

IS THE PERSONAL POLITICAL?:

The boundary between the public and the private in the realm of distributive justice

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Below is a slightly revised version of remarks I presented in April at a Political Studies Association Roundtable in Manchester, England, on G. A. Cohen's book If You're an Egalitarian, How Come You're So Rich? (Cambridge, Massachusetts: Harvard University Press, 2000). The roundtable discussants focussed exclusively on the last three chapters of the book. The general theme of the book is the relation between political ideologies and the choices that shape a person's life. The earlier chapters contain Cohen's personal and philosophical reflections on the influence of his Communist upbringing and essays on Hegel and Marx. The first two of the last three chapters offer a critique from the left of John Rawls's justification of income-maximizing behaviour on the part of the talented that gives rise to inequalities that are to the benefit of the least well off. There Cohen argues that 'egalitarian justice is not only, as Rawlsian liberalism teaches, a matter of rules that define the structure of society, but also a matter of personal attitude and choice'. The last chapter contains a response to the arguments of philosophers such as Thomas Nagel and Ronald Dworkin that wealthy egalitarians do not have extensive obligations to bring about a more egalitarian society through acts of private charity.

G. A. Cohen argues that it is unjust for talented, well paid individuals to engage in certain forms of income-maximizing market behaviour. This behaviour is unjust even though it would also be unjust to criminalize, fine, or otherwise officially penalise people for engaging in it. Moreover, a society in which such income-maximizing behaviour is common among the talented is *ceteris paribus* less just than a society in which such behaviour is rare. It follows that a society might be less than fully just even if everyone fully conforms to all of the legally enforceable requirements that are mandated by justice.

For purposes of illustration, let me offer an extreme example of such behaviour. Not so long ago, the jumbo jet pilots of an American airline went on strike for higher wages even though their average salary was already comfortably in excess of \$100,000 and the most senior pilots were earning close to \$200,000. They went on strike even though they knew that this would inflict hardship on the much less well paid flight attendants and baggage handlers who would be forced by the airline to go on leave without pay for the duration of the strike. These pilots expressed no solidarity with their much less well paid fellow employees by demanding any rise in their wages in addition to their own salaries. They also showed no solidarity with commuter pilots working for the same employer but at a much lower average salary of around \$30,000. These pilots could afford to amass an enormous hardship fund out of their high earnings in order to ensure that they could survive a long strike. But they didn't share the proceeds of this fund with the flight attendants and baggage handlers who were obviously without such resources to weather a long strike

and would soon need to look for temporary work elsewhere in order to pay the rent.¹

The actions of these pilots would, I think, qualify as a particularly ruthless and extreme example of the income-maximizing market behaviour of the talented that Cohen would condemn as unjust. Note however that their strike was perfectly legal and probably ought to have been legal. It ought to have been legal for both a principled and a pragmatic reason. The principled reason has to do with the fact that the right to strike arguably follows from the right to withhold one's labour -- i.e., the right not to be forced to work. This is a fundamental liberty which any just society should in principle be loath to deny.² Perhaps it is justifiable to force people to work when their going on strike would cause irreparable and serious harm. (Think of laws against strikes by ambulance workers.) But the case of the airline pilots was not one such case. Second, there is a pragmatic reason to advocate as liberal a policy as possible regarding the right to strike, given the interests of those other workers who genuinely need the power of the strike in order to secure just terms and conditions of employment. The thought is that any erosion of the right to strike is bound to harm those who have just cause to strike.

I am at one with Cohen on the following two points: (1) the behaviour of such pilots is unjust even if justifiably legal, and (2) a society in which many among the well off engage in this and other forms of income-maximizing market behaviour is for that reason a less just society than one in which fewer do.

Some, however, who affirm a Rawlsian approach to justice would deny the second of these claims. Consider the following Rawlsian (or at least Rawls-inspired) denial of (2). According to this denial, a Rawlsian about justice ought readily to concede that the behaviour of these pilots is unjust. But it does not follow that a society is less just in which more rather than fewer engage in such behaviour. The reason it does not follow is that, on a Rawlsian approach, a distinction is drawn between social and other forms of justice. Rawls himself draws the distinction as follows:

Many different kinds of things are said to be just and unjust: not only laws, institutions, and social systems, but also particular actions of many kinds, including decisions, judgments, and imputations. We also call the attitudes and dispositions of persons, and persons themselves, just and unjust. Our topic, however, is that of social justice. For us the primary subject of justice is the basic structure of society, or more exactly, the

¹ These are, at least, the facts as I recall them. This should be treated as a realistic hypothetical case insofar as it departs from the actual facts.

² John Rawls writes that 'The priority of liberty means that we cannot be forced to engage in work that is highly productive in terms of material goods. What kind of work people do, and how hard they do it, is up to them to decide in light of the various incentives society offers' (*Justice as Fairness: A Restatement* [Cambridge, Massachusetts: Harvard University Press, 2001], p. 64). (But see also *ibid.* p. 67, fn. 35, where Rawls's condemnation of collusion might be read to condemn the actions of these airline pilots.)

way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation.³

In Chapter 9 of his book, Cohen argues that there is no plausible drawing of the boundaries of the basic structure of society according to which the income-maximizing but justifiably legal behaviour of people such as these airline pilots (and many less ruthlessly self-seeking individuals) turns out to fall outside of the basic structure and hence beyond the bounds of social justice.

