being democratic.

### III

What does this have to do with the question of what pragmatists should think about justice? As I've said, apart from the day-to-day collective decisions democratic communities must make, they must also choose the most general norms that will guide and govern the processes by which they collectively decide. Given the commitments to fallibilism, experimentalism, and pluralism, it seems natural for pragmatists to hold that a democratic society's basic structure must be governed by norms of political equality and basic individual liberty. These are, we might say, necessary conditions for full participation in democratic collective inquiry; consequently, a society which is fundamentally hierarchical is *ipso facto* non-democratic and incapable of competent social inquiry. Further, since pragmatists hold that democracy is primarily a project of collective self-government through shared inquiry, they should also hold that the basic structure should be governed by a norm which calls for society to grant *the most extensive* share of basic liberty that is consistent with political equality. Greater shares of the basic liberties allow for fuller and more impactful input into processes of collective inquiry. And, on the

pragmatist view, democracy call for the maximization of citizen input into processes of collective inquiry.

Thus pragmatists should hold that the familiar menu of basic individual liberties is constitutive of a democratic community. That is, they should endorse the first of Rawls's two principles of justice:

Each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others. (1999: 53)

Admittedly, showing that pragmatists should endorse Rawls's First Principle is no mean feat. This commitment does not originate with Rawls, and almost everyone accepts it as a core democratic commitment. The more challenging task is to show that pragmatists should accept Rawls's

Second Principle:

Social and economic inequalities are to be arranged so that they are both (a) to the greatest expected benefit of the least advantaged and (b) attached to offices and positions open to all under conditions of fair equality of opportunity. (1999: 72)

I'll leave for another day discussion of the second part of this principle. Our focus will be on the far more contentious first part, the Difference Principle.

The Difference Principle is the subject of a vast critical literature concerning what, precisely, the principle prescribes. I cannot here enter into these

disputes. Let me instead state what I take to be the *spirit* of the principle: If there is to be social and economic inequality at all, the fundamental institutions of society should be arranged such that the inequalities can be reasonably expected to benefit those who are worst off. Additionally, the Difference Principle says that, if there are to be inequalities at all, justice requires us to select those arrangements under which the worst off benefit *the most*, as compared with alternative arrangements. This is why the Difference Principle instantiates the maximin rule; it tells us to make the worst social position as best as we can.

The details are notoriously difficult. But it helps to recall that the Difference Principle is supposed to govern the basic structure of a democratic society; it is not intended to regulate economic relations as such. And that's a virtue of the principle. One needn't be a Nozickian to think that the application of the Difference Principle to each and every economic transaction would result in a highly inefficient and overly intrusive regulatory order. To again invoke the spirit of the principle, the Difference Principle says that social and economic inequality at the level of the basic structure of society stands in need of justification and that in

justifying inequality we must look to the lot of those who are worst off and try to justify the arrangement *to them*.

I think pragmatists should find this deeply attractive. We have solid empirical reasons to think that social and economic disadvantage are causally linked to severe forms of political exclusion. Most importantly, we know that social and economic disadvantage frequently correlates to *democratic* disengagement. Put simply, the poorest in our society face a series of significant obstacles to effective democratic participation. Again, given the pragmatist view of democracy as self-government by processes collective inquiry in which all are able to participate as political equals, this is a *prima facie* reason in favor of the Difference Principle that should be particularly compelling to pragmatists.

Let us turn to an additional consideration. Opponents of the Difference Principle object that it would require over-taxation of those who are well off in society. We can concede that being over-taxed is an injustice. But over-taxation of the most well off is an injustice that does not hinder or undermine their capacity to participate as political equals in democracy. Over-taxation of those who are well off is an injustice, but it is not an injustice that threatens the democratic standing of our community.

Opponents of the Difference Principle will not be moved. They will say that if the Difference Principle prescribes the over-taxation of *anyone*, it is *ipso facto* a false principle of justice, and therefore must be rejected. And here is where pragmatists can propose a compelling rejoinder. The question of whether the Difference Principle states the truth about justice is different from the question of whether it should be rejected. For the pragmatist, the latter question always involves a *comparative* judgment concerning how the Difference Principle fares among its alternatives. For the pragmatists, the relevant kind of faring has to do with the perpetuation and enrichment of democracy itself; and this means that when evaluating competing viable principles of justice, we should look to the impact of each on the prospects for continuing democratic inquiry. As I suggested above, the Difference Principle aims to optimize the position of the least advantaged in society, and this helps to secure conditions necessary for effective democratic participation.

