Justice, Pluralism, and the Egalitarian Ethos

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ABSTRACT: One of the central aims of Kyle Johannsen's monograph, A Conceptual Investigation of Justice*, is to defend the idea that we should think of justice as a fundamental value—a value that can come into conflict with other fundamental values. This pluralism is associated in particular with G.A. Cohen's work and his critique of John Rawls's theory of justice. In this commentary, I sketch some of the implications of Cohen's pluralism for a Cohenite ethos of justice.*

RÉSUMÉ : L'un des objectifs centraux du livre de Kyle Johannsen, A Conceptual Investigation of Justice*, consiste à défendre l'idée selon laquelle nous devrions concevoir la justice comme une valeur fondamentale pouvant entrer en conflit avec d'autres valeurs fondamentales. Ce type de pluralisme est principalement associé aux travaux de G.A. Cohen et à sa critique de la théorie de la justice de John Rawls. Dans le cadre ce commentaire, je propose une esquisse des implications du pluralisme de Cohen et de ce à quoi pourrait ressembler un ethos de justice à la Cohen.*

Keywords: egalitarianism, ethos, justice, pluralism, distributive justice, fairness

Kyle Johannsen's monograph, *A Conceptual Investigation of Justice*, takes on one of the most fundamental questions of political philosophy: what do we mean by 'justice'? It is perhaps surprising that despite political philosophers' concern with justice, they typically spend very little time making explicit, or reflecting on, what they take the concept of justice to be. Johannsen's monograph not only helps clarify our thinking on this conceptual question but also charts where important debates in the literature have gone astray because of diverging

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implicit assumptions about the concept of justice. Johannsen also strengthens the case for an understanding of justice that is now most commonly associated with G.A. Cohen: the idea of justice as a fundamental value, prior to and independent of empirical facts,[1] and potentially in conflict with other fundamental values. This "radical pluralism"[2] underlies much of Cohen's critique of John Rawls.

Like Johannsen, I am drawn to Cohen's understanding of justice and, in particular, the pluralism to which he is committed. Johannsen's analysis is particularly helpful given that different implicit assumptions about how 'justice' is to be understood have led to a number of crossed wires in debates about justice. However, in developing his arguments, it seems to me that Johannsen does not always appreciate fully how deep Cohen's pluralism must actually run—in particular, this pluralism, as I will suggest here, must also be taken to inform the *ethos* of justice, both with respect to the content of that ethos and where it stands in relation to the distinction between fundamental values and rules of regulation. In developing his arguments against Rawls, Cohen works from Rawlsian assumptions about what such an ethos might require—but Cohen himself of course rejects many of these assumptions. Once this is fully taken into account, some of Johannsen's arguments against Cohen seem to lose some of their bite.

Johannsen develops much of the relevant arguments in the fourth chapter of his book. Johannsen's concern is with Cohen's critique of Rawls's basic structure restriction, which requires that principles of justice apply to the basic structure, not to individuals' choices. With this restriction in place, it is sufficient for people to act within the limits imposed by the laws and institutions of a just society but they are not required to go further than that. Cohen's concern about the basic structure restriction is that it allows for inequalities that are the result of incentives that are paid to the talented so as to encourage them to use their talents in ways that make all members of society better off. These incentives, of course, introduce distributive inequalities.

The difference principle allows for inequalities that are 'necessary' to improve the situation of the worst-off. With respect to the talented, however, what makes incentives 'necessary' is only that the talented *insist* on incentives.[3] And why, Cohen asks, would they do that if they are, as Rawls assumes, guided by a sense of justice—i.e., if they have "skill in judging things to be just and unjust, and in supporting these judgements by reasons" and if they have a "desire to act in accordance with these pronouncements and expect a similar desire on the part of others"?[4] Rawlsian citizens, then, who by definition have

1 On this, see also Cohen (2003).

2 Cohen (2008), p. 4.

3 Cohen (2001), Ch. 8.

4 Rawls (1999), p. 41.

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a sense of justice, should not require incentives; rather, their choices should be guided by the difference principle, in the sense that they should try to make the worst-off better off when they can do so. Rawlsian citizens, then, must think of the principles of justice as extending not only to the basic structure, but also to the choices they make *within* the basic structure. Rawls's commitment to the basic structure requirement therefore seems inconsistent with his willingness to allow for incentive-based inequalities.

