

## **When is an Omission a Fault? Or, Maybe Rawls Just Isn't That Into You**

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Initially, I was not sure what to make of Professor Mills's observation that Rawls did not deal with race in his seminal work, *A Theory of Justice*, or in his later works—including *Political Liberalism*, *Law of Peoples*, or *Justice as Fairness: A Restatement*. This lack of knowing reflects an ambivalence that I have about contemporary political theory. Or perhaps this could better be characterized as a lack of faith in the desire of mainstream contemporary political theorists to care deeply about all aspects of justice.

So race is not at the forefront of a Rawlsian conception of justice. Rawls concedes this point and notes that “an omission is not as such a fault” (Mills, 168). Furthermore, Professor Mills acknowledges that Rawls insists that “the principles [of justice] he articulated [could] be adapted and utilized to address racial injustice, even if he himself did not so use them” (Mills, 169). This is where the discussion ends for Rawls and many contemporary political theorists, and this is where part of me is content to leave the discussion. After all, Rawls has the right to determine his own research projects. Given the time frame within which Rawls wrote *Theory*, it is curious that he does not seem to have been influenced by the struggles for civil rights occurring all around him. But, at the time, the United States was also in the midst of the Vietnam War, and Rawls does not seem to have a lot to say about just war theory, either. Part of me remains unconvinced that Rawls's refusal to engage in an in-depth discussion of race is a serious failing in the *Theory* or in his later work. One can only see this as a serious failing if one is hopeful about the role of Rawlsian theory in solving actual world problems, particularly problems that involve race. I am ambivalent—both about whether it matters that Rawls and many other mainstream political theorists do not tackle race and my sense about whether they should. I thank Professor Mills for giving me more to think about on this issue. My comments are about wanting to more fully understand Mills's position while working through my own ambivalence. So the tone will be tentative.

For Mills, that Rawls does not engage race in his “huge body of work focused on questions of social justice” is a major failing given that racial injustice is “the distinctive injustice of the

modern world" (Mills, 162). Mills raises and addresses what he sees as four failings in Rawls's work: (1) Rawls's framework is systematically Eurocentric and structured by crucial silences; (2) Rawls's various rationales for not dealing with race (that is, nonclassical and nonideal) are unsatisfactory; (3) Rawls's claim that the difference principle can address race is dubious; and (4) the failure to admit that the history of European imperialism (especially in *Law of Peoples*) undercuts the viability of the key group of "modern Western nations" (Mills, 175).

My remarks will center on Mills's first two arguments: (1) Rawls's framework is systematically Eurocentric and structured by crucial silences and (2) Rawls's various rationales for not dealing with race (that is, nonclassical and nonideal) are unsatisfactory.

## 1. Crucial Silences

Mills's central critique of Rawls's silence on race is, "The marginalization of race in both his explicit normative theory and his (usually more tacit) underlying descriptive theory sanitizes the actual history of the modern world and obfuscates the centrality of white racial domination to its making" (Mills, 170). He observes that "white racial privilege and nonwhite racial subordination" have been "foundational to the actual 'basic structure' of the United States" (170). And Mills leaves us with the question, "How theoretically useful is it then going to be in the philosophical investigation of social justice to start from a raceless ideal so remote from this reality?" (170).

The reader is left with a lot to unpack in a few short sentences. The question that comes to my mind is whether Rawls's exclusion of this history of racial domination is not itself an example of the kind of white racial privilege that Mills notes Rawls fails to address. To put it another way, Rawls can give an account of social justice without taking race into account not because he is attempting to sanitize history, but because he does not have to think about a history outside of his own. Whereas Mills is concerned with the historical realities omitted in the Rawlsian account, my question is a kind of metaquestion about the context in which the Rawlsian account can come into being.