It seems, then, that even if the Difference Principle is *false*, pragmatists have good reason to adopt it given the fallibilism, experimentalism, and pluralism that characterizes all inquiry. Even if the Difference

Principle is mistaken about what justice requires, the mistake it makes lies in assisting those most vulnerable to democratic disenfranchisement at the expense of the just deserts of those whose standing as an equal democratic citizen is in no way threatened. Given the complexities of social inquiry and the stakes which attend to decisions concerning basic principles of justice, it seems that the Difference Principle is especially sound from the pragmatic perspective in that it effectively focuses the risks on those most able to suffer them. Hence a second-order pragmatist defense of the Difference Principle emerges: Given that no conception of justice yet devised can decisively defeat its opponents, we must adopt a principle that can help us to ensure that ongoing inquiry into justice can be properly democratic. This is what the Difference Principle aims to achieve.

#### **IV**

Pragmatist critics of Rawls may contend that they never intended to fault Rawls's principles; they may say instead that Rawls's argument for them-- particularly, his invocation of the Original Position-- is unacceptable from the pragmatist perspective. It is easy to find pragmatists borrowing from standard communitarian and participatory

criticisms of Rawls in claiming that the Original Position is objectionably artificial and hopelessly committed to a distorted atomistic view of the self. There was a time when these criticisms had some force. However, in light of subsequent clarification by Rawls (1993) and others, it now seems that a different view of the Original Position was intended. This different view is not only more philosophically formidable, but in my judgment also of a kind that pragmatists should embrace.

To wit: The Original Position is not meant to model selves, but citizens. It is not meant to capture all the moral and social relations that obtain among people, but only those that obtain among citizens as such. This is not to say that Rawls is committed to a view according to which citizens confront each other as social atoms who make claims on each other; it is rather to say that, as far as the state is concerned, we must be understood to be free and equal citizens who seek fair terms of social cooperation and who can make moral claims on each other. We are of course more than this; but the fact that, in addition to being citizens, some of us are also friends, enemies, lovers, siblings, co-workers, co-religionists, and so on, is rightly regarded as irrelevant to the state, at least insofar as we are concerned to design the basic

structure of our society. For this purpose, the state must conceive of us in a particular way, namely, as citizens.

In a democratic community, there is a sense in which we, in our role as citizens, compose the state. So in selecting the principles that will govern the basic structure of society, we must deliberate from within our role as citizens, leaving to the side our other particular moral relations to specific others. The crucial Rawlsian insight is that in order to regard every citizen as free and equal, we should imaginatively place ourselves in the position of society's least well off. Rawls sees that principles of justice for the basic structure must be justifiable to all, and the proper perspective from which to adjudge the justifiability of such principles is that of those who are least advantaged. Principles that are justifiable only to those who fare well under them are *ipso facto* not appropriate for a society of free and equal citizens.

Allow me to place a recognizably pragmatist gloss on this. The Original Position is a device which places constraints on what democratic citizens can cite as justifying reasons in support of the basic terms of social association. It says, roughly, that the basic structure of a democratic society must attempt to secure for every

citizen-- not simply for those who are well off-- full access to the processes of collective inquiry by which we govern ourselves. To do this, we ought to examine proposed principles for the basic structure of society from the point of view of those who are least advantaged by them; that is, we must be able to *justify* the proposed principles to them, we must be able to demonstrate that, by selecting them, we do not thereby violate their status as free and equal democratic citizens. An important insight that is familiar to pragmatists is that typical forms of economic and social disadvantage obstruct access to effective democratic participation. They are therefore unjust.

Consequently, far from being an abstract exercise, the argument from the Original Position insists that the principles that govern the basic structure of society must be justifiable to those who are least advantaged. It thus calls us not only to favor measures which improve the position of the least well off as much as possible, it also is *itself* an act of democratic inclusion insofar as it fixes our attention on the lives, reasons, and experiences of those in our society who stand most vulnerable to disempowerment and exclusion. From the pragmatist perspective, this kind of inclusion is not only demanded by justice, it is a constitutive condition for democracy.

To conclude: I have argued that Rawls's famous two principles of justice should be adopted by pragmatists. I then argued that pragmatists are mistaken to reject the style of argument that Rawls employs in establishing his principles. The conclusion advertised in my subtitle that pragmatists should be Rawlsians was intended to be provocative; however, I take the argument to have been aimed at a slightly more subtle conclusion. In his *Political Liberalism*, Rawls tried to show that his conception of justice could be adopted from within any reasonable comprehensive doctrine, and thus could form the focus of an overlapping consensus among doctrines that are otherwise deeply divided. My argument in this paper has tried to show how pragmatists can, from their own core premises, think their way into endorsing Rawlsian justice. If it is successful, it shows that pragmatism is a reasonable doctrine, and that pragmatists can be reasonable citizens in a society of free and equal moral persons.