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Should Rawlsian end-state principles be constrained by popular beliefs about justice?

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ABSTRACT

Although many accept the Rawlsian distinction between ‘end-state’ and ‘transitional’ principles, theorists disagree strongly over which feasibility constraint to use when selecting the former. While ‘minimalists’ favor a scientific-laws-only constraint, ‘non-minimalists’ believe that end-state principles should also be constrained by what people could (empirically) accept after reasoned discussion. I argue that a theorist who follows ‘non-minimalism’ will devise end-state principles that cannot be realized (as end-state principles), or cannot be stabilized (as end-state principles), or are indistinguishable in content from those she would have selected had she followed ‘minimalism.’ The paper ends by outlining the implications of my analysis for the broader methodological map of political philosophy.

KEYWORDS David Miller; end-state principles; ideal principles; feasibility constraints; Rawlsian methodology; popular beliefs about justice; what the people think about justice

Introduction

How should we do political philosophy? As suggested by the burgeoning methodological literature in recent years, an uncontroversial answer seems increasingly elusive. Political philosophers disagree strongly, both on which inquiries are worth pursuing and whether some should enjoy any primacy. This paper aims to provide some methodological advice by reducing the number of plausible approaches on offer.

Roughly, we might identify at least three broad methodological approaches, which I shall refer to as the Rawlsian approach, the Correctness approach, and the Comparative approach. At the heart of the Rawlsian approach is a distinction between two types of action-guiding principles: those we should follow in an *ideal ‘end-state’ society* (where we expect moral agents to comply with the principles we prescribe), and those we should follow in our current society (where compliance is only partial), to achieve the

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best possible *transition* towards the end-state (Simmons, 2010). Because the best path from the status-quo to the end-state society might be complex – with some routes leading into dead-ends, others traversing intermediate setbacks – proponents of the Rawlsian approach believe that we cannot identify the best transitional path before we have (largely) identified the principles that govern the ideal end-state itself (Miller, 2016; Rawls, 1999a, 1999b; Simmons, 2010). For that reason, much work within the Rawlsian approach has focused primarily on identifying end-state principles.

Although the Rawlsian approach remains influential, several theorists reject it. Proponents of the Correctness approach deny that theories in political philosophy must be action-guiding at all. They believe that an important (although not the only) aim of political philosophy is to discover the truth about ideals such as justice (Cohen, 2008; Estlund, 2020). As David Estlund writes, ‘it is a philosophical mistake to evaluate the truth of a theory of justice according to whether its principles could be put to certain practical uses’ (Estlund, 2014, p. 130).¹

Other theorists accept the Rawlsian action-guidance requirement but deny the usefulness of distinguishing between end-state and transitional principles. According to the Comparative approach, an action-guiding political philosophy need not identify end-state ideals at all – indeed it might be better off without them. The search for end-state ideals has been criticized as epistemically naïve (Gaus, 2016), and as both unnecessary (Sen, 2006) and insufficient (Wiens, 2015) for action-guidance. Political philosophy should instead aim to identify comparative improvements over the status quo – determined by appeal to basic evaluative criteria, ‘like freedom, equality, security, peace, community, and so on’ (Wiens, 2015, p. 437). The idea is that such abstract values allow us to rank states of affairs, without having first identified the (more specific) principles that govern an ultimate end-state.

My aim in this paper is to offer some novel advice for how political philosophers should navigate this big methodological map.² More specifically, I shall do so by adjudicating a debate *within the Rawlsian approach* concerning the extent to which *feasibility considerations* should influence the theorist’s development of *end-state* principles. According to what I shall refer to as ‘minimalism,’ we should merely use what David Miller calls a *technical* feasibility constraint, which tells us not to select principles that contravene ‘physical laws or rock bottom social or psychological laws’ (Miller, 2013, p. 37). Depending upon how we understand that phrase, typical ‘minimalists’ might include Swift and White (2008, p. 63), Carens (2013, p. 301), and Gilibert (2017). In contrast, according to ‘non-minimalism,’ principles should not only observe technical feasibility but also be ones that people ‘could be brought to accept by reasoned discussion’ (Miller, 2013, p. 37). The feasibility of non-minimalist end-state principles thus ‘depends not just on physical and sociological laws, but on what, empirically, [citizens] would regard as an unacceptable outcome’ (Miller, 2013, p. 38). I shall refer to non-minimalism’s more restrictive constraint as

acceptance feasibility. Typical ‘non-minimalists’ include prominent theorists like David Miller (2013) and Mathias Risse (2012, p. 322).

Note that I presently take no stand on whether *John Rawls himself* is best described as a minimalist (of the Swift-White/Carens/Gilabert-variety) or a non-minimalist (of the Miller/Risse-variety). Some believe Rawls’s theory, at least in its later statements, entails a commitment to non-minimalism’s acceptance feasibility constraint (e.g. Miller, 1999, pp. 42–60). Others interpret Rawls ‘as merely confining political philosophy within the laws of nature’ (Estlund, 2020, p. 5), thus aligning him with minimalism’s technical feasibility constraint. Let me underline that I set that controversial exegetical matter fully aside here. My references to Rawls’s work are thus only intended to clarify the content of what I call *the Rawlsian (methodological) approach*, an approach that is arguably followed by very many contemporary theorists, among whom several – minimalists and non-minimalists alike – may have various disagreements with Rawls himself (e.g. on the substantive content of the principles of justice). Note also that I do not intend minimalism and non-minimalism to exhaust the universe of conceivable versions of the Rawlsian approach. I delimit my analysis to those views because they form, or so it seems to me, the two dominant strands in the methodological debate between Rawlsians. (See Figure 1 for an overview of the three broad methodological approaches. The two Rawlsian positions that concern us – minimalism and non-minimalism – are marked in bold.)