I do not want to give the impression that my question about Rawls is a trite apology ("We have to understand that Rawls was a man of his time!"). Instead my question is about the fundamental nature of how whiteness is situated and the kinds of investigations that whiteness sometimes inspires. The kinds of questions or topics that get asked or not asked are not merely reflections of an understanding or lack of understanding about history. Rather these questions go to the heart of what it means to exercise white racial privilege. To this extent, I do not think

that the Rawlsian account is remote from reality. The world as Rawls imagines it is a world that some, in fact, experience.

But Mills paints a picture wrought with genocide, slavery, and conquest, and he uses Rawls's omission of this history to take Rawls to task. Mills admonishes, "Rawls's failure to cite any of these facts and his corresponding deployment of obfuscatory and apologist categories ... [is] thus an abdication of both moral and theoretical responsibility" (Mills, 172). An abdication of moral and theoretical responsibility? Responsibility to whom? Blacks and Native Americans? White people? Other political theorists? Humanity generally? Mills does not tell us. However, whom Rawls thinks (or thought) he may have had "moral and theoretical responsibilities" toward (if, in fact, he believed he had any) might be very different than who Mills thinks can or should be able to elicit such responsibility.

At this stage, I am neither apologizing for Rawls nor dismissing Mills. It seems to me that the salient question is not whether Rawls omitted the historical record of abuse against nonwhite people. Rawls himself concedes this, regardless of whether one thinks his rationale for the omission is satisfactory. Rather, the question in my mind is whether Rawls *should have* included the historical record in his theoretical framework. Mills is very clear that Rawls should have; I am not fully convinced. Mills offers two reasons that Rawls should have discussed race: (1) otherwise Rawls is addressing himself to a white audience (Mills, 170), and (2) in the absence of a discussion about race, Rawlsian theory is not capable of prescribing justice (174).

## 2. Rationale 1 for Omitting Race: The Classical Tradition

One explanation that Rawls offers for not addressing race is that he sees himself as fitting within the "classical" (Western) political tradition" (175). Mills finds this response unsatisfying and so do I. Mills points out that several "classical" Western political theorists including Locke, Kant, and Mill wrote about their racial views. Some of the most interesting philosophical ruminations on the postslavery world by a classical (read: white) philosopher occur in John Stuart Mill's "The Negro Question." In "The Negro Question," John Stuart Mill thinks about the plight of formerly enslaved blacks in the Caribbean and their relationship with the white planter-class in the Caribbean. He appeals to general utilitarian principles in order to express why postslavery perpetual servitude, officially known as "apprenticeship" is detrimental to blacks. "The Negro Question" is not a woefully obscure text. So Rawls is either mistaken or disingenuous when he offers his position as a classical theorist as a rationale for his refusal to talk about race.

Second, Mills argues that because Rawls restricted the domain of *A Theory of Justice* to the West, Rawls had an even stronger obligation to discuss race, given that race is a central component of the modern Western tradition. Since Rawls understood his conception of justice as political, rather than metaphysical, the restriction of his discussion of the Western tradition to specific features of that tradition amounts to a contradiction on Rawls's own terms (Mills, 176).

I find myself a bit confused as to why this amounts to a contradiction. An omission—yes. A failure—maybe. But a contradiction? As I understand Mills's argument, Rawls has created a model of justice for the West. Rawls thinks that *we* (reasonable people) can, would, or should be willing to get on board with this model of justice. But Rawls does not take race into account in creating his model even though race is a salient feature of the modern Western tradition. Therefore, failure to take race (or rather, the specific experiences of nonwhite people) into account in creating a model of justice amounts to a contradiction.

I can't help feeling as though some pieces of the puzzle are missing. At this stage, we might be able to say that this conception of justice is incomplete. Some filling in has to occur before this conception of justice amounts to a contradiction. Mills offers a historical account of the interactions between white and nonwhite peoples in the modern West. The historical account is necessary, but the historical account alone is not sufficient to show that race, or the specific racialized experiences of nonwhite people, is the kind of feature without which one cannot posit an adequate conception of justice. Historical reconstructions give political theories a certain kind of traction, but they can be inadequate in other ways.

