

羅爾斯論「對錯的優先性」

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以「正義理論」一書聞名英美政治哲學界的羅爾斯(John Rawls)指出：「對錯的概念乃優先於好壞的概念。」此乃其正義理論的基本主張之一。他認為，古典功效主義之所以無法提出一套合理的正義理論，部分原因即在這一派學說未能接受「對錯的優先性」。然而，在最近幾年的相關文獻中，羅爾斯對於此一優先性的說法，卻遭遇到一些所謂「社群主義者」嚴厲的批評。

儘管「對錯的優先性」在當代有關社會正義的討論中佔有相當重要的地位，但無論羅爾斯本人或是批評他的學者，均未能透徹地說明此一概念的內涵。本文的主旨，就在於藉著檢討秦利克(William Kymlicka)最近對於羅爾斯的詮釋，來詳細分析羅爾斯所謂的「對錯的優先性」。此外，沈代爾(Michael Sandel)亦曾經著書闡釋羅爾斯的正義理論，並從社群主義的角度來批評「對錯的優先性」及其他一些相關的立場。本文亦將討論沈代爾的詮釋，惟所用的篇幅較少。

除了主張「對錯的優先性」之外，羅爾斯的正義理論還有另一些基本的特徵，例如：該理論(1)是一種「本務論」，(2)主張多爾金(Ronald Dworkin)所謂的「以權利為王牌」的立場，(3)重視「人際的區分」，(4)認為正義原則應該如同自由主義者所要求的，採取某種「價值中立」的立場。本文嘗試釐清這些立場，並且進一步利用這些立場來釐清與之密切相關的「對錯的優先性」。

本文提出的分析可以概述如下：只有隸屬本務論的正義理論才主張「對錯的優先性」；但是並非所有隸屬本務論的正義理論，都非得接受這項主張不可。其次，接受這項主張的正義理論，都以權利為「王牌」，而且也都因此重視「人際的區分」。此外，「對錯的優先性」雖然蘊含了某種「價值中立」的立場，但是兩者不可混為一談，因為前者除了「中立」的意含之外，還有「限制」的意含，那就是：我們唯有在正義原則所允許的範圍之內，才能自由地追求自己認為有價值的人生。

- 一、前言
- 二、區分目的論與本務論
- 三、初探「對錯的優先性」
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- 六、只有主張「優先性(2)」的理論顧全「人際區分」？
- 七、「對錯的優先性」與價值中立
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Rawls on Priority of the Right

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Abstract

The claim that the right is prior to the good is regarded by John Rawls as central to his theory of justice as fairness. He thinks one of the reasons why classical utilitarianism proves implausible as a theory of justice is precisely that it fails to recognize priority of the right over the good. Recently, however, Rawls's claim of such priority has itself met with seemingly formidable criticism from the so-called communitarians.

But, in spite of its importance in contemporary discussion on social justice, priority of the right over the good has not been clearly and thoroughly exposed by Rawls, nor by his critics. This paper aims to analyze Rawls's claim of such priority by examining a recent interpretation of that claim by William Kymlicka. The interpretation of Rawls as implied by Michael Sandel's communitarian criticism of his work is also examined, though less extensively.

Priority of the right is closely connected with some other features which are central to Rawls's theory of justice, such as the "deontological" nature of his theory, "rights as trumps" (to use Ronald Dworkin's term), the "distinction between persons," and liberal neutrality toward competing conceptions of the good. These other features and their connection with priority of the right will be clarified in this paper, and they will in turn be used to clarify priority of the right.

The analysis in this paper may be summarized as follows: If a theory of justice endorses priority of the right, then it is a deontological theory, though not conversely; such a theory takes rights as "trumps" and, for that matter, complies with whatever is required for the distinction between

persons. Further, although priority of the right implies a certain kind of liberal neutrality toward competing conceptions of the good, it cannot be identified with it. For the former also has a restrictive aspect, in that it implies that only within the limits set by the principles of justice is one free to pursue what one takes to make up a good life.