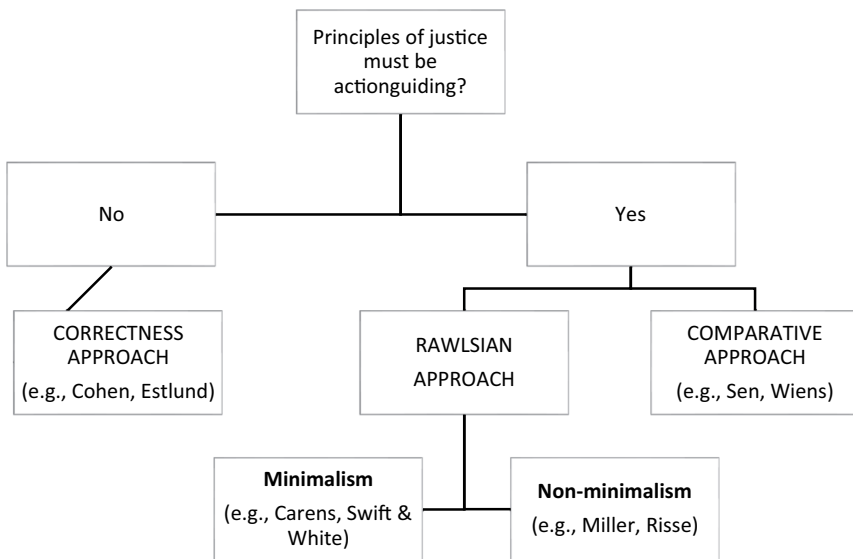


Figure 1. Methodological approaches.

The debate between minimalism and non-minimalism has largely revolved around how to balance two well-known concerns: the *critical potential* and the *practicability* of ideals. Minimalists typically favor technical feasibility because they want their ideals to shed considerable critical light on existing practices (Swift & White, 2008, p. 67), although that means downplaying what people are likely to achieve. To non-minimalists, minimalist ideals suffer from practical irrelevance: being typically distant, the minimalist ideal risks becoming ‘merely a lament for what might have been if the human condition were different’ rather than ‘[serving] as an inspiring guide to action’ (Miller, 2013, p. 15). To bolster practicability, non-minimalists therefore favor acceptance feasibility.

Presently, I bracket how we should balance the well-known concerns for critical potential and practicability. I shall instead adjudicate the debate between minimalism and non-minimalism by identifying two novel threats to the *coherence* of non-minimalism as a way of developing end-state principles. As a version of the Rawlsian approach, non-minimalism is committed to devise end-state ideals that can (qua end-state ideals) be *realized* (Rawls, 1999a, p. 127) and made *stable* (for the right reasons) in society (Rawls, 2001, p. 185). I shall argue that non-minimalism fails both desiderata. This happens because what counts as the people’s non-minimalist end-state ideal will change over time. Either the status of the substantive principles people set out to realize will change *during* – and because of – their realization process, such that people’s non-minimalist ideal becomes effectively unrealizable (qua end-state ideal). I call that the First Incoherence Defect. Alternatively, their ideal is realized yet fails to be stable over time (qua end-state ideal). Although people have succeeded in arranging institutions in accordance with their non-minimalist ideal, what it takes to stabilize support for those institutions will cause that ideal itself to change. *After* people have realized their end-state society, another set of institutions – reflecting a different set of end-state principles – becomes their new ideal target. That is the Second Incoherence Defect.

To understand the two Incoherence Defects, it is helpful to appreciate the distinction between a principle’s *substantive content* and its *status*. The former refers to what the principle *says* (e.g. ‘Do X!’). The latter refers to what the principle *is* (e.g. an end-state principle or a transitional principle). The two Incoherence Defects do not claim that the substantive content of non-minimalist end-state principles cannot be realized or stabilized in society. Instead, they claim that non-minimalist end-state principles (with their specific substantive content) cannot be realized or stabilized in society *while retaining their status as end-state principles*.

Two scope-restrictions

It is important to clarify the scope of my claim about non-minimalism's incoherence. First, the Two Incoherence Defects apply only in *cases where the theorist's choice of methodology makes a difference to the content of the end-state principles she ends up devising*. The warrant for that scope-restriction is straightforward. In the remaining cases – where a theorist would devise substantively identical end-state ideals, regardless of whether she follows minimalism or non-minimalism – she has no reason to choose one feasibility constraint over the other, all else being equal. Because my aim is to assess reasons that are relevant for the theorist's methodological choice, I set those cases aside as immaterial. For present purposes, then, we focus strictly on cases where *acceptance feasibility dictates the selection of at least one principle*. If not, the content of the selected (non-minimalist) principles would simply be *indistinguishable from minimalist ones*. (I discuss some further implications of that scope-restriction in [Section 3.1](#).)

Second, I focus strictly on end-state principles that are offered to democratic societies. That is, I assume that both minimalists and non-minimalists endorse a *democratic implementation* requirement: realization of end-state principles shall happen through convincing a democratic majority to enact those principles into law. As Swift and White note, such a requirement is widely accepted in contemporary political philosophy (Swift & White, 2008, p. 55).³

Thesis and outline

Having clarified those two restrictions on the scope of my incoherence critique of non-minimalism, I can now formulate the thesis I shall defend more fully. The thesis is disjunctive and threefold. A theorist who follows non-minimalism will devise end-state principles (for a democratic society) that: (i) *cannot be realized* (as end-state principles), or (ii) if realized, *cannot be made stable* (as end-state principles), or (iii) if realized and stabilized, are *indistinguishable in content* from those she would have devised had she followed minimalism. If my thesis is correct, the upshot for non-minimalism seems unpalatable. Either the methodology becomes incoherent, or it avoids incoherence but only at the price of becoming effectively inconsequential – offering the end-state theorist no reason to select *it* over minimalism, all else being equal.

The paper proceeds as follows. [Section 2](#) briefly distinguishes technical feasibility and acceptance feasibility from another type of feasibility constraint – one which is observed by minimalism and non-minimalism alike: political feasibility. [Section 3](#) looks more closely at non-minimalism's acceptance feasibility constraint and illustrates how it is meant to influence the selection of end-state principles. (Here I rely

upon the account given by David Miller, one of non-minimalism's most prominent proponents.) Sections 4-5 seek to establish my threefold thesis. Section 6 clarifies the nature of my critique: the problem is not that non-minimalist end-state principles are moving targets *per se*, but that they move for reasons that make them unrealizable or unstable (as end-state principles). Section 7 concludes with some remarks on what my analysis implies for the broader methodological map of political philosophy.