Historical reconstructions have a tendency to create an incarnation of the *is–ought*, or more appropriately a “*was–ought*,” problem in the realm of political theory. I understand that certain kinds of justice claims, restorative and reparative justice, for example, rely on history (*x* is what happened, *y* is how we need to fix it). At the same time, it is unclear to me how history (what *was*) creates obligations for what we ought to do now morally, especially in the absence of other philosophical moves. I think this question is worth more exploration in its own right, independent of Rawls.

I am aware that there is a tradition dealing with precisely this kind of question and that further exploration is beyond Mills's project. Ultimately, I think that the historical narrative is the best strategy available to do what Mills wants to do in this section of his paper. My worry remains as a general one about how to address the problem of folks who have been left out of the picture of justice.

Third, Mills argues that Rawls understands the Western tradition to be a white one. I think that more than an omission,

this amounts to a failing on the part of Rawls. It is this failing that lays the groundwork for Rawls's omissions both in *Theory of Justice* and in his later works. It is also this failing that most clearly illustrates why I find myself a bit less misty eyed or outraged than others that Rawls does not discuss race. Mills counters by calling the roll of the illustrious black male political theorists whose work was available to Rawls. (I am sure Professor Mills intended to subsume black *women* political theorists like Mariah Stewart and Anna Julia Cooper into the category "and many others.")

### **3. Rationale 2 for Omitting Race: Focus on Ideal Theory**

Mills addresses this Rawlsian response by reminding the reader, "Ideal theory is not supposed to be an end in itself but is instrumental to the goal of more adequately dealing with injustice" (Mills, 177). Furthermore, Mills reminds the reader that Rawls himself saw ideal theory as a starting point in order to "provide a foundation for the more 'urgent' matters of nonideal theory" (177). So, this particular explanation amounts to hiding behind theory in order to avoid dealing with the actual world. Mills points to segregation and the civil rights movement as cultural realities about which Rawls would have been aware. It is highly possible that these matters were not "urgent" for Rawls, or at least not urgent enough for Rawls to write about them with any depth.

The deeper point for Mills is that the Rawlsian ideal, or the "ideal ideal" does not leave us with room to address the history of racial injustice and its lingering effects. This is the case because the Rawlsian ideal has no history of racial injustice and can, at best, only create racism-free policy from hence forth. Worse for Mills, the Rawlsian ideal would create a race-free polity. So even if one could address a history of racial injustice (say, if racial injustice came about despite our best efforts), there would be no one to whom any redress could be targeted. Of course, Mills is able to make the latter claim because he appeals to a conception of race as *only* socially constructed. Furthermore, in this section at least, Mills does not disentangle race from racial injustice. But the social construction model on which Mills relies lends itself to this kind of entanglement.

Mills notes that this ideal ideal conception of justice does not leave us with a means to adjudicate competing racial claims in the actual world. Moreover, if we cannot apply the Rawlsian ideal to any society on earth, at least as the Rawlsian ideal relates to race, then "in a sense it is an ideal with little or no practical worth" (180). I think Mills has Rawls in a pickle on this issue, especially because Rawls explicitly rules out racist societies. Of course, Rawls might respond that his understanding

of what counts as a “racist society” is much more limited than the societies Mills counts as racist, but given the historical record Mills lays out, I do not think such a rejoinder would be satisfactory. It is also possible that the actual Rawlsian standard for a nonracist society is not “perfectly nonracist” but, rather, “reasonably nonracist.” In a similar vein, Rawls allows “reasonably just” societies to be eligible for consideration within the Rawlsian conception of justice and does not restrict his domain of consideration to perfectly just societies. But the thought of a “reasonably nonracist” or, conversely, a “reasonably racist” society is absurd. So this remains a problem that Rawls should at least explain. Of course one might be inclined to say that the Rawlsian conception of justice works for some matters, but it is not the appropriate tool to address matters of race. This strategy might have worked a bit more successfully had Rawls not taken the pains to rule out racist societies generally.

I thank Professor Mills for giving us a lot to think about regarding how Rawlsian justice can be used under nonideal conditions.