# Diversity, Discovery and Justification

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Ryan Muldoon's *Social Contract Theory for a Diverse World*[1] is strikingly original, bold and important. It advances an array of new ideas and concepts: moral perspectives, objectivity as the "view from everywhere," and a radically new view of bargaining between different perspectives. And at the heart of the entire work is the clarion call for moral and political philosophers to take our deep diversity seriously. I count myself as a fellow-traveler, seeking, like Muldoon, to develop a "New Diversity Theory," which appreciates not only the depth of, but the opportunities presented by, the diversity of our contemporary world.[2] My disagreements with Muldoon are thus intramural ones, about the best way to articulate a large body of shared commitments and concerns.

## 1 THE PRIORITY OF DISCOVERY?

An important difference between our two approaches is that, while Muldoon's point of departure is an expansion of John Stuart Mill's justificatory framework (chap. 2), mine is an expansion of Rawls's public reason liberalism. As Muldoon sees it, "Mill's approach to experiments in living offer us an account of *social discovery*. On this kind of account, justification becomes subsumed to iterated discovery, which includes a permanent competition of perspectives" (30). "This," he goes on to say, "is a more thoroughly empiricist (and evolutionary) model of political justification — rather than pointing to a regulative ideal and comparing ourselves against that a priori standard, we try competing approaches out, *and see what works in our circumstances"* (30, emphasis added). Muldoon is crystal clear that discovery and experimentation have "primacy" for political justification in a changing world (35). Thus the fundamental problem of "Rawlsian public reason:" it is "ultimately about justification, not about discovery" (29).

The language of "experiments" and "discovery" suggests a scientific analogy, and indeed Muldoon explicitly draws on current accounts of the division of cognitive labor in scientific inquiry (30). Now, as I understand them, models of the division of scientific labor typically assume diverse teams exploring different parts of an agreed-upon "scientific landscape."

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[1] Ryan Muldoon, *Social Contract Theory for a Diverse World* (New York: Routledge, 2016). All parenthetical page references in the text refer to this work.

[2] See my essay, "The Complexity of a Diverse Moral Order," *The Georgetown Journal of Law and Public Policy*, forthcoming.

Scientists are imagined to be ''hill-climbers'' on an unknown ''landscape.'' The landscape itself is interpreted as a topic of scientific inquiry. The X and Y dimensions represent potential research approaches. *The Z dimension represents the epistemic significance of any findings to be had given the research approach indicated by the (X, Y) position.* .... At the beginning of inquiry, scientists have no knowledge of the landscape – that is, they do not know anything about the comparative significance of any research approaches. *They discover this only by traversing the landscape.*[3]

These models assume that when one competent scientist reports the Z value of a specific coordinate $(X_i, Y_j)$, others generally concur. *They are exploring essentially the same landscape in different ways*. If the diversity of perspectives leads them to different search strategies on the same landscape, their diversity supports an efficient cognitive division of labor. However, if their perspectival diversity leads them to explore different landscapes — such that when Alf is at $(X_i, Y_j)$ he observes a value of 100 on the Z dimension while when Betty is there she reports a Z value of 0 — their searches will not be of much value to each other.

Scientists sharing roughly the same paradigm are exploring roughly the same epistemic landscapes: they share the similar problems, standards and categories such that when one discovers a solution to problem P others will generally agree that it is indeed a solution to P. The Hong-Page theorem to which Muldoon refers (52), has a similar feature: a diverse group of agents who have different ways of looking at a common problem, and who agree on the value of any given solution, will, under rather demanding conditions, necessarily find the best solution. Again, they share an agreement on the value of any point on the landscape. Given this, my worry should come as no surprise: in our deeply diverse societies, it is seldom if ever the case that we all share the same "epistemic-value" landscape about politics and justice. As I argued elsewhere, what one person considers an ideal point that perfectly solves the problem of justice (perhaps market socialism), another might see as a manifestation of grave injustice.[4] Indeed points that Alf sees as discoveries (say, a society of universal love without any self-interest) may strike Betty as simply impossible, so not scored at all. To be sure, in a diverse society some groups will share sufficiently enough "epistemic-value" landscapes with some others so that what one reports as a discovery will be taken up by like-minded others. I have called these "communities of moral inquiry;" these are critical features of free and diverse societies. Certainly some experiments of some quite different others really do constitute discoveries for me. However, only if social diversity is severely restricted will an entire society constitute a single

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[3] Ryan Muldoon, "Diversity and the Division of Cognitive Labor," *Philosophy Compass*, vol. 8 (2013): 117–125, at p. 120. Emphasis added.