Feasibility in minimalism and non-minimalism: two types of constraints

As versions of the Rawlsian approach, minimalism and non-minimalism share many methodological features. As mentioned, both accept that principles should be action-guiding. As Miller writes, 'political philosophy is a branch of practical reason – it is thought whose final aim is to guide action, as opposed to having a merely speculative purpose' (Miller, 2013, p. 34). Moreover, they accept that action-guiding principles come in two variants – end-state principles and transitional principles – and that feasibility considerations matter when identifying both.

For *transitional* principles, they favor the same feasibility constraint. When the theorist prescribes a certain path from the nonideal status quo towards the end-state ideal, her selection of transitional principles is constrained by *political* feasibility. As Miller writes, political feasibility is 'feasibility of the kind that concerns practical politicians. In this sense, whether a proposal is feasible depends on whether it can command sufficient political support to be adopted' (Miller, 2013, pp. 36–37; for a similar account, see Swift & White, 2008, pp. 63–67).⁴

The controversial issue within the Rawlsian approach concerns selection of *end-state* principles. Here minimalists and non-minimalists disagree on whether to observe technical feasibility or acceptance feasibility. However, both believe that the principles selected (using their favored constraint) constitute the end-state ideal. In other words, the question is which feasibility constraint to use when developing what Rawls calls the principles of 'strict compliance' or 'ideal' theory – those that are best when implemented and duly followed by moral agents (Rawls, 1999b, p. 8). Those principles govern an ideal end-state society – a 'final destination,' one might say, 'of societal perfection' (Valentini, 2012, p. 654). As Miller puts it, the debate between minimalism and non-minimalism 'is not over whether to do ideal or non-ideal theory – we will almost certainly need to do [non-ideal theory] after [ideal theory] – but over how "realistic" ideal theory ought to be' (Miller, 2016, p. 230, n.2).

How acceptance feasibility restricts selection of end-state principles

Let us now look closer at non-minimalism's acceptance feasibility constraint, and how it is meant to influence the theorist's selection of principles. As David Miller, one of the most prominent non-minimalists, makes clear, acceptance feasibility 'falls somewhere between' political feasibility and technical feasibility (Miller, 2013, p. 37). An acceptance-feasible end-state ideal for a given society, Miller writes,

must contain principles that members of that society could be brought to accept by reasoned discussion, which means that the principles cannot have implications that those citizens would find abhorrent. This doesn't mean that the principles must be accepted immediately they are laid out. They may be unfamiliar, or they may be resisted simply because they impose sacrifices that many citizens are initially unwilling to make. Political philosophy *should* be in the business of changing political attitudes, of showing what their convictions mean when applied consistently to political questions. It should not be constrained merely by political feasibility [. . .]. But at the same time it implies more than technical feasibility, because many technically feasible proposals would fail the requirement that they be reasonably acceptable to present-day citizens.

If they are to satisfy this feasibility condition, political philosophers must [. . .] be prepared to learn from social scientists. They need to discover what it would mean, empirically, to implement their principles, and they need to discover whether the ensuing consequences are acceptable, in the light of the fundamental beliefs of their fellow citizens. They also, therefore, need to explore the structure of those beliefs, to find out which are fundamental, and which are open to change in the light of evidence and argument. (Miller, 2013, pp. 37–38, emphasis in original)

A core idea here is that the acceptance-feasible does not refer to what hypothetical interlocutors would accept if they were reasonable – that which actual citizens *ought* to accept – where the standard of reasonableness is given by a normative theory. Instead, we determine what is acceptance-feasible by gathering *empirical data* on what actual citizens could be willing to accept after reasoned discussion (Miller, 2013, p. 38).

More specifically, when a theorist who follows non-minimalism shall test whether an end-state ideal is acceptance-feasible, she consults empirical (e.g. survey) data concerning the *current beliefs about justice* (CBJ) of the people for whom she devises the ideal. To pass that test, the ideal – which I shall call the *non-minimalist principles* (NMP) – must be dependent upon, or constrained by, CBJ, in a certain way: there must be a *deliberative route* that people could follow (if they tried), from their CBJ to the NMP. Along that route, we identify principles that become increasingly 'radical' the farther they are located from CBJ, up until the location beyond which people cannot be persuaded to go.

That furthestmost point along the deliberative route marks the bounds of acceptance feasibility. No NMP may lie beyond such a route.

That there must be a deliberative route from CBJ to NMP constitutes the key distinguishing feature between non-minimalism and minimalism. Minimalist ideals, which merely observe technical feasibility, can be devised *irrespective of the CBJ* of the people to whom those ideals apply. Non-minimalist ideals cannot. As Miller puts it, '[t]he aim is to achieve an equilibrium whereby the theory of justice appears no longer as an external imposition conjured up by the philosopher, but as a clearer and more systematic statement of the principles that people already hold' (Miller, 1999, p. 51).⁵

So, when a non-minimalist selects principles meant to govern a given group's ideal end-state society, the group members must be able to accept those principles after reasoned discussion (if they tried), given their CBJ. If her selected NMP fail that test, she rejects them on methodological grounds, and goes back to the drawing board.

Two additional (non-essential) features of non-minimalist selection of principles (present in the cases concerning us)

Recall from Section 1.1 that I restrict the scope of my incoherence critique of non-minimalism to cases where the theorist's choice of non-minimalism (over minimalism) *leads her to select substantively different ideals*. A theorist could, for example, have beliefs about justice that resemble the status quo so closely that none of the principles she selects are in practice constrained by acceptance feasibility. However, as mentioned earlier, in such a case the methodological debate between minimalism and non-minimalism becomes irrelevant, as she would have selected the same principles with either methodology. Hence, for the sake of demonstrating the Two Incoherence Defects, we may permissibly assume that acceptance feasibility dictates the selection of at least one principle.

That assumption, in turn, dictates two important features of the theorist's selection process in the cases that concern us. First, *the theorist's own beliefs* about justice go *beyond* the CBJ of the people for whom she selects the ideal. If she follows non-minimalism, she must thus restrict her own beliefs before forming them into a theory that she may recommend as the people's NMP. If she instead follows minimalism, no such restriction is required. Her choice of non-minimalism thus leads her to select substantively different end-state principles. Second, and related, (at least one of) *the NMP she selects will be 'radical'*: the principle(s) will fall just within the boundary of what people find acceptance-feasible. (To be clear, those two additional features are non-essential to non-minimalist selection of principles. We include them only to ensure that the non-minimalist principles will effectively differ from minimalist ones.)

