

RATIONALITY: MINIMAL AND MAXIMAL

EDWARD WALTER

University of Missouri

C ONTEMPORARY philosophy distinguishes two kinds of rationality. The first, *minimal rationality* (MnR), makes us aware of concepts, their implications, and the relationship among concepts. The second, *maximal rationality* (MxR), introduces normative principles to direct the development and sustenance of an internally consistent way of life. A currently popular way of stating this difference is to say that MnR is *descriptive*, while MxR is *evaluative*. MnR requires understanding and awareness in reasoning; MxR draws normative consequences from understanding and awareness.

Classical philosophy upheld MxR. This attitude is found in Aristotle, who laid the groundwork for MnR in his logical investigations but passed into MxR in his metaphysics. Contemporary philosophers, with some exceptions, reject MxR and uphold MnR.

The argument of this paper is that social-contract theorizing, which has been revived by John Rawls's *A Theory of Justice*, equivocates on the kind of rationality employed. It utilizes MnR initially but slips into MxR. Such reasoning is defective because its conclusion contains more than its premises contain. This fault is endemic because social-contract theorizing logically requires the use of MnR, yet MnR is too spare a tool to obtain moral or legal obligation. Consequently, only by introducing ad hoc normative principles can the desired conclusions be drawn.

The body of this paper will be divided into three parts. The first will contain an amplification of minimal rationality (MnR). The second will discuss maximal rationality (MxR) and disclose the proper uses of MnR and MxR in ethical theory. It will be argued that initially ethical inquiry is limited to the use of MnR so that speculations do not *beg the question*. The third part will consider John Rawls's *Theory of Justice* in the light of this distinction. Rawls's argument, it will be suggested, shifts from MnR to MxR when his theory runs into difficulty.

MINIMAL RATIONALITY

Minimal rationality (MnR) is the operation of the mind that

permits people to interact with their environment with understanding. MnR functions observationally and subjectively. There are five ways in which MnR functions observationally (MnR:O):

1. It distinguishes objects in the phenomenal field,
2. It compares and contrasts objects,
3. It perceives relationships between and among objects,
4. It recalls observed relationships,
5. It classifies objects and relationships.

I use the word "object" to refer to both animate and inanimate beings. I infer that observation involves more than receiving sense data. Observation, by distinguishing, comparing, and contrasting among phenomenal objects, interprets and interrelates data. When relationships are noted and classificatory systems are developed, understanding ensues.

The order in which the activities of MnR:O are given does not necessarily describe the order in which they occur in experience. For example, it might be argued that a classificatory system is logically prior to the act of distinguishing objects. The *raison d'être* of this claim is that without classificatory rules, the phenomenal field would be an oppressively complicated maze. This sort of reasoning lies behind much rationalist epistemology. Empiricists, on the other hand, note that knowledge grows as uninterpreted data are arranged *inductively* into classificatory systems.

MnR functions subjectively (MnR:S) in the following ways:

1. It produces awareness of emotional reactions (fear, liking, disliking, anger, etc.) to experience (the products of observation),
2. It distinguishes different emotional reactions (ER),
3. It compares and contrasts ER,
4. It perceives relationships between and among ER,
5. It recalls ER,
6. It classifies ER.

The term "subjectively" is not used as it is in the cognitivist-noncognitivist controversy. If subjectivity characterized rationalizing in this context, the implication of my argument would be that knowledge is private (in some respects) and, hence, noncognitivism (to some degree) true. In MnR:S, the term "subjectively" is used to refer to *inner experience*. I have divided MnR into that which gives us outer experience (MnR:O) and that which gives us inner experience (MnR:S).

In my lexicon, inner experience stands for emotional reactions (ER). It is obvious that one can be aware of nonemotional feelings, e.g., a pressure on part of the body. This sort of inner experience might be said to be a physical action or reaction, depending on whether it is produced in relative isolation from the external phenomenal field (as when blood vessels contract) or as a consequence of interaction with the external phenomenal field (as when a heavy weight is laid on a part of the body). Since value theory lurks behind our investigation, there is no need to discuss this kind of inner experience.

