

Kluwer Mediation Blog

In whose shoes?

Charlie Woods (Core Solutions Group / Scottish Universities Insight Institute) · Tuesday, August 8th, 2023

Metaphorically speaking mediators will often invite parties to a conflict to get into each other's shoes to try to help broaden perspectives and deepen understanding of concerns, issues and needs to help generate options for resolving the dispute. Philosopher John Rawls used a thought experiment which in some respects builds on this idea but takes it a step further (no pun intended!).

Rawls's starting point was what he called 'the original position' – this was essentially the question: how would we organise a fair society if we didn't know what our individual circumstances would be? Working behind a 'veil of ignorance' as he termed it. Put another way you could be in anyone's shoes you just don't know whose! Interestingly '[Whose Shoes](#)' is a facilitation tool developed to support transformational change in health and social care.

In his recent [book](#), 'Free and Equal – What would a fair society look like?', philosopher and economist Daniel Chandler builds on Rawls's work to explore this question and the relationship between freedom and equality often thought to be in tension in traditional right v left debates.

Building on his original position Rawls identified a number of organising principles, in summary these are:

- Each person has an equal claim to a scheme of basic rights and liberties – these could be personal (conscience, association, security, personal property etc.), political (right to vote, stand for office, speech, association etc.) procedural (rule of law)
- Everyone's basic needs should be met to allow them to exercise their basic freedoms (food, housing, education etc.)
- Equality of opportunity to realise one's full potential
- Any social and economic inequalities that exist should be to the greatest benefit of the least advantaged (the 'difference principle')
- Economic equality should go beyond material income and wealth to include economic power and control and self-respect (what Rawls termed 'primary goods')
- Treat future generations as we would have had previous generations treat us (the 'just savings principle')

These principles offer a framework for evaluating options, considering trade-offs and looking for synergies. At their heart they are concerned with ensuring fairness and reciprocity between members of a society. This reciprocity is embodied in the difference principle where inequality in outcome is justified because it is of benefit to the least advantaged, for example by providing

incentives to ensure that people are willing to make sacrifices when training and working so that there are sufficient health care professionals, or take the risks to develop products and services which benefit everyone.

Chandler uses Rawls's principles to explore and develop ideas for making society more free, equal and sustainable. These include: electoral system reform, reducing the influence of money in the political system, broadening citizen involvement in political processes, improving educational equality and access (in particular in the early years of life), more equitably sharing of income and wealth (e.g. through a universal basic income and inheritance), greater taxation of externalities (such as carbon emissions) to raise revenue and influence behaviour, more progressive income and wealth taxes, improved workplace democracy and wider ownership and control of capital.

The significance of wider ownership and control of capital is thrown into sharp relief in Brett Christophers's recent [book](#) "Our lives in their portfolios – why asset managers own the world". In it he explores the growth of asset management since the financial crisis and in particular that of real (as opposed to financial) assets such as housing and infrastructure. He cites one estimate that asset management investment in infrastructure grew almost five times between 2009 and 2019. This was driven in part by macro policy reducing interest rates and making real assets more attractive and by self-imposed austerity leading governments to look for other ways of funding investment.

Christophers describes the development of what he calls an 'asset management society', where the ownership and management of assets which are vital to the operation of society as a whole, such as water and transportation, are managed to benefit a relatively small group of investors rather than their users. He characterises this system as involving an opaque network of companies using leverage alongside client funds to invest in 'public' assets via limited term funds, seeking to reduce costs, maximise revenues, minimise maintenance, secure state guarantees to cover risks and sell out when the time is right to maximise capital gain and 'performance' fees, which are taxed at significantly lower levels than income from employment.

The recent history of Thames Water is cited by Christophers as a graphic example of how such a system can result in poor service and substandard performance (as judged by the regulator) alongside significant returns to investors and asset managers. This and other examples like it would appear to be the opposite of what Rawls's difference principle is trying to achieve. It's also likely that such outcomes help fuel feelings of anger and resentment at the political system that appears to facilitate them.

Whether or not you agree with the ideas that Chandler develops using Rawls's principles, his philosophy offers a set of criteria for carefully evaluating options in a considered way. Rawls argued that in public political forums, where policy is discussed, each citizen has a 'duty of civility'. This duty includes a willingness to approach differences with an open mind, to listen and learn, a spirit of compromise and being considerate of what fellow citizens might think to be reasonable and fair. Civility was the essence of the '[Commitment to Respectful Dialogue](#)' promoted by Collaborative Scotland in the run-up to the Scottish independence referendum in 2014.

Rawls thought a civil and respectful culture to be a vital public asset, which is built slowly and lost quickly. Chandler notes that: *"We have rundown our stocks of civility to dangerously low levels, and building a more respectful public debate is one of the central challenges facing democratic*

societies today.” Something echoed by Martin Wolf in his recent [book](#) ‘The Crisis of Democratic Capitalism.

Wolf argues strongly for a revival in the idea of citizenship. This involves a concern for the ability of fellow citizens to have a fulfilled life, an economy that allows citizens to flourish and loyalty to democratic political and legal institutions and the values of open debate and mutual tolerance that underpin them. He concludes: *“Human beings must act collectively as well as individually. Acting together, within a democracy, means acting and thinking as citizens.”*

Flourishing citizenship requires an inclusive economy and society, one that involves more community wealth building and a reciprocal social contract rather than rent extraction by the wealthy and powerful. Rawls’s principles offer a framework for developing such an outcome. Through the use of techniques such encouraging people to stand in each other’s shoes (or indeed anyone’s shoes) mediators have an important contribution to make to facilitating this. Their skills and experience can help rebuild stocks of civility and improve dialogue to help achieve greater freedom, equality and justice both now and across future generations.


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