These points are helpful to keep in mind when we now consider Miller's own illustration of non-minimalist selection of principles.

An example: family life and the equality of opportunity principle

Miller (2013, pp. 32–35) asks us to consider Rawls's 'fair equality of opportunity' principle, according to which 'those who are at the same level of talent and ability, and have the same willingness to use them, should have the same prospects of success regardless of their initial place in the social system' (Rawls, 1999b, p. 63). We may permissibly assume that the theorist herself finds that principle plausible. She might nonetheless select a *restricted* version of it for inclusion in the NMP, insofar as people cannot relevantly accept the original, unrestricted principle.

Miller elaborates the process as follows. Imagine that implementation of an *unrestricted* fair equality of opportunity principle requires that a liberal democratic society forbids privatized upbringing, because differences across families inevitably make people's life chances unequal (Miller, 2013, p. 32). Liberal citizens, writes Miller, are 'fundamentally committed to family life in some form' and will find 'an imposed regime of collective childrearing intolerable' (Miller, 2013, p. 33). If that is empirically accurate, the theorist's use of acceptance feasibility leads her to conclude that, although

the existence of the family, and the formative influence that it exercises upon children, is a powerful barrier to fair equality of opportunity [...] the *definition* of fair equality of opportunity must be *narrowed* to accommodate it (Miller, 2013, p. 32, emphases added).

So, when a non-minimalist shall select end-state principles for the citizens of a liberal democratic society, she rejects the unrestricted fair equality of opportunity principle on methodological grounds. As a matter of empirical fact, there simply is no deliberative route from the citizens' CBJ to that principle. What makes its way into the NMP is thus a *restricted* (what Miller calls a 'narrowed') version of it.

How restricted (or 'narrowed') will that re-defined version be? For our purposes, we may assume that the theorist selects the least restricted equality of opportunity principle that is also acceptance-feasible. That is, she selects the version which comes closest to her own belief (in the unrestricted principle), and which thus counts as 'radical' from the people's viewpoint. If the theorist had instead followed *minimalism*, she would have gone further and selected the fully *unrestricted* equality of opportunity principle as (part of) the citizens' (minimalist) ideal.

It is important to note that the theorist's reason for selecting the restricted principle was *solely methodological*. She rejected the unrestricted principle,

not on substantive grounds (e.g. after balancing it against another substantive moral principle she believes in), but for its acceptance *infeasibility*.

Human adaptability and democratic implementation

Non-minimalism concedes that the content of the acceptance-feasible might change over time (and vary across space). As Miller writes, the acceptance feasibility constraint

makes the limits of the possible depend upon beliefs and attitudes that may be widely held in contemporary societies, but are clearly not unchangeable. Abolishing the family may be unthinkable for us, but in other societies different arrangements have been accepted without difficulty (Miller, 2013, p. 43).

Moreover, if principles people currently find very 'radical' (or even unacceptable) are nonetheless implemented in their society, the boundaries of what those people could be brought to accept may change over time. Miller writes:

If, for example, they accepted the arguments in favour of (really fair) equality of opportunity and supported policies that brought it closer to fruition, such as extensive preschool education for children, they would come to regard the family as less valuable and would finally be happy to see it disappear. (Miller, 2013, p. 44)

I shall refer to what Miller says here as the *human adaptability* claim: that people may come to change their beliefs about justice as a result of living under new institutional arrangements. The human adaptability claim is hard to deny, and it is unsurprising that non-minimalists recognize it. At first glance, however, human adaptability might seem like bad news for acceptance feasibility. If people can adapt to states of affairs (very) different from current practices, why should our feasibility constraint disregard that fact? Human adaptability seems to vindicate technical feasibility – at least if we seek to maximize our theory's critical potential.

In Miller's view, however, non-minimalists may concede the human adaptability claim, yet retain acceptance feasibility. Why? Recall non-minimalism's democratic implementation requirement (which it shares with minimalism): end-state principles must be implemented through the democratic decisions of the people to whom they apply. But if so, it seems straightforward to expect end-state principles that present-day citizens find abhorrent to be *effectively unrealizable*: such (minimalist) principles will presumably not motivate enough people to pursue them. As Miller writes, '[p]eople cannot reasonably be expected to act politically on principles which if realized would have outcomes that they regard as wholly unacceptable' (Miller, 2013, p. 44). By requiring democratic implementation, non-minimalists may thus concede that popular beliefs about justice are (significantly) malleable, while rejecting the use of mere technical feasibility.

Miller concedes that a minimalist-minded theorist could try to deceive citizens into implementing policies the (deliberately hidden) implications of which they currently find abhorrent, and then wait for people to adapt to that new order. However, he rejects such an approach, which he calls a 'neo-Leninist view of political philosophy,' for being 'less than fully open with its addressees' (Miller, 2013, p. 35). Such implementation is simply too morally costly.

By requiring (non-deceived) democratic implementation, non-minimalism thus seems to avoid the apparent collapse of acceptance feasibility into mere technical feasibility. However, although the democratic implementation requirement thus serves an important purpose in non-minimalism, I shall now try to show how it also makes the methodology liable to the First Incoherence Defect.

The First Incoherence Defect: why non-minimalist end-state principles are unrealizable

Roughly, the idea is this. During – and because of – people's attempt to democratically realize their NMP, the content of what they could relevantly accept will change. That change implies that the principles they set out to realize no longer count as their end-state ideal. Because people's attempt to realize their end-state principles thus invalidates them as such, the NMP become effectively unrealizable. Hence, non-minimalism incurs the First Incoherence Defect, or so I shall argue.

On political normalization: how 'radical' proposals become 'mainstream'

Recall that a 'radical' proposal is located at the extreme end of a person's deliberative route, and hence at the boundary of what is acceptance-feasible for that person. When a proposal is no longer 'radical' in that sense for a democratic majority, I shall say that the proposal has become 'mainstream.' I shall refer to the process where a 'radical' proposal becomes 'mainstream' as *political normalization* of that proposal. Political normalization may happen in several ways. It may result, for example, when people change their mind due to political debates before a decision, or because they do so after experiencing a policy's effects (as in the human adaptability claim). Normalization, either in full or in part, may thus occur both prior and posterior to an implemented reform. Presumably, full normalization of a once 'radical' proposal will require several rounds of reform decisions – perhaps spanning many generations – where partial normalization may happen both before and after each (incremental) institutional reform. After normalization, the proposal's

substantive content is no longer regarded as ‘radical’ by a democratic majority. Another proposal has overtaken its place as the truly ‘radical’ one in that domain.