It should be noted that MnR:S (1) involves the person in *awareness*. Unquestionably, people can react emotionally to stimuli (fear, anger, love) without awareness. This sort of experience is not mentioned because it is nonrational.

MnR:S (6)—the classification of ER—should be amplified. People do not simply emote. They become aware of their feelings, apprehend similarities and differences in their feelings, and arrange them into groups. For example, a person might notice that when he is attacked by a large dog and when he takes an examination for which he is unprepared he undergoes comparable stimulation. This leads him to call both instances "fear." He also might notice that his reaction to criticism is not the same as the aforementioned reactions (being what we commonly call "anger"), but that anger, in common with fear, is among the feelings that he classifies as "unpleasant." And if we are not dealing with a masochist or a person in an unusual situation, he might classify these experiences as "undesired."

Classifying ER leads one to arrange feelings into a hierarchy of those that are more or less *desired* and those more or less *undesired*. So, a person might prefer eating large amounts of tasty (to him) food to looking trim and to being healthy. *Ceteris paribus*, he would place eating on a higher plane than appearance or health.

No reference has been made in this discussion to what is desirable or undesirable, i.e., what ought to be desired or ought not to be desired. Philosophers, with the possible exception of orthodox emotivists, agree that *liking* and *disliking* or *desiring* and *undesiring* are not *prima facie* examples of moralizing. In summary, I have talked only about the taxonomy of emotions. Following the received philosophical opinion, I treat moralizing as a logically subsequent activity.

Thus far, I have tried to provide the skeleton of humanness. The flesh of humanness is supplied by normative activity. The question of whether or not MnR logically entails moral judgments has been

avoided. I am asserting that rational activity exists without moralizing. This being so, the inference is made that MnR:O and MnR:S are the *tools* to be used in discovering rational *moral principles*—that is, if *rational* moral principles are realizable.

MINIMAL AND MAXIMAL RATIONALITY

There is another conception of rationality that provides an *ideal* of humanness. Unlike MnR, which takes people as they are, this conception considers people as they can be. In this tradition, Aristotle drew the distinction between *actual* man and *potential* man. Hereafter, *people as they are* will be referred to as Pa and *people as they can be* as Pp—the “a” and “p” standing for actuality and potentiality, respectively.

The noteworthy aspect of the ideal of humanness, Pp, is that it imposes a normative judgment on a description. Descriptions, as Hume has established (Hume’s Law), are value-neutral. It might be that rationality logically *implies* that Pp be realized, but the fulfillment of Pp is not part of a rational *description* of human nature.

This point is important enough to justify amplifying. Hume’s Law (to paraphrase and modify R. M. Hare’s interpretation of Hume) is that descriptions (represented by “is” sentences) do not straightforwardly entail moral judgments (represented by “ought” sentences). Hume’s Law stresses the integrity of descriptive language. It does not, however, straightforwardly prevent descriptions from being used to logically justify normative judgments. As Hume has said, the shift from “is” language to “ought” language is a “new relation” that requires justification. There is no *explicit* statement by Hume suggesting that a subsequent justification is impossible.

My intention in discussing Hume is to uphold his claim concerning the autonomy of descriptive language, without implying that his Law *necessarily* creates an unbridgeable chasm between facts and values.

As a consequence of the foregoing conclusion, Pa is that with which contemporary philosophers must deal. When we talk about rational people, we mean people *as they are*, people capable of MnR, people who can categorize their observations and subjective states. While still satisfying MnR, however, a person may act selfishly, altruistically, honorably, dishonorably, in the same life span. And we know that people who often express MnR creatively may be emotionally immature, behaviorally neurotic, and morally

corrupt. One familiar with the lives of Newton, Rousseau, Beethoven, and Wagner could not doubt this claim.

Pp, the ideal of human nature, requires that human beings fulfill their potential. To achieve this goal, people must act consistently and disinterestedly. I interpret this to mean that Pp entails the use of a *principle of consistency* (PC) and a *principle of disinterestedness* (PD). When these principles operate in human behavior, people act with maximal rationality (MxR).