[4] See my *Tyranny of the Ideal: Justice in a Diverse Society* (Princeton: Princeton University Press, 2016), chap. 3.

community of moral inquiry, such that one group's experiment will constitute a public discovery, which can be claimed to be publicly justified, showing "what works for [all of] us." Contrast this to science, where the experiments of one team often do constitute common, public, findings about what works.

## 2 OBJECTIVITY

There is an obvious way to avoid this problem: hold that, after all, we really are searching the same landscape, even when we don't know it. For any (X, Y) coordinate, it can be claimed, there is an objective Z score — what we might call the "true Z score." In this vein Hélène Landemore and Scott Page appeal to the idea of an "oracle" who can announce the true values of points on the landscape.[5] This brings political philosophy back towards the scientific model, for we are again searching a common landscape and seeking to discover the true value of various points, which we then can share with others. This is indeed in the spirit of John Stuart Mill's understanding of experiments in living and the discoveries they yield. Mill was a perfectionist, and believed that individuality, intellectual development and fellow-feeling (such as national feeling) were features of a developed human being.[6] The experiments of intelligent and mature humans would help us all discover the sorts of lives well-suited to the perfection of our nature, and we would ultimately converge on these. Thus, for example, Mill was convinced that experiments with different modes of industrial organization would lead intelligent workers to abandon the wage employment of capitalist firms in favor of new experiments in worker-owned and managed cooperative enterprises; in the end only the least intelligent and least energetic workers would remain as wage laborers.[7]

Muldoon's complex analysis of objectivity as "The View from Everywhere" (Chapter 3 of *Social Contract Theory for a Diverse World*) is thus critical in understanding his analysis of moral and political discovery and, by extension, his understanding of public justification. I cannot hope to do full justice to the complexities of this rich chapter in a couple of pages, but as I read it, eight claims are critical.

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[5] Hélène Landemore and Scott E. Page, "Deliberation and Disagreement: Problem Solving, Prediction, and Positive Dissensus," *Politics, Philosophy & Economics*, vol. 14 (2015): 229-54.

[6] I argued this a (distressingly) long time ago in *The Modern Liberal Theory of Man* (New York: St. Martins, 1983).

[7] John Stuart Mill, *The Principles of Political Economy with Some of Their Applications to Social Philosophy*, in *The Collected Works of John Stuart Mill*, edited by J.M. Robson, vols. 2 and 3 (Toronto: University of Toronto Press, 1965), Bk IV, chap. viii.

(1) Like Mill, the aim is to provide a test that gives evidence about what is (objectively) valuable, good or right (47);

(2) This test is to filter out, or guard against, moral relativism (55);

(3) We have no direct way to test for objective correctness of moral principles (or value) (47);

(4) (a) Beliefs, attitudes and interests are "correlated" with moral principles (47),
(b) Beliefs, attitudes and interests are "evidence" for our moral theories (47);

(5) (a) "Perspectives… help make sense of our moral beliefs and interests" (52);
(b) Perspectives can be understood as "lines of support for beliefs" (54);

(6) So by (4b), beliefs and interests support (are evidence for) moral principles, and by (5b) perspectives are lines of support for beliefs.

(7) *The Master Epistemic Principle*: The more perspectives (lines of support for moral beliefs that, in turn, support/are evidence for) moral principle P, the more confident we should be that P is (objectively) correct (re: (1) and (2)).

(8) "The goal [of the preferred aggregation procedure for determining objective value/moral correctness] is to determine the set of beliefs that have the most independent lines of argumentation supporting them [as per (7), the most perspectives], not those that are most widely held" (55).

Now my concern is whether an account of discovery based on correct or objective Z values along the lines of (1)-(8) can ground a plausible conception of what is publicly justified in a deeply diverse society.[8] I have trouble seeing how: (1)-(8) express precisely the type of controversial metaethical view that Rawls (I think powerfully) argues that we must avoid in public justification.[9] As far as I can tell, moral relativists are simply excluded from the justificatory public by (2). We cannot expect moral relativists to endorse principles which are justified via a discovery test intended to exclude moral relativism. More generally, The Master Epistemic Principle[10] is itself highly controversial. While Muldoon stresses the number of independent lines of reasoning

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[8] Of course putting the issue in terms of "Z values" is not necessary.

[9] See John Rawls, "The Independence of Moral Theory" in *John Rawls: Collected Papers*, edited by Samuel Freeman (Cambridge, MA: Harvard University Press, 1999): 286-302.