The Rawlsian response that I am now considering contends that Cohen's labours are much ado about nothing, at least when trained against those Rawlsians who are happy to acknowledge that the behaviour of these pilots is unjust. They are much ado about nothing because the dispute amounts to nothing more than a relatively insubstantial squabble about words. The dispute isn't one about the boundaries of justice and what lies beyond justice. Rather, it's one about a supposed boundary internal to justice -- namely, the boundary, if any, which separates social justice from the justice of 'the attitudes and dispositions of persons, and persons themselves'.

I would resist such an attempt to minimize the significance of the debate, since I think there is something substantial at issue. What is at issue is whether the injustices of the aforementioned pilots and others are of a piece with other sorts of social injustice that are without any question the subject of political philosophy. Or, alternatively, whether they are only of a piece with the sorts of injustice which, though very real and significant, are rightfully regarded as irrelevant, or only indirectly relevant, to political philosophy. To offer some examples of the latter: Someone who is quick to accuse a lover of infidelity, or a friend of betrayal, on the basis of insufficient evidence, or who holds friends to standards of conduct which he does not reciprocate, or who inspires jealousy by lavishing more affection on one of two children, is appropriately described as an unjust person. But these injustices have little or nothing to do with the topic of justice which is the subject of political philosophy. The injustice of income-maximizing market behaviour among the talented *does*, by contrast, seem to be a piece with other sorts of injustice that are uncontroversially the subject of political philosophy. Hence it would be a distortion to detach these injustices from the topic of social justice.

Cohen would offer the following explanation of why a society replete with income-maximizing high flyers is less just than one in which most are moved by an egalitarian ethos. He would say that the former society is less just because many more citizens in this society fail to 'affirm and act upon the correct principles of [distributive] justice...' (p. 131) The correct principles of distributive justice state

³ *A Theory of Justice* (Cambridge, Massachusetts: Harvard University Press, 1971), p. 7.

(or imply) that ‘there is injustice in distribution when inequality of goods reflect not such things as differences in the arduousness of different people’s labors, or people’s different preferences and choices with respect to income and leisure, but myriad forms of lucky and unlucky circumstance’ (p. 130). Those individuals who engage in self-seeking maximizing behaviour can see that their behaviour collectively gives rise to substantial inequality. Hence they fail to ‘affirm and act upon the correct principles of [distributive] justice’.

I would like to explore the following difficulty for Cohen which arises from his account of the just society and his account of distributive justice.

Cohen must maintain either that a society is rendered less just by the forms of highly personal unjust behaviour mentioned above (i.e., the accusing of lovers or friends of infidelity on the basis of insufficient evidence, etc.), or that it is not.

If he maintains that it is rendered less just, then Cohen has taken the slogan that ‘the personal is political’ too far. Surely not everything having to do with our personal relations is political -- not even everything which makes these relations unjust. The highly personal forms of unjust behaviour to which I just alluded seem clearly to fall outside of the boundaries of social justice.

If, however, he maintains that a society is *not* rendered less just by these forms of highly personal behaviour, then Cohen must provide a principled basis for explaining why the political extends part, but not all, of the way into the personal realm. He must explain why the political encompasses both the income-maximizing market behaviour of the talented and the sexist division of domestic labour in the household (which also makes a society less just, by his lights), but does not also encompass the forms of highly personal unjust behaviour mentioned earlier. But, as I shall show, he has not yet provided such a basis.

Cohen demonstrates that the grounds to which Rawls appeals to justify the thesis that the basic structure is the subject of social justice actually undermine the claim that the justifiably legal but inegalitarian behaviour of talented income-maximizers and domestically sexist husbands fall outside of the boundaries of social justice. These grounds are, most crucially, that ‘the basic structure is the primary subject of justice because its effects are so profound...’⁴ Cohen notes, however, that the effects of the behaviour of income-maximizers and domestic-labour shirkers can be profound.

But many forms of highly personal behaviour which seem quite clearly to fall outside of the boundaries of social justice can also have a profound effect on the lives of individuals. The forms of highly personal injustice described earlier can have an extremely destructive

⁴ Cohen, p. 138 (quoting Rawls, *A Theory of Justice*, p. 7).

effect on the harmony and stability of marital and other familial relationships. It is a truism that marital discord, separation, and divorce, among other things, can have a profound effect on the lives of both the married partners and their children. They can have such an effect even when the roots of this disharmony and instability cannot be traced to such politically or socially unjust factors as sexism. These effects have an unequal impact on the lives of individuals and cannot always or often have been said to have been deserved by the victims because brought upon themselves.

