

## Returning to Rawls: Race, Education, and Rectified Ideals

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### INTRODUCTION

By embracing the rough, nuanced, and irregular, yet abiding, features of the world in which we live, non-ideal theory appears to rather accurately describe our circumstances and may therefore seem to offer considerable benefits to normative studies of justice related to, *inter alia*, education. But what ought scholars do with the ideal theory that has preceded this current upsurge in acknowledging the non-ideal?<sup>1</sup> Though widely invoked as a prime example of the rival perspective to non-ideal theorizing, John Rawls's work on "justice as fairness" offers fertile ground for digging into the definitions and demarcations suggested by the language of both ideal and non-ideal theory in the service of suggesting some porosity within these rigid distinctions.

By first analyzing Rawls's predominantly indirect treatment of two subjects, race and education, this essay seeks to extend and refine accounts of justice at the intersection of both while resisting a discrete ideal/non-ideal binary. The essay proceeds in four stages: (1) establishing connections between Rawlsian ideal theory and the mainstream conceptions of justice concerning race and education; (2) highlighting the lacuna that is Rawls's unsatisfying treatment of both race and education; (3) recasting these questions toward formative concerns of becoming and being racialized; and (4) revitalizing Rawls's ideal project on both race and education such that the ideal/non-ideal divide is challenged. Through these paces, the essay offers a depiction of how scholars of education might embrace both ideal and non-ideal perspectives, allowing each to support rather than supplant the other.

### CONNECTING RAWLSIAN IDEAL THEORY WITH RACE AND EDUCATION

Mainstream conceptions of justice at the junction of race and education cohere rather readily to a classical Rawlsian approach to the elements involved.<sup>2</sup> An overview of Rawls's project, alongside a description of these mainstream impressions, confirms this.

Rawls's project is, by his own admission, one of ideal theory (that is, his model presumes strict, rather than partial, compliance), and he employs the thought experiment of the original position (OP) to argue that risk-averse individuals acting in their own self-interest behind the veil of ignorance (VOI) would move toward creating a well-ordered society by enacting a fair social contract.<sup>3</sup> In this use, "fairness" connotes the selection of principles of distribution and organization that resist undue self-service or priority.

Relevant to present purposes, these persons select principles of justice that govern the distribution of resources flagged as primary social goods (that is, basic rights and liberties; freedom of movement and occupational choice; powers of office and positions of responsibility; income and wealth; social bases of self-respect):

(1) the Liberty Principle, and (2) Fair Equality of Opportunity and the Difference Principle.<sup>4</sup>

Mainstream discussions of justice regarding race and education seem to emerge rather readily from this Rawlsian milieu. The major scholarship and commentary on the court cases that have impacted the trajectory of that conversation evince a preoccupation with questions of the distribution of educational resources via the language of primary social goods.<sup>5</sup> Perhaps unsurprisingly, that distribution for members of racial minority groups is widely discussed as a portion of a project that aims to transform our relatively unjust society into an ideally just version of itself.<sup>6</sup> Moreover, in purported remedies to a racialized “achievement gap” in education, which similarly seek to endorse a sense of justice through the distribution of resources, one might even glimpse attempts to realize the well-ordered society that Rawls suggests. These and similar projects, policies, and initiatives aim at social, political, and economic ends meant to ensure that primary social goods (as they relate to education) are distributed as they ought to be in the well-ordered society.

But does this preponderance of the general Rawlsian ideal accurately capture Rawls’s work on justice concerning race and education?

#### RAWLS’S TREATMENT OF RACE AND EDUCATION

Rawls spends precious little time discussing race or education directly. One is likely to find only frustration in searching for a portion of his corpus in which he substantively discusses these two subjects in tandem; indeed, there are only very few episodes in which he carefully treats one of the pair.

Either of two options may explain Rawls’s relative silence on race. First, one might conclude that the omission, while a lacuna, is not quite a fault in his project.<sup>7</sup> This argument is based on the idea that Rawls’s project *entails* questions of race. One might hold that racial issues follow the logic of other personal characteristics or group identities that are discussed more explicitly.<sup>8</sup> According to this view, the Rawlsian account of race would not differ in meaningful ways from the procedures or principles we ought to invoke in encounters with other characteristics. One would be able to infer responses to racialized phenomena as one case of some more general, explicitly discussed category of Rawls’s project. Indeed, Rawls himself held that his project’s omissions were not faults. His writing suggests the possibility of alternative approaches to his principles of justice, thereby admitting some potential non-neutrality in his public work while still suggesting that his procedural commitments might secure novel and successful results when attuned to issues such as race.<sup>9</sup>

The other view of Rawls’s racial quietude regards it as a fault — a conceptual omission that impedes the work’s ability to productively engage race. Depending upon one’s reading of Rawls, race under this view might be either (1) accidentally omitted from attentive consideration (that is, for some circumstantial reason, it is simply not discussed, but that fact ought to indicate no, for instance, ontological claims about race); or (2) actively ignored because race is regarded as a natural phenomenon (that is, race can be discussed but it is a natural rather than a social feature of reality, and therefore an inappropriate topic for attention in theorizing about justice). In either

case, race, according to this view, must be smuggled into the Rawlsian account of the well-ordered society to be pursued.