[10] This is my label, not Muldoon's.

that lead to moral beliefs, a Christian might appeal to John 14:6: "I am the way, the truth, and the life: no man cometh unto the Father, but by me," which rather suggests that one and only one route is worth paying attention to. There may be many paths to damnation, but only one to salvation.

I don't think it is only relativists and Christians who might be draw back from the Master Epistemic Principle — I worry that it is based on a controversial theory of reasoning and is unwittingly biased in favor of the intelligentsia. The crux of the principle is that the more different lines of reasoning we can find for a conclusion, the more confident we should be in it. The supposition is that the justification starts with beliefs which then, by inference, give us conclusions; the more inferential lines we can find, the more confident we should be in the conclusion. But a good deal of evidence indicates that reason often goes the other way around: we start out with intuitive conclusions for which we find reasons. We know that people are very adept at coming up with many lines of reasoning supporting erroneous intuitions.[11] The more people reason on their own, the more lines of reasoning they find for their prior beliefs.[12] The intelligentsia of a society are its professional reasoners, so in any society we should expect that there will be the most independent lines of reasoning for whatever their moral intuitions are. After all, their job in the cognitive division of labor is the production of increasingly refined and differentiated lines of reasoning for their intuitions. Think, for example, of all the different lines of reasoning supporting egalitarian principles of distributive justice in political philosophy. That professional philosophers start off with leftish moral intuitions almost guarantees the proliferation of leftist perspectives in our society. Whereas the populace is more content to take over a modest number of existing perspectives (and so each will be widely subscribed to), the business of the intelligentsia (a requirement for tenure?) is to arrive at new, often idiosyncratic, ones, albeit usually supporting the old intuitive positions. Unless we can admit into public justification the assumption that the intelligentsia is also more likely to be morally aware — not, I reckon, an admissible claim — The Master Epistemic Principle, and so claim (8), strike me as too controversial as basis for justification.[13]

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[11] For example, in the Wason selection task, where subjects are seeking to test the truth material conditionals, people who arrive at the wrong answer are excellent as formulating a bevy of reasons for their erroneous choices. See, e.g., Hugo Mercier and Dan Sperber, *The Enigma of Reason* (Cambridge, MA: Harvard University Press, 2017), p. 213.

[12] Ibid., p. 247. For an argumentative theory of reasoning such as Mercier and Sperber's, it is the confrontation of conflicting reasons in argumentation that helps us sort out the good from the bad, not the production of lines of reasoning supporting one's intuitions. I certainly do not wish to suggest that Muldoon ignores that in deliberation there is an "exchange of perspectives that might help to settle" moral disputes (56). My limited concern is with what he calls "modified version of the Condorcet Jury Theorem" (57), as articulated by claims (7) and (8), and their role is establishing the priority of discovery.

[13] Sam Spade, though, might accept (7): "All those [reasons are] on one side. Maybe some of them

## 3 THE PRIORITY OF JUSTIFICATION

I thus find it hard to see how discovery and experimentation can have "primacy" for political justification — *if that means justification to all the members of the public* — in a deeply diverse world. A reasonable section of the public (e.g., the "moral relativists") do not believe that there is a common moral landscape to be discovered, and even those who do accept some notion of the objectively correct "Z scores" deeply disagree about the method for uncovering them. These types of worries lead the Rawlsian to insist on the priority of justification over discovery of the moral landscape in thinking about political principles and institutions in a diverse society. Because we so deeply disagree about what is objectively correct (or best) and how to uncover it, deeply diverse societies cannot be organized on the basis of a competition to discover it. That, as I have been saying, is a matter for different moral communities to approach in their own ways. This, though, does not mean that the basic moral and political constitution of a diverse society cannot be justified to all: drawing on their diverse perspectives, we can ask whether all members of the public have reason to endorse the basic structure of our social relations. That, I think, is why most readers of Muldoon's book will focus on chapter 4, "Justice Without Agreement." The innovative proposal of distributing rights through bargains between diverse groups, who reason from different perspectives, brings justification back to center stage.[14] They do not agree what moral objectivity is to be discovered, yet seek common grounds for living together.