The highly personal but non-unjust choices of individuals can also have a profound and unequal impact on the lives of individuals. We need only think of Robert Nozick's unlucky suitor who, despite his best efforts and through no fault of his, is lonely and unhappy because of the non-unjust choices of others.⁵ Or of Nozick's case of universally unappealing Z who, as the result of the choices of A through Y and A' through Y', is stuck with nobody else to marry but universally unappealing Z'.⁶ People obviously do not have equality of opportunity for welfare when it comes to marriage, friendship, and family ties. The effects of these inequalities can have a profound effect on one's well being. Yet we do not regard a society less just on account of the fact that the choices of people regarding friends and partners are not guided or even constrained by a principle of equalising opportunity for welfare.

Cohen does not himself explicitly endorse the Rawlsian claim that profundity of effect brings something within the ambit of social justice. His turning of that Rawlsian claim against Rawls might be read as nothing more than an internal critique. But even if it is no more than that, Cohen's own theory of distributive justice lands him in the same difficulty since it also makes the political too personal.

This difficulty arises for Cohen from the fact that his theory of distributive justice offers an expansive and unqualified account of the sorts of goods which should be equalised. These goods include access to the following three types of 'advantage': worldly goods, physical and mental capacities, and welfare.⁷ It follows from this theory that differences in welfare which result from circumstances beyond an individual's control disrupt distributive justice even if these differences are solely the result of the behaviour of other individuals concerning their close personal relationships. It also follows that a society is rendered less just insofar as individuals fail to affirm and act on a principle of distributive justice according to which inequalities which arise even from these highly personal sources should be counteracted.

How might we try to draw the boundary that separates these forms of conduct which justifiably lie outside of the coercive legal

⁵ Robert Nozick *Anarchy, State, and Utopia* (New York: Basic Books, 1974), p. 237.

⁶ *Ibid.*, p. 263.

⁷ See Cohen's 'On the Currency of Egalitarian Justice', *Ethics* 99 (1989): 906-944.

structure, disrupt equality of opportunity for welfare, but do not thereby render society less just, and other forms of conduct, such as those of the airline pilots or the sexist shirkers of domestic labour, which also justifiably lie outside of the coercive legal structure, disrupt equality of opportunity for welfare, but do thereby render society less just?

One difference between income-maximizing and these highly personal activities that seem to lie beyond social justice is that the former involves a complaint about inequality in the distribution of worldly resources, whereas the latter do not. But this fact is not enough to place these latter cases beyond social justice, since Cohen would say that the correct principles of distributive justice give rise to claims for compensation for deficiencies in mental and physical capacities and in welfare among those with equal worldly resources.

Consider the following four cases, in each of which inequality in welfare arises solely through the choices of individuals regarding association and not through any inequality in the distribution of worldly resources. These examples presuppose the following background of a three-person island society. Each person owns one third of the island. In the absence of any association with one another, the three inhabitants, Alpha, Beta, and Gamma, are equally well off in welfare terms.

Case 1: Beta and Gamma form a two-person mutual protective association from which they exclude Alpha simply because they do not prefer his company. This mutual protective association governs a territory which consists of the combination of their two plots of land. They are thereby able more effectively to protect one another (but not their property) against injury from outside invaders or natural disaster.

Case 2: Beta and Gamma form a business partnership from which they exclude Alpha simply because they do not prefer his company. The business itself and the rewards which they receive do not involve worldly resources, since the business consists of nothing more than the trading of services. Beta and Gamma as a partnership are much more successful per capita than any of the three could be on his own.

Case 3: Beta and Gamma form a friendship, but they do not befriend Alpha. Indeed they hurtfully ignore and shun Alpha simply because they find him a bit dull and not attuned to their catty sense of humour, their sadistic put downs, and their love of malicious gossip.

Case 4: Beta and Gamma fall blissfully in love with one another, and neither falls in love with Alpha, though Alpha is besotted with

each of them. Beta and Gamma behave admirably towards Alpha, befriending and looking after him. Nevertheless, Alpha ends up much less happy than they.

In each of the four examples, Alpha is, through no fault of his, less well off than Beta and Gamma. Let us assume that the gap that arises between the welfare of Alpha on the one hand and of Beta and Gamma on the other hand is, in each case, just as great. Let us also assume that it would be possible, through a redistribution of worldly resources, to eliminate this gap.

It follows from Cohen's theory of distributive justice that each of the above associations gives rise to a distributive injustice, that the distributive injustice is equally great in each of the four cases, and that justice requires either a dissolution of the association or a redistribution of resources in order fully to compensate Alpha. Moreover, Alpha and Beta render the society in which they live unjust if they neither redistribute nor dissolve their association.

My own take on these four cases, by contrast, is as follows: Cases (1) and (2), but not (3) and (4), involve social injustice (or three-person analogues of social injustice if three is not enough to make a society). Cases (1) through (3), but not (4), involve injustice in the behaviour of individuals. Case (4) involves no injustice whatsoever. Those who lose out in cases such as (4) might be entitled to treatment or other forms of compensation for mental or physical illnesses such as depression or hypertension which arise from such loneliness. But they are not entitled to compensation simply to eliminate inequalities in welfare that arise from others' choices of friends or lovers.

In conclusion, even if Cohen has shown that Rawls has erred in the direction of failing to recognize forms of personal behaviour which render society less just, I hope to have shown that his own contrasting approach to distributive justice errs in the opposite direction of falsely condemning too much personal behaviour as rendering society less just.