First, MxR requires that people behave consistently. For example, if a person, A, requires another, B, to pay \$100 owed to him within 30 days because "promises ought to be kept," then the use of this principle requires A to pay \$100 owed to a third person, C, within a specified period of 30 days. It is argued that A must pay or irrationality (not "nonrationality") ensues.¹ The PC operates to direct people along a path to a specified end.² The force of PC is obtained by enjoining whimsical behavior.

Second, a principle of disinterestedness (PD) operates to enforce the widespread opinion of social scientists that all people are *essentially* alike, despite the fact that people are *individually* different, i.e., people vary intellectually and temperamentally. The force of PD is to certify that every person can be substituted for every other person in a rule whose subject is "all people." Exceptions to the rule must be sanctioned by another rule in which every person can be substituted for every other person who meets the special criteria stated in the rule of exception. This follows from the fact that the subject of the exception is "all people." Applying PD to the case under consideration, A, *ceteris paribus*, cannot avoid satisfying his debt to C if he requires B to pay the money that B owes him, A, because "all people should pay their debts." It is argued that, since A is essentially equivalent to B and C, the rules that obligate B and C, obligate A as well. Since A adopts the rules in regard to B and C, he cannot avoid applying the rules to himself for frivolous reasons.

Let me reiterate the points made. As an operation of rationality (MxR), it is (sometimes) said that people (1) must act consistently, i.e., not change the use of rules capriciously, and (2) must treat all persons alike unless a rule of exception is invoked. These are *principles of consistency and disinterestedness* (PC and PD).

The contention of this paper is that the inclusion of PC and PD in rationality can be justified only by normative decisions. And, as has been said, normative decisions are questionable rational tools. Let me discuss this claim initially in relation to PC. I will proceed by showing what sort of consistency satisfies MnR and follow by

giving reasons for believing that PC involves a normative act.

A minimal conception of rationality, i.e., one that is uncontroversial, requires that A, the promisor in our example, understands what promising is and what actions he has to perform to fulfill his promise. Rationality also requires that, *ceteris paribus*, consistency should prevail between our utterances and our feelings. So, if I desire to spend an evening with Alice, it is reasonable for me to ask her to spend the evening with me. If she is married to another, however, it might be reasonable for me to remain silent. A correlation between our language and our feelings is rationally essential because language is a principal public tool by which we satisfy the human desire to communicate and interact with others. We can conclude, then, that rationality requires consistency between our feelings and our verbal expressions so long as the communication of our feelings is desired.

A principle of consistency requires more. It demands that we consistently uphold our intentions; for example, once expressed as part of a contract, an intention must be upheld. Such a requirement clearly goes beyond the consistency required to obtain awareness and understanding. A principle of consistency here is meant to regulate behavior and is a ground of moral and legal censure if violated. "Regulation" entails normative activity. We say, "You promised to pay C the money borrowed from him, you didn't, and you ought to be ashamed of yourself!"

But what is our justification for this enjoinder? That it is irrational to be selfish and capricious? I don't think so. Capricious, inconsistent behavior can be rationally prohibited only if rationality requires that people live harmoniously. But this is a moral opinion that must be separately justified. Furthermore, it is an opinion that has not obtained universal assent among rational, intellectual people.

A principle of consistency cannot be the product of an agreement. Here, I am considering the possibility of the promisors developing ground rules prior to promising. If they agree to keep their promises, the desired principle of consistency does not emerge because the agreement is subject to the *open question*: "Are those who agree obligated to keep their agreement?" Because a principle of consistency overrides any agreement, an infinite regress ensues.

A principle of consistency is logically anterior to agreements and promises because it would be meaningless to ask of someone who has broken a promise, "Did you promise to keep your promise?" Nor could the principle come after an agreement or promise. It would make no sense to add to the assertion, "I

promise to pay you \$100 in 30 days," the statement, "Now let us negotiate about whether I will keep my word or not."