This perspective on Rawls's relative silence on race fails to note that race cannot simply be plugged into the ready-made Rawlsian calculus of difference, disadvantage, and distribution. Among the characteristics that Rawls engages, race might be categorically unique. That is, it may be a concept steeped in a singular history and scope, such that it requires special attention.

Charles W. Mills notes that Rawls's vision of the ideal well-ordered society is not sufficiently sensitive to the historical realities of the world in which we find ourselves. Mills confronts the question, if Rawls's ideal social arrangement is a world without explicit mention or social recognition of race, to what degree does the racial history of that society matter for questions of justice? He responds by suggesting that an "ideal" ideal (specifically, a social world without race *and* without a history of race) is now an impossible ideal for those of us who live in the long, dark shadow of a racialized past. To the extent that the conceptual language of "the ideal" is intelligible, we can perhaps only pursue a rectificatory ideal (an ideal that seeks to manifest the most well-ordered society possible given the historical foundations of race).<sup>10</sup>

The fraught issue of race in Rawls's major works can be contrasted with the more direct (though not necessarily fulfilling) treatment of education in the same.

A great deal of the scholarly literature on education as a portion of Rawls's enterprise presents an account of education as a component of economic and/or political aims. Under this family of views, "education" may well be treated as just another one of many other resources in the service of the political. But might that be an incomplete account of education under Rawls's vision? Rather than functionally similar to the aforementioned resources, might education be categorically unique?

Perhaps surprisingly to those who have a mostly peripheral sense of his work, Rawls presents a rather nuanced view of education. He writes of a distribution of educational resources that defies a blind allegiance to the value of productivity:

[R]esources for education are not to be allotted solely or necessarily mainly according to their return as estimated in productive trained abilities, but also according to their worth in enriching the personal and social life of citizens, including here the less favored.<sup>11</sup>

He resists the essentiality of market outcomes in favor of more socioculturally grounded aims:

[T]he value of education should not be assessed only in terms of its productivity effects, that is, realizing a person's capacity to acquire wealth. Equally important, if not more so, is the role of education in enabling a person to enjoy the culture of [her or] his society and to take part in its affairs, and in this way to provide each [person] with a secure sense of his [or her] own worth.<sup>12</sup>

In addition, he encourages a view of education as an essential element of the strict compliance that he asserts. Consider, for example, that education is a precondition for endorsing the conclusions of the OP thought experiment: "Moral education is education for autonomy. In due course everyone will know why he [or she] would adopt the principles of justice and how they derive from the conditions that characterize his [or her] being as an equal in a society of moral persons."<sup>13</sup>

Through these lines of Rawls's own text, we find that he views education to contribute to at least these three tasks:

1. Enriching the personal and social life of persons (including the less favored).
2. Providing a secure sense of self-worth via cultural/civic engagement.
3. Forming persons who adhere to law and endorse the structures of a society that recognizes them as equals.

Although Rawls does not expand greatly upon his view of education, these insights can serve as the foundation for strong arguments in support of the value of education in (and in the creation of) the society to which the project is oriented.<sup>14</sup>

Reflecting on the above, one might ask whether race and education are categorically unique in the Rawlsian project of justice as fairness. That is to ask, with an eye toward justice: Can race and education simply be regarded as other salient characteristics or distributable goods, respectively? Before fully engaging this question, a shift in the type of justice invoked is appropriate.

#### RECASTING THESE QUESTIONS TOWARD NOVEL FORMATIVE CONCERNS

If one reads Rawls's ideal theorizing as concerned with education in the manner suggested by the previous paragraphs, an admission of non-ideal circumstances may seem necessary to the work. That is to say, even in the midst of asserting strict compliance, Rawls's does not, as might be assumed, describe a context in which that compliance preexists. Rather, he sketches a limited account of how that world comes into being. Education supports and steadies the ideal world; even before this abiding work, however, education creates the necessary context for its citizens to endorse its structures.

Despite those non-ideal elements, Rawls's work clings to its ideal perspective and does not directly provide his readers with a substantive account of how the implied non-ideal world becomes ideal. Rawls's work pursues the distributive question, but leaves what might be called the formative question unexplored.