To illustrate, consider voting rights. In the late 19th-century, proposals to enfranchise women were typically seen as very ‘radical.’ We may easily imagine that more inclusive proposals, say, to additionally enfranchise 16-year-olds, would be found abhorrent. At the other end of the spectrum, a proposal to return to 18th-century-style absolute monarchy would presumably be found abhorrent, or at least ‘radical.’ However, after universal female suffrage is now normalized, the boundaries of what people in general may accept have changed. What a majority once regarded as an unheard-of proposal – to enfranchise 16-year-olds, for example – might qualify as ‘radical’ but no longer abhorrent. At the other end of the spectrum, a return to male-suffrage-only is presumably found abhorrent.

Historically, such political normalization has (gradually) ushered in (significant) political change (over time) on various issues. Apart from enfranchisement, think of workplace regulations, the gradual expansion of the welfare state, and the struggle for sexual liberation. Depending upon one’s theory of justice, those developments might be seen as improvements or setbacks, of course. The point is merely that people may gradually come to regard a proposal as ‘mainstream’ that once qualified as no such thing. To be clear, I do not claim that such developments are linear. To the contrary, the path towards normalization, if at all successful, will presumably be long and winding indeed – with various setbacks and standstills along the way. The struggle for black enfranchisement in the US, for example, may illustrate such a non-linear story (see Rome, 2022, pp. 51–71).

Let me clarify that I intend the psychological assumption involved in political normalization (as I define it) to be quite uncontroversial – that when a person becomes normalized to a proposal, P, which she used to find ‘radical,’ *her deliberative route changes*: at the P-end of the spectrum, the route *expands* to include one or more proposals *beyond* P. At the other end, the route may or may not retract to exclude one or more proposals that previously fell within it.⁶ (Because I shall not provide evidence in support of that psychological assumption, the conclusions I draw from it are of course duly contingent.)

A stipulation on voting and political normalization

Let me now introduce an empirical stipulation I shall use when uncovering the First Incoherence Defect. Take a principle that fell just within the acceptance-feasible for a given democratic people at T1. It is as ‘radical’ to them as possible. If a democratic majority, at a later stage (T2), vote to implement that principle, *those people will have undergone a process of political normalization*

concerning that principle. That is, the demos will not enact the principle until it no longer counts as ‘radical’ for a citizen majority. In such cases, when a democratic people have become ready to implement the principle, the boundaries of what counts as relevantly acceptable for them have already changed. At T2, people’s deliberative routes have extended beyond their previous limit, such that the once ‘radical’ proposal is now ‘mainstream.’

For what it is worth, it seems to me plausible to expect that political normalization will typically intervene prior to democratic enactment. However, nothing of importance hangs on this. Perhaps normalization tends to intervene only for some electorates, for some issues, etc. If so, *how often* non-minimalism incurs the *First Incoherence Defect* is qualified accordingly. At any rate, as I shall later argue, even if normalization does *not* intervene prior to implementation – that is, if people enact principles that they continue to find most ‘radical’ – non-minimalism nonetheless incurs the *Second Incoherence Defect*. Because I aim to show that non-minimalist end-state principles are either unrealizable or unstable (or indistinguishable from minimalist end-state principles), the exact prevalence of normalization prior to realization is irrelevant to my critique.

Demonstrating the first incoherence defect

We now have all we need to explain – in the cases that concern us – why a theorist who follows non-minimalism will select end-state principles that are unrealizable. Call the specific group for whom the theorist, at T1, shall devise an ideal, the Gs. Having chosen non-minimalism, the theorist’s task is to select end-state principles that the Gs can accept, given their CBJ. Call the content of what the Gs can accept at T1, feasibility set F1. F1 thus specifies the complete range of the Gs’ deliberative route. *Within F1’s limitations*, the theorist selects a set of principles, P1, which best accounts overall for the various substantive moral considerations she believes in. Recall that, in the cases relevant for our purposes, we assume that the theorist’s own beliefs about justice go *beyond* F1. This means that an alternative (minimalist) set of principles would *better satisfy* the substantive considerations she believes in. Yet, because there is no deliberative route to that alternative set from the Gs’ CBJ, the theorist discards it (as mandated by non-minimalism). Because P1 comes closest to the theorist’s own beliefs – it is the most ‘radical’ yet acceptance-feasible set – she selects P1 as *the Gs’ NMP*. (If the theorist had instead followed minimalism, she would select the *alternative* set as the Gs’ end-state principles.)

To give a more concrete illustration of the theorist’s selection of principles, let us return to Miller’s example of family life and the equality of opportunity principle. As we may recall, Miller concedes that it is

technically feasible for people to value different degrees of family life. To keep it simple, assume that the degree-alternatives are: 'no,' 'low,' 'moderate,' and 'high.' His example also assumes that privatized upbringing is a driver of inequality: when the degree of family life allowed in society increases, the level of equality of opportunity enjoyed by its members decreases, and vice versa. Still keeping it simple, assume that we effectively have four technically feasible pairings of degrees of family life and the variously restricted versions of equality of opportunity that they allow. That gives us the following four proposals:

- (A) 'no' family life/an 'unrestricted' principle;
- (B) 'low' degree of family life/a 'weakly restricted' principle;
- (C) 'moderate' degree of family life/a 'moderately restricted' principle, and;
- (D) 'high' degree of family life/a 'strongly restricted' principle.

Imagine now that the Gs currently practice (and widely support) proposal D. At T1, the relevant parts of the Gs' feasibility set (F1) are as follows. They find proposal C 'radical,' proposal B abhorrent, and proposal A even worse than B. The theorist believes that proposal A's *unrestricted* equality of opportunity is the most plausible principle of justice. Yet, in observance of acceptance feasibility, she ends up selecting proposal C's *moderately restricted* principle as part of the Gs' NMP, P1. At T1, that version is the most 'radical' yet acceptance-feasible opportunity principle. (Proposals A and B, while technically feasible, are acceptance infeasible; they fall beyond the Gs' deliberative route.)