Lastly, it might be maintained that PC is incorporated in the logic of language. I have already agreed that the logic of saying "I promise to pay C \$100 in 30 days" implies that I intend to pay \$100 to C in 30 days, no special circumstances operating. As R. M. Hare has rightly argued, an *intention* to keep a promise establishes a moral obligation. Therefore, it would be irrational for me to intend to pay \$100 to C in 30 days and not intend to keep my promise. This follows from the operation of MnR. But, there is nothing inherently irrational in my saying, "I *intended* to pay C \$100 in 30 days because I desired to do so; now I no longer intend to pay C \$100 in 30 days because my desires have changed." This is not *prima facie* irrational because people who meet a neutral test of rationality often change intentions as their feelings change.

I say that inconsistency of the kind cited, which is really moral inconsistency, is not *prima facie* irrational. The brunt of proof is on the supporters of MxR, since we have a perfectly usable conception of rationality without the inclusion of a principle of consistency. One other point: I am not stating that moral inconsistency is *prima facie* rational; it may be nonrational.

Similar arguments are relevant to a discussion of PD. Such a principle is a more obviously normative principle. Therefore, this aspect of our discussion can be brief. Using the promising case again, rationality requires that A recognize that he is no different from B and C. This is established by MnR:S (6); i.e., A recognizes that he belongs to the same class as B and C without special qualities. The enjoinder against special treatment is justifiable on the moral principle "all people should be treated similarly." But this principle is not logically entailed by the statement "All people are essentially alike." Hume's Law establishes this point.

In the absence of a moral principle being part of rationality, PD is logically independent of acts of promising. A promise establishes a relationship between two or more people. There is no ensuing entailment indicating how the parties to the promise are *generally* to be treated. That is, the promise presupposes nothing more about the people than that they will be related in a specifiable way during the period in which the promise is in effect. In this case, A is enjoined to pay \$100 in 30 days, and C will receive \$100 from A in 30 days. That nothing is said in general about people in promising follows when we consider that unequals, along with equals, are believed to be bound by a promise. So if a nobleman (N), who is entitled to special social and political privileges, promises to pay

\$100 to a lowly serf (S), it is generally thought that N ought to pay \$100 to S. This follows from the moral principle that *all people ought to act disinterestedly when they assess their obligations*. The catch is that the aforementioned moral principle must be rationally justified.

APPLICATIONS

It is necessary to reaffirm the integrity of rationality because a new assault has been made on it by John Rawls in *A Theory of Justice*. He attempts to rationally establish liberal principles of justice on the basis of an agreement or social contract. Because his work is well known, I will only discuss aspects of his theory that relate to the thesis herein expressed. In a hypothetical original position (the place where contractors meet), mutually disinterested persons come together under a veil of ignorance to adopt principles that will guide their future social conduct. Agreement on guiding principles is reached so that an ubiquitous fear of oppression is assuaged. A veil of ignorance limits knowledge of people's social positions, strengths, weaknesses, natural abilities and debilities, conceptions of good, specific psychologies, plans of life, and the present state of society. The settled agreement will produce two principles of justice that will harmonize future social intercourse. The emergent principles guarantee that each person obtains a maximal liberty and social and economic opportunity consonant with maximal liberty and opportunity for others. Distribution of social advantages and disadvantages is made without special privilege or prejudice. As a matter of social fact, presently disadvantaged peoples will obtain social advantages, but this is to equalize their social position with others.

The unusual conditions of the original position are hypothesized so that the agreement is made fairly.³ Rawls believes that these conditions are necessary because people, operating with knowledge and being mutually disinterested, will exploit their own interests. This is the reason the veil of ignorance is used. It is needed to nullify "the effects of specific contingencies which put men at odds and tempt them to exploit social and natural circumstances to their own advantage."⁴

In the original position, people are said to be rational in the ordinary way.

The concept of rationality invoked is the standard one familiar in social theory. Thus in the usual way, a rational person is thought to have a coherent set of preferences between the

options open to him. He ranks these options according to how well they further his purposes; he follows the plan which will satisfy more of his desires rather than less and which has the greater chance of being successfully executed.⁵

Irrespective of the agreement, rationality is employed to develop a "plan of life." Rational people use acquired knowledge to construct means to ends that they desire, identify conflicts between what they desire and their behavior, and recognize conflicting goals. In short, a rational person arranges acquired information into coherent patterns. Ultimately, personal interests are harmonized.