According to Robbie McClintock, formative justice is an ancient concept, developmentally waylaid as its descriptive texts have been read to observe disciplinary boundaries, such that the political rather than educational elements of these texts have been foregrounded.<sup>15</sup>

McClintock reorients our attention, writing that:

[i]ssues of justice arise when a need or desire for something exceeds its supply, forcing deliberation about what each recipient is due. Issues of distributive justice stem from having to allocate a finite supply of public goods among a larger multiplicity of claimants. Issues of formative justice have to do, not with public goods, but with human potentials. In education, possibilities exceed feasible achievement, forcing choices.... By exercising formative justice, a person selects among possibilities and allocates a finite supply of talent and energy, of motivation and discernment, in pursuing these chosen goals. Formative justice thereby determines the mix of potentials that a person or group will effectively act to achieve.<sup>16</sup>

With this in mind, one might begin to see the particular form(s) of justice that can be invoked on the subject of potentiality as distinct (though not necessarily quarantined) from those of politics. That is to say, the formative stance suggests

more than can be fully subsumed under the distributive header: formative justice is not merely collapsible into the distributive. Formative justice is sensitive to more than a statement of the allocations of resources; it is attuned to the development of potentials, understood far more broadly.

From this perspective, the pursuit of the just transition from one form to another — rather than a statement about the role that a particular transformation plays in the justice of some solely political project — may well entail questions of distribution, but these ought to be in the service of the formation.<sup>17</sup>

For example, one might wish to realize some specific form and recognize that resources ought to be allocated according to the satisfaction of some or another set of criteria in order to promote that goal. Conversely, Rawls's ideal theorizing on political issues seems content with posing distributive questions, but does not offer very much substance regarding the role of formative concerns in creating the distributive context that he endorses. Following these insights, Rawls's political project necessarily entails an overlooked formative project at its core.

Rawls's project would be enriched by two moves. First, the work might recognize that formative justice may give a context for evaluating the desirability of the *form* that is created. Second, it might seek to more fully understand that the concept suggests consideration of the *process* of that creation. A note on the similarities between distributive and formative theoretical structures may be helpful here.

A theory of distributive justice values the final distribution of resources as it compares that dispersal to alternative allocations. For instance, justice as fairness will endorse a society in which disadvantages are arranged such that they improve the circumstances of the worst off, *ceteris paribus*, ranking that society higher than a society in which this is not the case. A theory of distributive justice might also value the distributive procedures invoked in reaching a particular arrangement. To continue this example, justice as fairness will select principles that meet its standards of impartiality (OP, behind the VOI, and so on) and follow their direction, secure in the understanding that these were not chosen via methods of pronounced or unchecked bias. Similarly, the formative turn is equipped to attend to the justice or injustice of the resultant form (in comparison to other potential forms) and the formative processes itself. One might potentially praise a form that is desirable while bemoaning its unjust process of formation.

Because Rawls suggests the creation of an ideal society, his project is well served by pursuing a vision of what that ideal society might be. But his work takes as given *that* the society comes into being without providing a sense of *how* that is accomplished.

Now, this is not necessarily a problem for Rawls. Indeed, he suggests a plurality of species of justice when he identifies the social structure as the domain of his work.<sup>18</sup> Still, perhaps significantly, Rawls does not need those other forms of justice to establish the ideal society of his project. He does not need to give, say, an account of retributive justice in order to meet the criteria of his ideal society. The same, however, cannot be said in regard to his formative oversight. Whether engaged directly

or tangentially, the formative questions (such as what is formed — and how?) are essential for Rawls's ideal aspirations.

To revisit the ideas introduced in the previous paragraphs, and conclude the interlude that is this introduction to formative justice, it is pertinent to note that the notion of formative justice offers two very important insights for the subjects discussed thus far.

First, by readily embracing a broad definition of “education,” we find these formative questions to be questions of education, such that Rawls's project of converting the non-ideal into the ideal is, at its core, an educational enterprise.<sup>19</sup> Justice as fairness must grapple with the creation of the ideal society as a transformation from the non-ideal and, in the process, consider the role that Rawls's conceptualization of “education” needs to play in that work.

The second of the salient understandings is that formative justice presents a new language with which to evaluate the judgments of justice that are linked to education. With direct relevance to the themes of this essay, and in a departure from the structure offered by the majority of the secondary literature on justice and education, one might find the political (distributive) to operate in the service of the educational (formative). Depending upon the criteria of one's evaluation, questions of appropriate formation may certainly supersede political questions of the appropriate distribution of educational resources (which can be evaluated for either their educational and/or political contributions). Rather than asking what resources are distributed and in which arrangements, one might press formative issues by asking what is formed and how it has come into being. In fact, this may entail some consideration of the resources employed in that process of formation, perhaps even echoing some elements of Rawls's own treatment of the distribution of resources.