Now, imagine that the Gs, at a later point in time, T2, have finally become willing to realize P1. They have transitioned, overall, through several incremental reforms, having had time to adapt, at each relevant stage, to policies that gradually increase public involvement in upbringing. As a result, a majority of the Gs are now prepared to vote in favor of enacting P1 into positive law. (Again, I do not assume that the Gs' path towards that result has been linear; their democratic struggle might well have been long and winding, as described above.) However, this T2-situation is less felicitous than it seems. The reason is our stipulation of *political normalization prior to democratic enactment*. While following the path towards democratically realizing P1, the boundaries of what the Gs could relevantly accept have changed. They no longer regard the moderately restricted principle as the most 'radical' (yet acceptance-feasible) proposal. The weakly restricted principle has overtaken its place. At T2, and prior to P1's realization, the Gs have thus acquired a *different feasibility set*, F2, which no longer excludes proposal B's weakly restricted principle. If so, the content of the best acceptance-feasible principles – and hence *the content of the NMP* – will have changed.

This means that the specific set of substantive principles, P1, selected (at T1) as the Gs' NMP, will no longer qualify as such when the Gs have become willing (at T2) to democratically realize P1. Imagine that we ask another theorist, one who has the exact same beliefs about justice as her colleague, to select a non-minimalist ideal for the Gs at T2. (Alternatively, imagine that the first theorist simply starts her work at T2 rather than T1.) The theorist would then *select a set of substantively different principles*, simply because what the Gs could relevantly accept has changed. This holds as long as P1 has been subject to political normalization between T1 and T2, and P1 contains at least one principle whose selection at T1 was dictated solely by the acceptance feasibility constraint. At T2, the bounds of acceptance feasibility have changed, such that a different set of principles, P2, now counts as the Gs' end-state ideal.

So, on they go again, with the aim of democratically realizing P2. But what happens now? There are two possibilities. Either, the Gs' ideal target continues to move. Before its democratic enactment, the Gs become normalized to P2, thus making another set of principles, P3, acceptance-feasible at T3. If P3 fits better with the theorist's beliefs about ideal justice, she selects P3 as the Gs' NMP. What counts as the Gs' non-minimalist ideal thus remains *unrealizable*. Alternatively, the target stops. If so, that is because the theorist's own beliefs about justice now correspond to the Gs' non-minimalist ideal, say, P4. She would then (continue to) select P4 regardless of whether other principles (P5, P6, etc.) become acceptance-feasible. The Gs' target thus stops, and the First Incoherence Defect dissolves. However, the Gs' end-state principles (P4) are now *indistinguishable* in substantive content from those the theorist would have selected (at T1) had she instead followed minimalism. Non-minimalist principles thus collapse into minimalist ones, and the theorist's methodological choice becomes inconsequential. In short, we have confirmed parts (i) and (iii) of my threefold thesis.

I therefore conclude that whenever political normalization precedes democratic implementation, the Gs' NMP – with its constantly changing content – becomes unrealizable.⁷ Alternatively, they become indistinguishable in content from minimalist end-state principles.

The Second Incoherence Defect: why non-minimalist end-state principles are unstable

When uncovering the First Incoherence Defect, I assumed that normalization *precedes* democratic enactment of the NMP (i.e. that people will not implement 'radical' principles until those principles have become 'mainstream'). Consider now what happens if normalization does *not* intervene prior to enactment. In such (presumably rare) cases, the First Incoherence Defect is

avoided. As I shall now argue, however, non-minimalism still incurs the Second Incoherence Defect.

We now imagine that the Gs vote to enact a set of principles, P1, that a majority of them *continue to find 'radical.'* That is, they implement their NMP *without* prior normalization. To give this a bit more color, imagine that the Gs, on Election Day, are suddenly gripped by a strong desire to impress their 'radical' neighbors, the Rs. They therefore vote overwhelmingly to implement principles that barely fall within their own feasibility set. The day after, the Gs' urge to impress has evaporated, possibly superseded by significant post-election anxiety. (On the brighter side, the Gs have realized their end-state principles!) In this (presumably outlandish) scenario, the implemented principles retain their status as the Gs' NMP throughout their full realization. Hence, the First Incoherence Defect is avoided. However, from non-minimalism's perspective, it is not enough to have merely *realized* the end-state ideal – to have brought about institutions governed by the NMP. That ideal society must also be *stabilized*. As I shall argue, the NMP will fail that stability-requirement, such that non-minimalism incurs the Second Incoherence Defect.

If a set of end-state principles, Rawls writes, 'fails to be stable, it is futile to try to realize it;' that end-state ideal is then 'utopian in the pejorative sense' (Rawls, 2001, p. 185). Rawls therefore builds a stability-requirement into his methodology (Rawls, 1999a, pp. 12–13).⁸ Importantly, for Rawls – and, as I presently take it, for Rawlsians – the stability must be of a certain kind. It cannot result merely from fear of sanctions, where support for the principles is 'prompted by penalties enforced by state power' (Rawls, 2001, p. 185). An end-state ideal must be capable of 'generating its own support.' Only when citizens follow the end-state principles because they themselves genuinely affirm them, have we achieved *stability for the right reasons*: a 'stability brought about by citizens acting correctly according to the appropriate principles of their sense of justice, which they have acquired growing up under and participating in just institutions' (Rawls, 1999a, p. 13, n.2).

To achieve such stability, it is crucial that people *habituate* to the ideal institutions. That such habituation – or 'moral learning,' as Rawls (1999a, p. 44) sometimes phrases it – occurs among citizens in the end-state society, is a central presupposition of the Rawlsian approach. As Rawls writes, 'I shall [...] assume that, if we grow up under a framework of reasonable and just political and social institutions, we shall affirm those institutions when we in our turn come of age, and they will endure over time' (Rawls, 1999a, p. 7). Unless people born into the ideal institutions come to affirm and act upon their governing principles with genuine conviction, those end-state principles will not be stable for the right reasons.