As I hope can be seen, Rawls's rationality corresponds to MnR. What I refer to as the categorization of personal goods, MnR:S (6), Rawls calls "having a coherent set of preferences." I account for the construction of means to ends by MnR:O and MnR:S. People must adequately characterize the environment (MnR:O) and self (MnR:S) so that they can find their interests and devise means to the fulfillment of their interests. This aspect of MnR is also accounted for in the quoted passage from Rawls.

Thus far, I have discussed the skeleton of Rawls's thesis. I have left out many of his conditions, not to transform his argument into straw, but to separate two parts of his thesis that are strained bedfellows. I will enlarge my discussion of Rawls's conditions after the implications of the first part are drawn.

Before I proceed, I want to devote a few words to the meaning of "mutual disinterest." Rawls uses this expression to account for the fact that people do not always harmonize their behavior and, often, go about their pursuits selfishly. It might be inferred that "mutual disinterest" is a euphemism for "self-interest." But Rawls shies away from the stronger expression because he wants to leave the door open for altruistic behavior. While his initial conditions are broad enough to permit altruism (which I will stipulate to mean "helping others for their sake"), the need for a "veil of ignorance" implies that some rational people will be *resolutely selfish*. Resolutely selfish people will place the fulfillment of self-interest first among desires. If there were no resolutely selfish contractors, then there would be no need to hypothesize special circumstances preventing people from abusing their social advantages. People would be advised to act rationally. It can be inferred, then, that Rawls initially postulates both altruistic and selfish contractors.

Let me suggest that, given Rawls's imagined conditions, there is no reason to suspect that rational people (MnR-operating) would be motivated to keep the contract. Since rational people agree

out of fear and at least some rational people are resolutely selfish, these are the only two factors, personal interest and fear, that are relevant to the sustenance of the contract. Since we have no reason to expect human nature to change, it can be stated that at least some rational people will remain resolutely selfish after the agreement is made. While resolute selfishness will be found after the contract is ratified, fear will be dispelled among those rational people who discover, when the veil of ignorance is lifted, that they are socially advantaged. Since there is a high probability that some resolutely selfish people will be socially advantaged, we can infer that their behavior subsequent to the agreement will be motivated by their selfish desires. We would expect these resolutely selfish people to abuse the principles to get more of what they desire at the expense of the disadvantaged. Rationally, they would discover not only that they are advantaged but that a social system permits people to become *entrenched* in social and political advantages. For example, during the devastating American depression of the 1930s, the richest people (the Rockefellers, Vanderbilts, etc.) increased their wealth at a prodigious rate. This being so, once the veil of ignorance is lifted, rational resolutely selfish people will be motivated to lie and cheat and abuse the principles in every way. As Brian Barry expresses this point, if want-regarding people are hypothesized as contractors, then the principles that emerge will be means by which people will achieve their wants.⁶ In so behaving, rationality (MnR) is not violated one whit.

What Rawls needs to force people to uphold their contract are principles of consistency and disinterestedness. PC would require that people keep their promises unless excusing conditions intervene. PD would lead people to treat everyone's interests alike.

Rawls introduces these factors by moving from the original, neutral conception of rationality (MnR) to a morally loaded conception of rationality (MxR). This shift is accomplished (1) by introducing an Aristotelian moral thesis, the thin theory of good, to justify the use of "primary good," and (2) by asserting that people have a "sense of justice."⁷ The thin theory of good provides PC, and a sense of justice obtains PD.

A word on "primary goods": Originally, primary goods are said to be those things that people need so that they can attain their personal goals and live with others in society. Among the primary goods are money, a greater rather than a lesser freedom of movement, etc. The primary goods are not intended to invoke substantive moral principles. They make use of the generally accepted

belief that people and social environments have common features that permit cultural and personal contact. I have no quarrel with this conception of primary goods, but, as shall be seen, Rawls subsequently compromises their moral neutrality.