#### REVITALIZING RAWLS'S PROJECT: RACE, EDUCATION, AND FORMATION

Having explored the formative elements that impact the preconditions of Rawls's ideal theory, I would like to return to the question of whether education (E-) and race (R-) are categorically similar (CS) or unique (CU) in comparison to other features of Rawls's project. Rather than endorse a particular account, I will highlight a few options in order to show that the search for justice at the intersection of race and education likely requires increased sensitivity and nuance in light of the potential limitations of the traditional ideal/non-ideal divide.

#### CASE 1: E-CS AND R-CS

If education and race are both categorically similar to other features of Rawls's project, then a traditional ideal theory reading of the Rawlsian theory of distribution is sufficient. Under this reading, there is no need to discuss race as anything but another characteristic that may result in the possession of more or fewer advantages or goods. In this case, justice as fairness in education might be largely a matter of the distribution of educational resources. Sensitivity to race and education results in ensuring that access to educational resources is not unduly determined by racial group membership. This perspective may seem unsatisfying to those that value “non-ideal” perspectives.

## CASE 2: E-CU AND R-CS

If education is categorically unique while race is categorically similar to other features of Rawls's project, then distributive accounts are insufficient because formative accounts are required in the service of (*inter alia*) the preconditions of the OP. Rawls suggests that persons will possess knowledge appropriate for deliberations behind the VOI, but the formation of that knowledge demands additional attention.

As noted previously, Rawls is burdened with a project that asserts an ideal state of strict compliance while also asserting that education creates a context for the qualities of character and disposition that ensure the existence of that compliance in persons. As such, the distribution of educational resources (as in Case 1) ought not be determined by racial group membership, but these distributive aims do not trump other concerns. In addition to addressing the distributive issues related to resources, education ought to form individuals who can observe strict compliance despite the particularities of their identities, with "race" being one identity category among others.

More specifically, this case differs from Case 1 in that justice requires that persons receive an education about race (among other identities) that ensures that racial labels do not become a hindrance to providing either a secure sense of self-worth or an endorsement of the structures of a society of recognized equals. This expansive formative requirement may include an education toward or away from a racial identity, a historical and/or contemporary perspective on race, or very many other options. Alongside these goals of product, of course, are procedural goals of the racial education, with a similar list of options worth considering.

## CASE 3: E-CS AND R-CU

If education is categorically similar to other features of Rawls's project while race is categorically unique, then persons in Rawls's OP are the victims of a formative injustice if they are treated in the same way as persons in Case 1.

Justice in education for Case 3 is similar to justice in Case 1 in that it requires that persons receive a distribution of educational resources immune to undue advantage corresponding to racial identity. But in Case 3, an additional special obligation exists regarding knowledge about race. Persons ought to be sensitive to the general features of history necessary to intentionally propose (and pursue) an ideal, and (a Case 1 treatment of) Rawls fails to note that this ought to be the rectificatory ideal. That is to say, the "ideal" ideal cannot be realized, and the only normative option for justice, the rectificatory ideal, requires that persons receive information about the non-ideal racialized context in which they must deliberate and act. Even if education is categorically similar to other features of Rawls's project, justice in Case 3 will require an additional education about race and its effect on the type of ideal that can be pursued.

## CASE 4: E-CU AND R-CU

If education and race are both categorically dissimilar to other features of Rawls's project, then their unique status requires that questions of formative justice be considered alongside questions of distributive justice in initial and subsequent moments of social evaluation. In Case 4, justice would require that persons receive

an education regarding race rather similar to that suggested by the features present in cases 2 and 3.

This suggests that an education about race is important for securing the person's sense of worth among equals and for fostering a social commitment to the pursuit of the rectificatory ideal. Again, I leave open for the moment the content of procedural justice in the formation of a racial identity, as I simply aim to argue that this is a worthy concept not unrelated to more dominant views of justice, not to provide a full account of that content.