Cohen defends this argument against several objections. According to Johannsen, Cohen's arguments in these responses equivocate between 'justice' in the fundamental sense (that is, principles that tell us what justice is; Cohen's own favoured approach) and 'justice' in the regulatory sense (that is, principles that tell us what to do, all things considered; this is the sense in which Rawls tends to use the term). For example, when Cohen responds to the concern that it would be overly demanding if people's choices had to be guided by a concern to improve the lot of the worst-off, he introduces the idea of a personal prerogative that would give individuals a certain amount of scope to pursue their non-justice-related projects. This, Johannsen suggests, would involve individuals having to balance their personal prerogative with the requirements that the difference principle imposes on their choices. This, however, treats the difference principle as if it were a requirement of fundamental justice—which, of course, Cohen thinks it is not.

Johannsen sees a similar ambiguity in Cohen's argument that the demandingness of the difference principle would be attenuated by the fact that the appropriate metric of distributive fairness is subjective welfare: once we take into account that there is a point where the talented work so hard that their subjective welfare is reduced to the level of the worst-off, the demandingness concern loses some of its bite. But this response of Cohen's, Johannsen suggests, also seems to equivocate between justice as a fundamental value and justice as a regulatory principle. The fact that subjective welfare cannot be measured is not a concern when we are thinking of justice as a fundamental value; but for a regulatory principle such as the difference principle, it is problematic to rely on a metric that cannot be measured or ascertained.

In the remainder of this paper, I suggest that both the content of Cohen's ethos and its relationship to the distinction between, on the one hand, fundamental principles and, on the other, rules of regulation look different from what Johannsen seems to assume.

What's the Content of Cohen's Ethos?

Johannsen constructs Cohen's understanding of an egalitarian ethos from his critique of Rawls's difference principle. Cohen argues that individuals committed to Rawlsian principles of justice would regard those principles as applying not just to the rules governing institutions but also to their individual choices. If this is the case, they would be willing to use their productive capacities without requiring financial incentives for doing so. Given its reliance on the difference

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principle, this kind of ethos would lead people to seek occupations that allow them to use their talents in the most socially productive way.

Do the ambiguities that Johannsen is worried about remain, once we keep distinct the internal and external aspects of Cohen's argument? Cohen's internal critique focuses on Rawls's willingness to permit distributive inequalities that result from incentives paid to the talented. Such inequalities, Cohen suggests, are inconsistent with Rawls's assumption that people have a sense of justice. The kind of citizens Rawls assumes should not require incentives to use their talents in socially productive ways. Despite Rawls's own views on individuals' choices, we would expect his just society to be governed by an appropriate ethos that informs the choices individuals make, over and above what they are required to do by the institutional framework. This would leave much less scope for incentive-based inequalities than Rawls allows.

In addition to this internal argument, Cohen also offers an external critique of Rawls's argument. This part of his argument focuses directly on Rawls's idea that principles of justice must be restricted to the basic structure of society: a society, Cohen argues, is more just if there is an ethos of justice, that is if people are committed to the idea that they must go beyond what the basic structure requires of them and seek to enhance the justice of distributions through their own choices. Other things being equal, a society that has an ethos of justice is better, from the perspective of justice, than a society that does not have such an ethos. Thus, irrespective of Rawls's own assumptions on the matter, Cohen argues that we have reason to reject an approach that restricts the application of principles of justice to the basic structure and exempts people's choices from justice-based requirements.

When Cohen is considering what it would mean for people to be guided by the kinds of motivations that underlie the difference principle, we should, I think, take this as part of his internal critique of Rawls's approach: he is concerned to argue that, in a Rawlsian society, citizens would think of their choices in particular ways because they have a sense of justice, as Rawls assumes. And that, Cohen suggests, would mean some kind of attachment to the difference principle and the commitments underlying it. For the purposes of the internal critique, it makes sense to assume such a commitment to the difference principle because this is in line with Rawls's own assumptions. However, Cohen himself does not think that an ethos of justice would involve the difference principle or any kind of commitment to Pareto improvements. He makes clear that Pareto improvements do not make a distribution more just, on his understanding of justice, even though bringing them about will often be the right thing to do, all things considered.[5]

[5] See Cohen (2008), Ch. 7.