Assume now (with Rawls) that for an end-state ideal to be stable for the right reasons, 'a sufficient number' of citizens must habituate to the

institutions governed by it (Rawls, 1999a, p. 15). What does that imply for non-minimalism? Interestingly, although such habituation makes the institutions themselves stable over time, it cannot also stabilize their (non-minimalist) justness. In fact, the Rawlsian habituation mechanism implies that the institutions will cease to reflect what counts as the non-minimalist ideal for the people who shall live within them. The reason is that the feasibility set to be developed by those growing up within the end-state society (and who are supposed to habituate to its institutions and principles), will (due to that habituation) be different from the feasibility set that non-minimalism used to derive the ideal that those institutions reflect. Put differently, a person's habituating to an ideal simply implies, as I understand it, that she becomes normalized to its content. But for an ideal that counted as 'radical' for a group's previous generations to become 'mainstream,' it must thus cease to be regarded as 'radical' by (a democratic majority of) the group's new generations. In short, the latter's feasibility set must have changed.

To illustrate, we return to the Gs. Because of their strong and sudden (yet fleeting) urge to impress their neighbors on Election Day, they voted to enact P1 (while continuing to regard those principles as 'radical'). Because their feasibility set thus remained the same, P1 *retained its status as the Gs' NMP* – even beyond the point of realization (thus avoiding the First Incoherence Defect). But what happens now? Given the Rawlsian stabilization requirement, the Gs must habituate to the laws and institutions of their new ideal society – coming to genuinely affirm the principles governing them. The rules and practices that the Gs' previous generations found 'radical' will thus be 'mainstream' for the new ones. When coming of age, the new generations will thus acquire their own unique feasibility set, F2. If we selected at least one of P1's principles solely due to F1 (and would have selected a different set, P2, under F2), the implemented principles no longer count as the NMP for those new generations. For them, P2 has overtaken P1's place.

This means that non-minimalism, in the case we consider, cannot have institutions that will both 'endure over time' and remain governed by the ideal. The habituation mechanism, meant to deliver the former, precludes the latter. The problem is not that of generating enough popular support to stabilize *a certain set of institutions* over time, but of doing so without destabilizing *what counts as the NMP* for the citizens who shall live within those institutions. After the Gs have realized P1 (which, as we now assume, when realized still counted as their NMP), habituation shall intervene. When it has, the Gs 'slide back,' so to speak, into a less-than-ideal state of affairs, where (and because) P2 has superseded P1 as their end-state ideal. The task of realizing their NMP then starts anew, with P2 as the new target. In time, however, P3 supersedes P2, etc. People's pursuit of their non-minimalist end-state ideal, at least one that is stable for the right reasons, may thus go on and on.

Alternatively, the movement stops. If so, that is because the Gs' NMP have become indistinguishable from those end-state principles that the theorist would have selected had she followed minimalism. Non-minimalist end-state principles thus collapse into minimalist ones, and the theorist's methodological choice becomes inconsequential.

In short, that confirms parts (ii) and (iii) of, and thus concludes the case for, my threefold thesis. If I am correct: non-minimalist end-state principles cannot be realized as end-state principles, or non-minimalist end-state principles cannot be stabilized as end-state principles, or non-minimalist end-state principles are indistinguishable in substantive content from minimalist end-state principles.

A clarification: moving targets *per se* is not the problem

Before we end, it is important to clarify the nature of the critique I have tried to press against non-minimalism as a method for developing Rawlsian end-state principles. Strictly speaking, I have not claimed that Rawlsian non-minimalism is problematic because non-minimalist end-state principles effectively become *moving targets*: that is, that their substantive content changes over time. The substantive content of a theory's end-state principles might change for various reasons. An obvious example is when our philosophical knowledge is updated over time. By getting a better grasp of the (lack of) coherence of a relevant set of propositions, Rawlsians may decide to revise the content of the end-state principles they propose. Such content changes are of course unproblematic. The problem I have identified for Rawlsian non-minimalism lies elsewhere.

To understand the nature of that problem, it is helpful to recall the distinction between the substantive content and the status of a principle (i.e. what the principle says and what the principle is). If my analysis is correct, the content of non-minimalist end-state principles will change over time simply because of people's requisite attempt to realize or stabilize a society governed by those principles. That implies that non-minimalist end-state principles become *unrealizable or unstable qua end-state principles*.⁹ That non-minimalist end-state principles become unrealizable or unstable qua end-state principles is an unwelcome feature because it undermines non-minimalism's own Rawlsian methodological commitment: as we may recall from [Section 1](#), the Rawlsian approach aims to develop end-state ideals that may be realized and stabilized (as end-state ideals) by the people to whom they apply. My incoherence critique, then, is not that the *substantive content* of what the Rawlsian non-minimalist proposes as the Gs' end-state principles cannot be realized or stabilized by those

people. It is rather that the proposed principles (with their specific content) cannot be realized or stabilized while retaining *their status* as end-state principles for the Gs.

Let me end this section with a related clarification. My threefold thesis allows that the set of principles, P1, which (at T1) counted as the Gs' non-minimalist end-state principles, may retain (some kind of) *prescriptive force*, even after those principles (at T2) have lost their status as the Gs' end-state ideal. P1 may then retain prescriptive force as a set of *non-ideal (or transitional) principles*. That is: at T2, the Gs have moral reason to implement P1 if a society temporarily governed by P1 is part of the Gs' optimal path towards realizing and stabilizing their new end-state ideal, P2. Note, however, that although P1 may thus retain prescriptive force qua non-ideal target, it is now P2 which counts as the Gs' end-state ideal. Hence, it is still the case that the substantive principles proposed (at T1) as the Gs' non-minimalist end-state ideal, cannot be realized or stabilized while retaining their relevant status (at T2) as the Gs' end-state ideal. We may therefore grant that the set of substantive principles which once counted as people's end-state ideal might still have prescriptive force as a non-ideal target. As an objection to my threefold thesis that fact is neither here nor there.

Concluding remarks: navigating the methodological map

If my threefold thesis is correct, non-minimalism is either incoherent or inconsequential as a methodology for selecting Rawlsian end-state principles for a democratic society. What are the implications, if any, for how a theorist should navigate the 'methodological' map of political philosophy? Let me conclude by mentioning two.

First, *if* the theorist wants to continue working *within the Rawlsian approach*, then minimalism – with its mere technical feasibility constraint – is the safer methodological choice. That 'if,' however, is a big one. After all, many theorists favor non-minimalism because of the ostensible practicability delivered by its acceptance feasibility constraint. If minimalism cannot satisfy the level of practicability the theorist seeks, she might well reject the Rawlsian search for end-state principles altogether. If she does, a tempting alternative might be to work within the Comparative approach, where the relevant targets may have much stronger practicability (than those of Rawlsian minimalism).