#### CONCLUSION

In three of the four cases, engaging questions of the formation of racialized identities is necessary for the (revised) "ideal theoretical" project of justice as fairness. In a society marred by a history of (dis)advantage premised on race, the rectificatory ideal and the formative impulse are united in their aspirational orientations toward an enlarged conceptualization of justice in terms of both resources and human potentials. The project of justice as fairness can be faithful to its originally ideal orientations while embracing an awareness of the non-ideal imperfections of our shared world. The majority of the cases presented here resist easy classification in the ideal/non-ideal schema, with elements of each appealing to both camps. This collapse may be leveraged to critique Rawlsian approaches, but it may also be directed toward critiquing some of Rawls's most compelling critics. We need not cast aside ideal theory nor see it as suggestive only of an unattainable horizon, operating separately from engagements with the non-ideal. Rather, we might be well served by exerting efforts toward recognizing that, as demonstrated in this study of race and education in Rawls's theory of justice as fairness, the theoretical terrain has the potential for far more nuance than the rigidity of the ideal/non-ideal binary traditionally suggests.

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1. For the purposes of this essay, I will be using general definitions of ideal and non-ideal theory that accentuate a focus upon an "ideal" social order in the case of the former, and improvements to a "non-ideal" reality in the case of the latter.

2. In most of the essay, I refer to traditional "ideal theory" readings of Rawls's work when I reference "Rawls's" perspective without qualification.

3. John Rawls. *A Theory of Justice*, rev. ed. (Cambridge, MA: Belknap Press, 1999); and John Rawls, *Justice as Fairness: A Restatement* (Cambridge, Massachusetts: Belknap Press, 2001).

4. Rawls, *Justice as Fairness: A Restatement*.

5. I have in mind here the scholarship and popular media commentary on pivotal court cases (that reference, in structure, Rawls's principles) such as *Oliver Brown et al. v. Board of Education of Topeka, Kansas*, 1954; *Regents of the University of California v. Bakke*, 1978; *Jennifer Gratz and Patrick Hamacher v. Lee Bollinger et al.*, 2003; *Barbara Grutter, Petitioner v. Lee Bollinger et al.*, 2003; *Parents Involved in Community Schools, Petitioner v. Seattle School District No. 1, et al.*, 2007; and *Abigail Noel Fisher v. University of Texas at Austin*, 2013.

6. For instance, Justice Sandra Day O'Connor's famous statement upon the heels of the *Gratz* and *Grutter* decisions in 2003 suggests a more ideal society on the horizon. Justice O'Connor's view was that affirmative action policies in higher education ought to be oriented (over a potentially limited period of twenty-five years) toward creating a system that no longer has need for them.

7. For examples of this approach, see Rawls, *Justice as Fairness: A Restatement*, 66; Tommie Shelby, "Race and Social Justice: Rawlsian Considerations," *Fordham Law Review* 72, no. 5 (2004): 1697; and Thomas Nagel, "John Rawls and Affirmative Action," *Journal of Blacks in Higher Education* 39 (2003): 82–84.



8. Rawls gives — and, in this essay, I offer — no explicit statement of the reality or definition of race. My treatment of race here is meant to be sufficiently broad to entail a widely diverse (though not fully comprehensive) range of accounts.
9. Rawls goes so far as to suggest that the theory of justice as fairness would be “seriously defective” if it failed to work toward gender and racial equality. See Rawls, *Justice as Fairness: A Restatement*, 66.
10. For more full explication of these and related arguments, see (*inter alia*) Charles W. Mills, *From Class to Race: Essays in White Marxism and Black Radicalism* (Lanham, MD: Rowman & Littlefield, 2003); Charles W. Mills, “‘Ideal Theory’ as Ideology,” *Hypatia* 20, no. 3 (2005): 165–184; and Charles W. Mills, “Rawls on Race/Race in Rawls,” *Southern Journal of Philosophy* 47, no. S1 (2009): 161–184.
11. Rawls, *A Theory of Justice*, 92
12. John Rawls, “Distributive Justice: Some Addenda,” *American Journal of Jurisprudence* 13, no. 1 (1968): 62.
13. Rawls, *A Theory of Justice*, 452
14. For a very good recent example, see M. Victoria Costa, *Rawls, Citizenship, and Education* (New York: Routledge, 2011).
15. McClintock suggests that texts such as Plato’s *Republic* may be just as, if not more, rich in their educational insights as in the political elements focused upon in most readings. See Robbie McClintock, *Homeless in the House of Intellect: Formative Justice and Education as an Academic Study* (New York: Laboratory for Liberal Learning, Columbia University, 2005), 75.
16. *Ibid.*, 77–78
17. Of course, a very interesting inquiry might be launched or a statement offered here on the subject of the links between transitional and formative justice, but this is beyond the scope of the present work.
18. Rawls, *A Theory of Justice*, 7.
19. If we focus upon, *educere*, the Latin basis of the word “educate,” we observe a connection between that definition (“to lead out”) and the process of movement away from a purportedly less ideal form/context. Formative questions are educational questions, in this broader sense.

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