

The Barry Thesis about Justice as Impartiality

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Abstract

Professor Brian Barry published much on the concepts of justice (Barry, 1989). After that he launched his own real definition of justice as impartiality (Barry, 1995). I will point out a few problems in this approach of Barry with reference to the well-ordered society.

Keywords

The Well-Ordered Society, Inequality in Necessary Goods and Services, Rawls, *Maximin*, Necessary or Sufficient Condition for Justice as Impartiality

1. Introduction

Justice belongs to the essentially contested concepts. It has even been suggested that it has no proper meaning (Kelsen, 1957). Barry launches his interpretation of justice as impartiality as a fully blown explication. We need a tool to try Barry's argument: does he propose that impartiality is a necessary condition, or a sufficient condition for justice? One could try to analyse justice with neighbouring concepts like equity or fairness, but this involves perhaps circularity or *petitio principii*.

2. Impartiality

If impartiality is the core of justice, then maybe it is easier to grasp its meaning. The Oxford and Cambridge dictionaries present the following synonyms:

Dispassionate, equitable, fair, just, objective, unbiased, neutrality.

To avoid circularity, we use bias as partially. To be biased is to violate neutrality or objectiveness. A decision or policy is biased, if it favours one party against another without relevant reason. As partial decisions are often criticised in the public sector, one understands the Barry emphasis upon Impartiality. Impartiality is *inter alia* a much valued property in the general court setting, but is it a necessary

or sufficient condition for justice generally?

3. Necessary Condition

If Barry intends justice as impartiality to entail that impartiality is a n-condition, then it holds that

A policy P is impartial or not just,

or

A policy is not just, as it is partial.

However, in the study of budgeting scholars point out that several public items of expenditure are hardly impartial and thus not just. A clever politician or political party concentrates the advantages partially but spread out the costs generally. Often some conspicuous group is favoured due to justice but it is partiality on closer inspection. Friendship throws up partialities, hardly all unjust.

4. Sufficient Condition

It seems problematic to maintain justice as impartiality stating a necessary condition. One may wish to claim an s-condition, or that

If a decision or policy is impartial, then it is just,

Or

If a decision or policy is not just, then it is partial.

There could be several sufficient conditions for justice, one of which would be impartiality.

Now, what about taxation; regressive, proportional or progressive system? All are impartial, but only one just.

5. Justice as Impartiality: Micro

The requirement of justice as impartiality is well-known in the judiciary in several connections. Normativity within law entails “same crime, same punishment”, though exceptions are made due to age or wealth. To be subject to partial treatment due to ethnicity for example is most annoying. Corruption can be seen as quid pro quo partiality.

Each person needs to procure his/her share of the life necessary goods and services for adulthood. Health care, social care, housing and learning. He/she want such goods and services to be distributed impartially, in principle where it is feasible. But they can be bought in the markets. We arrive at the policy implications of impartiality.

6. Justice as Impartiality? Macro

The market economy generates inequalities in the possession or access to necessary goods and services. Shall we accept:

Inequality = injustice = partiality?

I hesitate to do so. However, I agree with Barry (2005) that welfare policies may reduce the inequalities in possession of or access to these necessary goods and

services.

7. Social Justice in Well-Ordered Society

One really cannot stop people with money to choose their private supply of necessary goods and services. However, the public sector can offer these *gratuit* or subsidizes. Various combinations of private and public allocation may lead to partialities. But the requirement of impartiality is too demanding as long as the state fulfils *maximin*.

There is value outside of impartiality in for example friendship. The market economy in well-ordered country provides not only violations of impartiality but also the resources for public budgeting to counteract inequalities

It is up to the electorate to decide the size of the public sector and the extent of *gratuit* allocation as well as level of subsidisation. Here we have the set of *MERIT GOODS* in Musgrave & Musgrave (1991) analysis, essentially promoting social justice, but not necessarily impartiality.

8. Conclusion

Justice as impartiality works nicely in relation to the appointment of people to positions, see Rawls' (1971) definition of justice. But it fails to capture justice as *maximin*, see Rawls again.

In my view, social justice would entail *maximin*. Camala Harris wants to benefit the middle class but it is not impartiality. It was long argued by Chicago and Freiburg economics that *maximin* would reduce income and wealth. But look at the Nordic countries today.

Conflicts of Interest

The author declares no conflicts of interest regarding the publication of this paper.

References

- Barry, B. (1989). *Theories of Justice*. Harvester-Wheatsheaf.
- Barry, B. (1995). *Justice as Impartiality*. Oxford University Press.
- Barry, B. (2005). *Why Social Justice Matters*. Polity Press.
- Kelsen, H. (1957). *What Is Justice?* University of California Press.
- Musgrave, R., & Musgrave, P. (1991). *Public Finance in Theory and Practice*. McGraw-Hill.
- Rawls, J. (1971). *A Theory of Justice*. Harvard U.P.