The Aristotelian moral thesis asserts that people, all things being equal, enjoy exercising their realized capacities, tend toward increasing their capacity or the complexity of the activity, and, consequently, obtain greater enjoyment. Given that this is a generally observed fact about people's motivation and given the ubiquity of social interdependence, there is a tendency for social action to incline in the same direction. To exemplify this thesis, Rawls claims that if people can play chess and checkers, the former being a more complicated game than the latter, people would prefer playing chess.

As I have said, Rawls uses the Aristotelian principle to support primary goods—and, most importantly, to give first place among the primary goods to “self-respect.”

But by assuming the [Aristotelian] principle we seem able to account for what things are recognized as good for human beings taking them as they are. Moreover, since this principle ties in with the primary good of self-respect, it turns out to have a central position in the moral psychology underlying justice as fairness.⁸

The dubiousness of Rawls's maneuver is clear. Rawls recognizes that many people as they are do not seek mastery of complex skills or obtain greater enjoyment by engaging in complicated activities. Some people are content to play checkers even if they can play chess. And others are content to play chess badly. Still others would sell their souls for a piece of bread, as Dostoevski's Grand Inquisitor noted long ago. Since people act in these undesired ways, rationality performs the job of leading people to realize that they *ought to* strive for greater mastery of skills and to value more complex activities. Rawls must be implying that these goals are not discovered ordinarily because people *stop* reasoning before they apprehend the *termini* of their activity. It is to obtain this end that Aristotelian teleology is employed.

It is obvious that Aristotelian teleology is not invoked to urge people to prefer chess to checkers or even Bach to Bacharach. The terminus that Rawls is concerned with is the primary good of self-respect. Self-respect is desired because it enjoins the contention that we anticipated to be the consequence of the agreement. Self-respect serves to uphold the agreement by making

virtues of steadfastness and honesty and by eschewing capriciousness and duplicity.

For rationality to achieve this end, PC must be employed so that people persevere in their reasoning until they discover that they really value self-respect. It overcomes the observable tendency of people to reason (and to act, as a consequence of their thinking) whimsically. It prevents people from excusing their inconsistent behavior by saying, "I choose to think no more about the problem; I am content to act as I do because my actions are based on my thoughts at the moment." Such language is echoed in the great Rousseau's *Confessions*. He explained the paradoxes that plagued his readers with the comment that he said what he felt at the moment but that he could not expect his feelings to remain the same for very long.

So PC operates to assure the discovery of self-respect by overcoming the tendency of people to think capriciously as their moods vary. Once self-respect is valued, people are led to uphold the agreement. The rationality entailed herein is MxR, for it goes beyond people as they are to people as they ought to be.

Let us now turn to Rawls's use of a "sense of justice." First, let me amplify the conception. Having a "sense of justice" implies that rational people will discover that they care not only about the attainment of their own goals but about the attainment of other people's goals. They will desire not only that they maximize their capabilities and enjoyments (the Aristotelian principle) and achieve self-respect but that other people maximize their capabilities and enjoyments and achieve self-respect. This is altruism engendered for its own sake. Here, we have the introduction of a *principle of disinterestedness*.

As pointed out earlier, Rawls's conditions imply that some people are resolutely selfish. By definition, to say that people are resolutely selfish is to say that these people are incapable of selflessness (unless selflessness is a means to a selfish end). It is also true, on Rawls's definition of a "sense of justice" that a sense of justice is a sufficient condition of selflessness (selflessness for the sake of the other person). Therefore the initial conditions, supposing that some rational people are resolutely selfish, rule out the possibility of all people having a sense of justice.

The means by which the transformation from selfishness to selflessness takes place is that rationality uncovers altruistic potential. Rawls cannot be making an observational claim, because the weight of empirical evidence indicates that highly informed people are often resolutely selfish. (The expression "highly

informed," rather than "fully informed," is used because we experience the former, not the latter.)⁹ This being the case, the implication must be that rational people will discover that their selfish feelings *should* be rooted out. A value judgment is introduced, because rational people will not cease feeling selfish; they would have to conclude that their selfish feelings should be overcome. In other words, instead of merely categorizing attitudes, Rawls must be saying that rational people make only certain attitudinal choices. In consequence, people are taken ideally.

