

Rawls's Overly Moralized Conception of Power as an Obstacle to Confronting Structural Injustice

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John Rawls's theory of justice has come under heavy fire from critics, such as Charles W. Mills, who have argued that in focusing on ideal theory, his theory ignores the deep existing injustices that are perpetuated by ongoing racism and by the residual effects of American and European colonial conquests. While he once conceded that the core commitments of Rawls's ideal theory are unobjectionable, Mills argues that we need to turn our attention away from it in order to focus on our seriously non-ideal circumstances. In this paper, I argue that these problems of structural injustice reveal Rawls's ideal theory to be deeply flawed. The crucial flaw is its reliance on an overly normative or juridical understanding of power, leading it to ignore the various forms of structural power that can nullify the influence of the rule of law. This is a flaw that Rawls perhaps picked up from mainstream economic theory, which tends to presume the smooth working of the rule of law as underlying the possibility of voluntary and relatively unrestricted exchanges of between two rightful owners. In arguing that Rawls's ideal theory is defective on account of its overly juridical understanding of power, I will also incidentally be suggesting that economics, too, must come to grips with fact that much of its theorizing abstracts from many of the ways that structural power imbalances interfere with free transactions by flouting or skirting legal requirements.