Muldoon, however, offers an alternative interpretation of the Rawlsian project. Rawls too, he suggests, adopts a view of correct moral reasoning and objectivity; and rather than Muldoon's empirically-informed "view from everywhere," Rawls seeks moral discovery via a "view from nowhere."  "Rawls … opts for a procedure that … aims to strip away those features of ourselves that might bias us in our process of moral reasoning. The procedure Rawls has in mind is deliberation in the Original Position, behind the 'veil of ignorance'" (39-40). As I see it — and I think Rawls is clear on this point — the aim of the original position is not for us to evaluate our society from a perfectly impartial and detached "nowhere," but to develop a shared perspective of democratic citizens. It is not constructed from nowhere, looking down at our social world, but by "you and me" as democratic citizens, trying to identify a perspective (or, rather, what we might call a "partial perspective") that we all share.[15] As such, it must

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are unimportant. I won't argue about that. But look at the number of them. Now on the other side, we've got what? All we've got is the fact that maybe you love me and maybe I love you." Dashiell Hammett, *The Maltese Falcon* in *The Novels of Dashiell Hammett* (New York: Alfred A. Knopf, 1965), p. 438.

[14] Bargaining about rights allocation is the second stage of Muldoon's "three-stage process" (62). My concern in this essay is the first. The second stage, I think, must do all the work in securing public justification.

[15] John Rawls, *Political Liberalism*, expanded edn. (New York: Columbia University Press, 2005), p.

filter out any information that would allow a person to draw on parts of her perspective not shared by others. "The difficulty is this: we must find some point of view, removed from and not distorted by the particular features and circumstances of the all-encompassing background framework, from which a fair agreement between persons regarded as free and equal can be reached."[16] Indeed for Rawls, finding a suitable method to narrow our disagreements so that we concur in our judgments "normally suffices for objectivity."[17] In this way the original position as a device of justification establishes the basis of objectivity via the priority of justification — not the other way around.

## 4 THE DISCOVERY OF JUSTIFICATION

Because Muldoon understands the original position as a view from nowhere, he depicts the principles that parties arrive at in the original position as "a priori" (30). As I have been arguing, I cannot see how Rawls's principle of justice are knowable before experience; Rawls would claim that they are based on the shared experiences and political values of citizens in a democratic society. However, while overstated, Muldoon's core point is sound: the point of view from the shared perspective of the original position is overly abstract and informationally impoverished. This, I think, is for two reasons. *First,* if the perspective is genuinely to be shared among all good-willed and competent citizens of a democracy, it must be abstract indeed, and so it is difficult to see how it can go beyond abstract principles or platitudes for social living. These are important, but at best they only identify the very broad contours of the terms of our moral relations. Rawls is only able to generate more substantive results from the original position because he implicitly assumes a fairly egalitarian perspective, and so in fact excludes a good portion of the democratic public.[18] *Second* and relatedly, the theory is based on Rawls's understanding of what is shared. The results in the inevitable biases of a single philosopher seeking to articulate a moral blueprint for the construction of social and political order that all members of an extensive, deeply diverse, society can endorse. Is someone with the limited life experiences and knowledge of any single philosopher really competent to devise such a plan for a deeply diverse free and open society?

The great merit of Muldoon's pathbreaking book lies, I think, in his reflections about how we might discover, not the optimal, best, most adaptive, correct or true, but the

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28. On partial perspectives, see *The Tyranny of the Ideal*, pp. 105ff.

16 Rawls, *Political Liberalism*, p. 23.

17 Ibid., p. 120.

18 See *The Tyranny of the Ideal*, pp. 150-4.

terms of association that we can all live with. Although discovery in a Millian sense is not prior to public justification, it is true that we must engage in an ongoing process of discovery to see what can be justified to all members of the public. Philosophic constructions are not up to the task. Hayek showed us that markets are ways to discover information, but he also insisted on the fallacy of thinking that the aim was to reveal the socially most valuable system of ends (or the system of ends with the most perspectives supporting it).[19] What markets reveal to each individual is how to effectively secure her ends in a world in which others are trying to secure theirs. Or, to put it in terms of justification, each is searching for terms of engagement ("bargains") that others find acceptable. This is not a society-wide competition of perspectives (30), but a search by perspectives for ways to reconcile their diverse ideas of an acceptable framework for social living.[20] And here I enthusiastically concur with message of Muldoon's wonderful chapter on "Justice Without Agreement:" finding these terms is a bottom-up social process, not the discovery of any moral philosopher.

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[19] F. A. Hayek, "Competition as a Discovery Procedure" in *The Market and Other Orders*, edited by Bruce Caldwell (Chicago: University of Chicago Press, 2014): 303-313, at pp. 307-8.

[20] As I argue in "Self-organizing Moral Systems: Beyond Social Contract Theory," *Politics, Philosophy and Economics*, vol. 17 (May 2018): 119-147. Muldoon's appeal to the Ricardian model of trade (33-5) is spot-on here, for just as individuals come to appreciate the great gains from trade, so too do we come to appreciate how justified terms of engagement secure the shared normative goods of mutually recognized moral claims and accountability.