One of the lasting impressions I have of Rawls's use of rationality is that PC and PD serve the same purposes that natural law did for early contract theorists like Hobbes. Hobbes realized that self-interested people might continue to clash unless some rule of law assures adherence to the agreement. Natural law guarantees the agreement. Since contemporary philosophers doubt the existence of natural law, arguments like Rawls's must be more circum-spect. It is no accident that Rawls gradually abandoned the Hobbesian bias in the first expression of his thesis (the essay "Justice as Fairness") in favor of a Kantian turn. In his early work, he tried to do with self-interest and rationality unaided by natural law. This effort ran against the familiar argument that it is sometimes in a person's rational self-interest to abuse others. Something more is supplied by the Aristotelian principle, the inclusion and priority of self-respect among the primary goods, and the sense of justice.

In closing, I might ask, If rationality discloses the aforementioned factors, why invoke a social contract? Why not simply say, rationality requires that people treat each other fairly, distribute social inequalities so that the least-advantaged people be benefited, etc.? The social-contract mechanism has intrinsic problems that render it dubious regardless of the theoretic framework in which it is used. For example, the assertion that the social-contract mechanism is a hypothetical device requires that its hypothetical nature and heuristic value be amplified and justified. Few contract theorists go beyond asserting that the mechanism is hypothetical. It seems to me that, since Rawls's thesis must eventually use MxR, he has doubled his difficulties by invoking a social-contract mechanism.

A final note: Throughout this paper, I have tried to be coldly critical. My own substantive moral theory has been suppressed. In fact, I find Rawls's principles of justice very attractive. But the settlement of these or similar principles of justice must wait for a justification of maximal rationality. That justification must be

elaborate and complex, because it involves rejecting a philosophical movement that has gained momentum since David Hume's ethical writings. In the process of reconsideration, the insights of that movement should be retained. Finally, I believe that the defense of maximal rationality as the guarantor of a set of principles of justice must be straightforward. An elliptical or indirect method of justification will not work, because some but not all of the basic axioms of the Humean-empiricist ethical tradition must be replaced. A kind of Hegelian process is at work here. Moral absolutism (thesis) was replaced by radical moral relativism (antithesis) in the early through mid-twentieth century. The radical moral relativism that culminated in the emotive theory was said to be the working out of Hume's moral theory. I believe, like many others, that this claim is false. Now, we are gradually working toward a new paradigm (synthesis). Besides containing faults, it is clear that Rawls's *Theory of Justice* has many insights and brilliantly constructed arguments. His greatest contribution to philosophy may be that he has revitalized normative ethics.

1. I use the term, "nonrationality" rather than "irrationality" to render my statement philosophically neutral. I define "nonrationality" as (1) behavior that cannot be rational or (2) behavior about which its rational possibilities are undetermined.

2. R. M. Hare has made a well-known argument along these lines. While I will not discuss his work hereafter, it can be seen that his reasoning is guilty of the flaw (if I am right, that there is a flaw) that I will attribute to John Rawls's theory of justice in section 3. It has been noted by a number of commentators (Brian Barry, for example), as well as Hare himself, that there is a family resemblance between Rawls's theory and Hare's theory. It is obvious that I endorse this claim.

3. To assure fairness already begs the question. The fundamental philosophical question is: Given human nature, can principles of fairness be generated?

4. John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, Belknap Press, 1971), p. 136.

5. *Ibid.*, p. 143.

6. Brian Barry, *The Liberal Theory of Justice* (Oxford: Clarendon Press, 1973), pp. 23-24.

7. Rawls, pp. 426-29.

8. Rawls, p. 433.

9. We might discover that rational people are altruistic. This would mean that the evidence thus far obtained is misleading. While a surprising shift in evidence is possible, we have no reason to expect it. Therefore, we are better off treating some men as immanently selfish.