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What is more, Cohen also offers some hints about what his kind of ethos of justice would involve.[6] Such an ethos would be informed by the central commitments of luck egalitarianism. The main idea of luck egalitarianism is that inequalities (in the relevant equalisandum, such as subjective welfare) are unfair, unless they result from option luck.[7] If individuals internalise this idea as part of an ethos, they would not see brute luck as something that grounds entitlements to advantage. Importantly, this also includes an understanding that the talented are 'the talented' only due to brute luck: they would understand that they have been lucky and that it would be unjust for them to insist on incentives for using their talents. More broadly, individuals who have internalised a luck egalitarian ethos would be committed to achieving an equal distribution, understood in luck egalitarian terms, by reducing unfair inequalities if and when they can do so. For example, if—starting from an equal distribution—manna from heaven falls into someone's lap, that individual would regard her advantage as unfair and recognise that she has reason to share the manna equally with everyone else. (And, if that is not possible, justice may even require that we destroy the manna.)[8]

At the same time, the talented would *not* be required to use their talents to increase the total amount of social resources: the actual, absolute level at which individuals are (e.g., in terms of their subjective welfare) does not matter from the perspective of distributive equality, on Cohen's approach. In other words, people guided by a luck egalitarian ethos would not see themselves as having any reason to seek to increase the total amount of resources. Qua egalitarians, they would be indifferent between a distribution in which everyone has 10 units of the relevant equalisandum and a distribution where everyone has 100 units.[9] For individuals, this means that, qua egalitarian, they have no reason to increase the total share. As far as the ethos of justice is concerned, then, there would be no requirement for individuals to work towards a greater social product or to use their talents for the common good. The difference principle can play no role in Cohen's own account of justice—neither as a fundamental value nor as a principle of regulation.

Of course, Cohen does sometimes seem to be committed to the idea that people should want to make the worst-off better off. In particular, Cohen has also described a kind of ethos that arises out of a commitment to what he calls "community"[10]: that "people care about and, where necessary and

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6 The remainder of this section draws on Preda and Voigt (2019).

7 Cohen's seminal 1989 paper, "On the Currency of Egalitarian Justice," begins to develop his account of what subsequently has been called 'luck egalitarianism.' See Cohen (1999, 2004, 2006, 2009) for more recent contributions.

8 See Cohen (2008), pp. 316–317.

9 I explore this in more detail in Voigt (2007).

10 Cohen (2009), p. 34.

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possible, care for, one another, and, too, care that they care about one another."[11] Cohen has linked this idea to a willingness to contribute to the community: community, he says, involves the idea of "communal reciprocity," which is an "antimarket principle according to which I serve you not because of what I can get in return by doing so but because you need or want my service, and you, for the same reason, serve me."[12] It is plausible that, as part of this kind of commitment to "community," people should care about others' absolute levels of subjective welfare, want to make them better off, and be productive so as to increase the total 'pot' that can be distributed.

However, any such commitment would be based on considerations external to Cohen's commitment to justice (understood as luck equality). In fact, Cohen describes the community idea as clearly distinct from egalitarian requirements: "communal reciprocity is not required for equality, but it is nevertheless required for human relationships to take a desirable form."[13] A luck egalitarian ethos of justice, then, would not require individuals to use their talents or be productive; it would not give individuals any reason to worry about the difference principle.

A Pluralist Ethos versus Rules of Regulation

The brief sketch of what a Cohenite ethos might look like also hints at an important consideration about the broader shape that such an ethos would have to take in a pluralist framework, and how such an ethos fits within the divide between fundamental values and rules of regulation. Johannsen seems to be concerned that Cohen is insufficiently sensitive to the idea that an ethos of justice would need to be clearly action-guiding. So, for example, Johannsen notes that "the requirements of a welfare-inclusive, prerogative-constrained difference principle are not sufficiently clear for those who follow it to be able to tell when they have done enough for the worst-off."[14] Johannsen seems to think that an ethos would provide the same kind of practical guidance that rules of regulation do.