Second, there is a way for the theorist to develop coherent Rawlsian end-state ideals while continuing to self-identify as a non-minimalist. Given my scope restriction remarks (in [Sections 1.1](#) and [3.1](#)), the theorist could do so by *tailoring her own beliefs about justice*, such that *none of the principles she selects are in practice constrained by acceptance feasibility*. However, she would then be a non-minimalist in name only. On the one

hand, she could rightly claim that her selection of principles observes non-minimalism's acceptance feasibility constraint. On the other hand, that constraint would no longer fill any methodological purpose, as she could also claim (with equal justification) to be observing minimalism's mere technical feasibility constraint. The end-state principles she selects could of course still differ from those chosen by a Rawlsian minimalist (e.g. with regards to substantive content, critical potential, or practicability). However, those differences, if any, would no longer flow from her choice of methodology. They would instead be fully accounted for by what we may call a 'first-order substantive level' disagreement about what ideal justice requires, rather than a 'meta-level' one about 'what desiderata a good theory of justice should meet' (Valentini, 2017, p. 27). What is then dressed up as a methodological difference would turn out to be no such thing.

Notes

1. From the Correctness approach's viewpoint, the kind of Rawlsian end-state principles that we shall discuss are not 'fundamental' or 'ultimate' principles of justice. They are instead 'rules of regulation' – devices for having certain effects – that we adopt or not, in the light of relevant facts and our 'more ultimate and fact-free convictions' (Cohen, 2008, p. 265).
2. As indicated, the three mentioned approaches are not even exhaustive. One might, e.g. accept the end-state/transitional distinction but challenge the Rawlsian priority of end-state theory (Nili, 2018). Moreover, a significant alternative strand in contemporary debates, often called the *Realist* approach, rejects the liberal conception of politics assumed by Rawlsians and others (Sleat, 2016). For an overview of the Realist approach, see Rossi and Sleat (2014). For a critical appraisal, see Miller (2016).
3. It is worth briefly reflecting upon how the democratic implementation requirement compares with technical feasibility and acceptance feasibility. The latter constrain the *formulation* of end-state principles, rejecting any principle that *cannot* be fulfilled. In contrast, the democratic implementation requirement constrains the *realization* of end-state principles, effectively saying that an end-state principle *should* be fulfilled through *democratic* means (even if it can be fulfilled non-democratically). As an anonymous reviewer observes, the democratic implementation requirement is thus normative in a straightforward sense: it identifies as desirable one candidate way of fulfilling an end-state principle. In contrast, technical and acceptance feasibility are non-normative in that both aim to identify the cut between what people can and cannot do, as a matter of empirical fact. It is worth noting, however, that the question of which feasibility constraint to use – of whether to understand 'can' in a minimalist or a non-minimalist way – is of course in one sense normative (as this paper's title suggests).
4. Note that political feasibility (in contrast to technical or acceptance feasibility) is a *scalar* notion: different policy proposals may be *more or less* feasible in a given circumstance (Lawford-Smith, 2013).

5. As an anonymous reviewer notes, Miller's formulation 'the principles that people already hold' (in the 1999-quote) might add some ambiguity to what it means to pass the acceptance feasibility test. That is, it becomes unclear whether people's set of end-state principles need only be *located on a deliberative route that starts from the specific unreflective principles* that those people currently or 'already' hold (as the 2013-quotes suggest), or whether the set must *preserve at least one of those unreflective principles* (as the 1999-quote might suggest). For present purposes, I follow the former interpretation, which is less restrictive in that it allows the end-state principles devised by the theorist to have no resemblance at all to people's unreflective views. That interpretation arguably yields the most plausible version of Miller's position. Imagine that people's unreflective principles are all morally objectionable but that better alternatives might be accepted after reasoned discussion. To insist on nonetheless keeping one or more of the objectionable principles as part of those people's end-state ideal, as the more restrictive reading demands, seems implausible. (At any rate, as I hope will become clear in due course, my threefold thesis will hold regardless of which interpretation one favors.)
6. The illustrations I use are quite 'orderly' in the sense that they do not involve significant discontinuities in people's beliefs about justice over time. However, as an anonymous reviewer suggests, it is conceivable that people's deliberative routes might display such discontinuity. For example, when the previously best feasible proposal, p1, is superseded by a more 'radical' proposal, p2, people's deliberative route might change such that they now suddenly regard p1 as *wholly unacceptable* as opposed to merely *less good (yet still acceptable)* [as in my more 'orderly' illustrations]. I do not want to rule out such discontinuity (although I struggle to come up with a concrete example).
7. Here one might wonder if it is warranted to expect the Gs to pursue P1 – the initial version of their NMP – in the first place. If my analysis is correct, and if we (plausibly) assume away deception, the Gs are aware, at T1, that by democratically pursuing P1 their deliberative route will change such that P2 eventually becomes their new NMP. At T1, however, the Gs regard P2 as abhorrent. Imagine now that they also regard *a future in which they have come to accept P2* as abhorrent. If so, P1 itself becomes effectively abhorrent for them as an action-guiding ideal. Interestingly, the Gs' feasibility set then retracts around the status quo, forcing the non-minimalist to *define whatever institutions and practices that currently exist as their end-state ideal*. Whether (people like) the Gs will reason in the requisite way is of course an empirical question. But if they do, I concede that their end-state ideal is realizable (qua end-state ideal). The First Incoherence Defect is accordingly avoided. (If the Gs' status quo can be stabilized, the Second Defect is avoided too.) That, however, would be a pyrrhic victory for non-minimalism: it implies that the methodology incurs an *extreme status quo-bias*. While non-minimalism's coherence would then be restored, its claim to 'retain a sharp critical edge' (Miller, 1999, p. xi) would surely be undermined.
8. Concern for the stability of ideals also exists outside the Rawlsian approach (see e.g. Cohen, 2009, pp. 56–57). It arguably amounts to a general methodological requirement (Gilabert & Lawford-Smith, 2012, p. 813, 824, n.1).
9. Or they become indistinguishable in content from minimalist end-state principles, as the third disjunct of my threefold thesis claims.

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