

Toward a New Theory of a Well-Ordered Polity

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A well-ordered democratic system is effectively regulated by a conception of justice. Through the role of principles of justice, such a well-ordered polity can maintain its stability. It can be assumed that persistence of a well-ordered democratic system as a complex adaptive system required as a necessary condition, the maintenance of the system's essential variables within certain limits.

Key words: Role of justice; well-ordered polity; complex adaptive system; system's essential variables.

I. Introduction

Mankind has always argued about justice and injustice, while social scientists and politicians have endlessly discussed the conditions which make justice more or less attainable. Justice is the most political or institutional of the virtues. The legitimacy of a state rests upon its claim to uphold justice. In Rawls' words, justice is the first virtue of social institutions, as truth is of systems of thought. He assumes that a society is well-ordered when it is not only designed to advance the good of its members but when it is also effectively regulated by a public conception of justice. That is, it is a society in which (1) everyone accepts and knows that others accept the same principles of justice, and (2) the basic social institutions generally satisfy and are generally known to satisfy these principles (Rawls, 1971, p.5).

However, existing societies are seldom well-ordered in this sense, for what is just and unjust is usually in dispute. Men disagree about which principles should define the basic terms of their association. Yet it may still be said, despite this

disagreement, that they each have a conception of justice. That is, they understand the need for, and they are prepared to affirm, a characteristic set of principles for assigning basic rights and duties and for determining what they take to be the proper distribution of the benefits and burdens of social cooperation.

In this paper, the principles of justice in a democratic system, the regulative role of justice in a democratic system, and adaptive mechanism of a well-ordered democratic system will be discussed.

II. Principles of Justice in a Democratic System

According to Rawls, the conception of justice dictated by collective rationality is specified by three lexically ordered principles: greatest equal freedom, fair equality of opportunity, and the difference principle, by which he means that any inequality, including inequalities of freedom, in order to qualify as just, must not merely advance but maximize the prospects of the least advantaged. Rawls regards his difference principle not only as an outcome of rational and prudential choice in the original position, but also believes its acceptance enables us to transcend the "accidents of birth" and so constitutes our recognition of everyone equally as a moral being.

From the theoretical viewpoint of rational morality, Rawls suggests that the primary subject of the principles of social justice is the basic structure of society, the arrangement of major social institutions into one scheme of cooperation (1973, p.54). He assumes that these principles are to govern the assignment of rights and duties in these institutions and they are to determine the appropriate distribution of the benefits and burdens of social life. Further he argues that such a well-ordered society is one in which some form of democracy exists.

The role of justice in a democratic system is to set limits. According to Fisk, every state attempts to realize a pattern of justice. In assessing this claim, it is well to keep three things in mind. First, the pattern of justice a state adopts will be one that serves its needs for stability in relation to the pressures it faces. If a state's justice is less strict than that of some other state, it does not mean that there is no pattern of justice. Second, a

state's patterns of justice is more than the pattern of practices of its courts. Justice in the broad sense goes beyond the judiciary. A state's pattern of justice will also include the administering of distribution through executive agencies. Third, a pattern of justice may disarm dissent without eliminating dissatisfaction. So a pattern of justice may be seen as grudging and narrow even by those it makes governable (Fisk, 1989, p.4).

Pursuing justice is one side of a democratic system, but the other side is supporting a social order with its component economy. Of themselves, most economies place no limits on the way they benefit the dominant group within them. There is then a potential conflict between pursuing justice and supporting an economy. This conflict is the basis for the numerous ways in which the state is pulled in opposite directions. Through its pursuit of justice, the system gains a normative dimension that coexists uncomfortably with its economic functioning.

The normative dimension of the democratic system is a set of obligatory limits on benefits and losses that adjust the various parts of the society in the direction of cohesiveness. From Aristotle came this idea that political stability is the reason the state is linked with justice. It can be argued that a normative dimension is not optional for states. A pattern of justice is inherent in democratic systems since they need a mechanism of stability and a ruling group to run them.

Within the modern liberal democratic system one aspect of the overall conflict is the specific conflict between democracy and capitalism. It is part of a pattern of justice because it limits loss of control by the many and limits monopolizing control by the few. The thrust toward more widely shared control encouraged by democracy conflicts with the restricted control encouraged by capitalism. The state's liberal function of promoting capitalism and its democratic form fail to come together in a harmonious institution. So long as democracy remains a widely accepted condition for legitimate rule, this contradiction cannot be eliminated. Of course, people can be dominated without legitimate rule, but such an arrangement is likely to be unstable. Since justice is a requirement of stable rule, there is no guarantee in advance that the function for which ruling is adopted will be compatible with justice. In different periods, the specific character of the limits imposed by justice will vary (Fisk,

p.50).