However, it is not clear why we should assume that an ethos would have to be action-guiding in this sense. Given that, for Cohen, justice is one fundamental value of many, it would in fact be very surprising if an ethos of justice would be action-guiding in any direct sense, or telling people what to do, all things considered. To my mind, what Cohen would have to say about what it means for people to be committed to 'justice' (in the fundamental sense) and to be guided by an ethos of justice involves a number of things. One is that they

[11] Cohen (2009), pp. 34–35.

[12] Cohen (2009), p. 39.

[13] Cohen (2009), p. 39.

[14] Johannsen (2018), p. 70.

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need to interpret the value of 'justice' correctly—that is, for Cohen, in luck egalitarian terms. This would involve certain commitments, attitudes, and dispositions to act in certain ways, along the lines I described in the previous section.

A second aspect of a commitment to a Cohenite ethos of justice would be to regard justice as a fundamental value and to regard justice as one value of a multitude of values; in other words, anyone guided such an ethos would have to take on board the pluralism Johannsen describes in his book. This, of course, also creates the possibility of conflict. For example, Cohen also notes that there might be an ethos of *community*, as I suggested earlier—and such an ethos might involve dispositions and attitudes that are different from, and can come into tension with, the dispositions and attitudes that an ethos of *justice* would involve.

Because an ethos of justice must operate in a pluralist framework, it (or indeed any ethos) cannot be action-guiding in an all-things-considered way. The ethos must operate in a way that is much closer to the idea of fundamental values than to that of regulatory principles. For a pluralist, it seems, an ethos cannot be about what individuals should *do*, all things considered, but about what they should *value*. The ethos, then, does not by itself specify what the relevant values require in particular circumstances and how any conflicts with other important values are to be resolved. Instead, it is up to individuals to determine what individual values might require of them in specific circumstances, to weigh, in any particular situation, the requirements of justice against the requirements of other fundamental values, balance conflicting requirements and come to an all-things-considered judgement about what should be done. It should not surprise us, then, that the ethos does not offer the clear prescriptions that Johannsen seems to expect from it.

Of course, this does not necessarily make things easier for Cohen, and for the kind of radical pluralism to which he is committed. But Cohen is well aware that his approach does not provide a neat method for resolving conflicts between competing values: "the normative requirements that we recognize present themselves in competitive array: they cannot all be satisfied all the time, nor do we have a method for systematically combining them. Discursively indefensible trade-offs are our fate … that is the predicament we are in."[15]

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[15] Cohen (2008), p. 4.

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References

Cohen, G.A.
1989 "On the Currency of Egalitarian Justice." *Ethics* 99 (4): 906–944.

Cohen, G.A.
1999 "Expensive Tastes and Multiculturalism," in *Multiculturalism, Liberalism and Democracy*, edited by R. Bhargava, A.K. Bagchi, and R. Sudarshan. Oxford: Oxford University Press, pp. 80–100.

Cohen, G.A.
2001 *If You're an Egalitarian, How Come You're So Rich?* Cambridge: Harvard University Press.

Cohen, G.A.
2003 "Facts and Principles." *Philosophy and Public Affairs* 31 (3): 211–245.

Cohen, G.A.
2004 "Expensive Taste Rides Again," in *Dworkin and His Critics*, edited by Justine Burley. Oxford: Blackwell, pp. 3–29.

Cohen, G.A.
2006 "Luck and Equality: A Reply to Hurley." *Philosophy and Phenomenological Research* 73 (2): 439–446.

Cohen, G.A.
2008 *Rescuing Justice and Equality*. Cambridge: Harvard University Press.

Cohen, G.A.
2009 *Why Not Socialism?* Princeton: Princeton University Press.

Johannsen, Kyle,
2018 *A Conceptual Investigation of Justice*. New York: Routledge.

Preda, Adina, and Kristin Voigt
2019 "Shameless Luck Egalitarians: Luck Egalitarianism, Shame and (Self) Respect." Unpublished manuscript.

Rawls, John,
1999 *A Theory of Justice*. Revised Edition. Oxford: Oxford University Press.

Voigt, Kristin
2007 "The Harshness Objection: Is Luck Egalitarianism Too Harsh on the Victims of Option Luck?" *Ethical Theory and Moral Practice* 10 (4): 389–407.

https://doi.org/10.1017/S0012217319000143 Published online by Cambridge University Press