According to Barker the state exists not to centralize force or to protect the economy but to promote the good life. He understand the good life in terms of the capacities of citizens of the state. The state exists to facilitate the fullest realization of the capacities of all citizens. Justice plays a role in this process since the state applies principles of justice in order to resolve conflicts that would otherwise be an obstacle to full realization.

For Fisk, the state appears as an ensemble of institutions in the sense of established associations with limited aims. Apart from these institutions the state has neither an economic function nor a form of justice. Citizens should never be so caught up in the relations of the state to the economy and its responses to popular opposition that they begin to ignore the fact that through its institutions the state is something in itself. The underlying subject that functions to reproduce the economy and whose behavior is restricted by justice is an ensemble of authoritative institutions.

The importance of state institutions at this point is that they combine the potentially conflicting form and function of the state. The form of justice and the function of preserving the economy are not disembodied features separate from one another. They are embodied together in state institutions, thereby introducing conflict within those institutions. The design and behavior of these institutions is rarely a pure expression of either form or function is are often a mix, not necessarily equal, of both of these features.

Since these are institutions of political rule, they will have authority. They will, that is, speak, order, and act in the name of the society as a whole rather than simply for a dominant group. This authority of democratic institutions is not just an institutional embodiment of the authority of classes, for the system can have authority when no class is recognized as a representative of the whole society. Nor is the authority of democratic institutions a transformation through those institutions of the power of classes, since the system can retain its authority even during periods when there is no class with an assured dominance, economically, politically, or ideologically. The form of justice and the function of preserving the economy are then aspects of authoritative, concrete state institutions.

In Fisk's words, once the state exists as just another set of institutions, it has its distinctive institutional imperatives, one of which is its need to be fed large quantities of money from a prospering economy. Just as the need for revenue is internal to the system functioning, so too is the need for justice internal to the system functioning. Justice in a democratic system is an institutional imperative. To emphasize the need for justice, to the exclusion of the system's functioning for the economy, would leave it unclear why the system normally adopts only a minimal justice. It can be argued that the internal need for justice comes, not from ruling in the abstract, but from ruling to reproduce an economy. Thus popular demands for a more radical justice run up against this goal of ruling, showing thereby that ruling is no more solely a matter of applying justice than it is solely a matter of encouraging high state revenues.

III. Regulative Role of Justice in a Democratic System

In Rawls' theory of justice, it is assumed that a well-ordered society is effectively regulated by a public conception of justice. As Rawls argues, a set of principles of justice is to judge between social arrangements that shape the division of advantages. Thus the role of the principles of justice is to assign rights and duties in the basic structure of society and to specify the manner in which institutions are to influence the overall distribution of the returns from social cooperation (Rawls, 1979, p.6). In other words, the first problem of justice is to determine the principles, to neglect inequalities, and to adjust the profound and long-lasting effects of social, natural, and historical contingencies.

As Francis points out, regulation is often justified on the grounds that it sets reasonable limits. It charts the middle course between prohibiting an activity and leaving it unfettered. Regulation is often sought to provide stability or equilibrium in an area of endeavor that has experienced unsettling changes. Fairness reinforces the concept of limits where there is some measure of consensus concerning a range of acceptable behavior. Regulatory solutions are less likely to be politically acceptable when the issue at hand has polarized the political community (Francis, 1993, p.11).

Public choice analysis regulates the way for a group to gain income it would not otherwise enjoy if regulation did not exist. In cases of politically contested compromise, regulation as limit setting may have more impact on reducing an undesired activity than an absolute prohibition would achieve. Regulations are seen as justified when long-standing and widely shared expectations within a community are no longer met (Francis, 1993, p.20).

In a sense, democracy embodies a pattern of justice. It limits the power of the wealthy and hence of the state itself to exclude the average citizen from political participation. This is indeed the bright side of democracy. Nonetheless, it is necessary to affirm the critical perspective that democracy functions to channel all forms for opposition into a form of participation that accepts the underlying economic framework of the society. Thus conflict is displaced into an institutional setting. This function is the dark side of democracy.

One who advocates a form of radical justice cannot, however, be an uncritical cheerleader for modern democratic institutions in view of their dark side. Yet, in view of their bright side, those who suffer from a lack of economic or political power can find democratic institutions useful both immediately and in the long run. Just how useful democracy can be to the exploited and oppressed depends on its role in channeling opposition into participation. It is, then, only with an awareness of the dark side of democracy that the bright side can be evaluated (Fisk, p.167).

The dark side of democracy expresses how it functions for reproducing the economy; its bright side expresses how it functions in overcoming powerlessness. Yet the mere existence of these functions is insufficient to imply that a democratic system has a functional explanation. Democratic systems might instead be explained by a functionality involving justice. If this were the case, then not only would there be the functional fact that a democratic system limits power but also, within the stimulus cause, the dominant element would be the pressure for limiting power. However, it can be said that a democratic system is better explained functionally by appeal to its economic usefulness rather than to its serving justice.

Though justice and a stable democracy are linked, people who intend to realize one of these need not intend to realize the other.

Members of an oppressed group might want to limit the powerful without wanting a stable government, which could have the opposite effect of consolidating the power of the ruling class. Democratic systems might be explained functionally by the fact that they make governance possible. If this were the case, then a democratic system would promote the system's stability, and the dominant element in the stimulus cause would be pressure to promote democracy for its stabilizing effects. Indeed, a democratic system would promote stable rule through the fact that by limiting power, a democratic system would be seen to be ruling in the interests of all.

In democratic systems, there is pressure for limits on losses and benefits, and the system is the dominant mechanism for setting such limits and enforcing them. Such a system sets and enforces limits not as a direct response to popular demands but as a mediated one. Its economic function and the interest of the ruling group modulate the response. But the crucial fact is that the administration and enforcement of justice, in our broad sense, require an ever larger state apparatus. Administration becomes the most obvious face the system turns to the public. The citizen's loss of power due to the rise of state administration is an obstacle to justice. There is then the paradox that the democratic system, in the process of implementing justice, becomes a chief obstacle to its own justice.

This is true at least where effective restrictions on institutional power embodying the idea of democracy are a part of the system's justice. The democratic idea insists on wider forms of participation, whether or not these forms become part of official justice. So, more accurately, the paradox is that the modern democratic system's implementation of justice is an obstacle either to its own official justice or to a common form of radical democratic justice.

IV. Adaptive Mechanism of a Well-Ordered Democratic System

Based upon the two principles in view of the equality of the members of a well-ordered society, Rawls argues that such a society is one in which some form of democracy exists. It can

now be assumed from a systems theoretical viewpoint that a well-ordered democratic system is an organized complex system in which the characteristic structural and behavioral patterns are primarily a result of the interactions among the members of society. Through the role of the principles of justice, such a system can maintain its stability, which we can simply refer to as a complex adaptive system.

In systems theory, the system's main characteristic is its functioning to maintain the given structure of the system within preestablished limits. It involves feedback loops with its environment, and possibly information as well as pure energy interchanges, but these are geared principally to self-regulation (structure maintenance) rather than adaptation (change of systems structure). The complex adaptive systems are also open and negentropic.

Such a perspective suggests that a prime requisite for the persistence of a well-ordered democratic system is pattern maintenance. We can say that persistence of a well-ordered democratic system requires as a necessary condition the maintenance of the system's essential variables within certain limits (Buckley, 1967, p.498). It is assumed that a well-ordered democratic system represents a kind of dynamic coherence among the members that generates special properties. One such property, feedback, is central to most social systems, making it possible to learn and to regulate itself and thereby to provide for self-maintenance and goal-oriented change. Easton suggests that not only does feedback in a political system represent an enormously complex set of relationships (Easton, 1990, p.258) but that a democratic regime is expected to adopt feedback systems that are more responsive than those in authoritarian systems (Easton, 1990, p.259). True feedback control loops in a well-ordered polity make possible not only self-regulation, but self-direction or at least adaptation to a changing environment, such that the polity may change or elaborate its structure as a condition of survival or viability.

From systems viewpoint, it can be assumed that the essential variables of a well-ordered democratic system are the principles of justice, which are the necessary function for its maintenance. Thus, in this regard, it must be understood how such a well-ordered democratic system can persist by the principles of

justice as the essential variables. From this systems theoretical viewpoint, it can be assumed that a well-ordered democratic system can develop its characteristic structural and behavioral pattern by the essential variables. If a systems approach can be adequately utilized, it is possible to analyze a well-ordered democratic system as the complex adaptive system which may operate toward good democratic polity by the principles of justice. Now it is necessary to utilize both normative theory and systems approach in order to develop a new theory of a well-ordered polity.

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