

# Rainer Forst's View of the Relationship between Legitimacy, Democracy, and Justice

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## ABSTRACT

From Rainer Forst's standpoint, what is the link between legitimacy, democracy, and justice? Forst argues that legitimacy in modern liberal society is normatively determined by democracy and democracy by justice. In my view, there is no such relationship. I disagree with Rainer Forst's contention that democracy is normatively dependent upon justice as establishing a proper order of justification. He believes that democracy is a justificatory practice that should be undertaken in a normative rather than a factual sense. According to my argument, people within a normative order are unconsciously subject to ideological power in justificatory practices. They, therefore, have no way of ensuring that the requirement of justice is met, that is, that the rights of everyone to justification are respected equally.

**Keywords:** *Legitimacy, Democracy, Justice, Ideological power.*

## 1. INTRODUCTION

Moral and political philosophy has taken a justificatory trend in recent years. Several approaches to moral or political justification have been proposed by philosophers: objective justification, personal justification, and public (interpersonal) justification. Something is objectively proper, beneficial, and appropriate when it is justified objectively. Personal justification refers to the fact that I am justified in believing something is correct, beneficial, and permissible. Something is justified to relevant individuals for reasons that are relevantly acceptable to them, which is known as public or interpersonal justification. Rainer Forst is a philosopher who supports public or interpersonal justification and is known for establishing the reciprocal and general acceptability (RGA) condition for public or interpersonal justification. If and only if something is reciprocally and generally accepted by all affected people, it meets the condition of reciprocal and general acceptability (RGA).<sup>[1]</sup> What is more, Rainer Forst claims that the condition of reciprocity and generality is served as a basis for unmasking false justification in the real world since this condition entails a right to justification.<sup>[1]</sup>

Given the philosophical significance of the notion of public justification, philosophers like Rainer Forst and other contemporary theorists believe that a good

understanding of public justification gives us important insights into the understanding of legitimacy and democracy.<sup>[2,3]</sup> How can the concept of public justification, according to Forst, contribute to our understanding of legitimacy and democracy? To answer the question, I need to elaborate on Rainer Forst's view of justice and of the relationship between legitimacy, democracy, and justice.

In my paper, I explore the question of what is the relationship between legitimacy, democracy, and justice from the perspective of Rainer Forst. Rainer Forst believes that the concept of legitimacy is normatively dependent on the notion of democracy in modern liberal society, and the concept of democracy is normatively dependent on the concept of justice. My opinion differs from his view. To this end, I will do three things. Firstly, I define ideological power as the power to shape opinions. Then, I put forward an imaginary example of Rupert Murdoch to explain how ideological power has a problematic impact on shaping people's ideas in the justificatory practice without people's awareness. Finally, I conclude that in the democratic practice, people within a normative order could be unconsciously subject to ideological power and have no way to make sure that the requirement of justice is actually met.

## 2. FORST'S VIEWS OF JUSTICE

Forst is distinguished for his reconceptualization of

justice. According to Forst, justice, the most crucial normative concept in political philosophy, is not a calculative conception understood as the distribution of goods but rather “a matter of the justifiability of certain social relations, grounded in the recognition of the essential intersubjective relationality of justificatory being.” [4]

The distributive concept of justice focuses on distributing goods, “what goods individuals receive or deserve,” abbreviated as “who gets what.” Forst criticizes this distributive conception of justice as a mathematical calculus of distributing goods to citizens because it conceals some substantive questions. We could use a classical metaphor, dividing up a cake, to elaborate the problems of the concept of distributive justice, which aims to divide up the quantities of pieces of cake fairly. Firstly, when it is cake-oriented, justice is no longer agents’ accomplishment since it turns agents into passive recipients. Secondly, distributive justice takes the claim to the cake as granted. However, the claim should only be justified and ascertained by the justification procedures in which all involved are free and equal. Thirdly, distributive justice regards the scarcity of the cake as a problem, but it does not have explanatory power over the reason behind the scarcity. Some face the scarcity of cake because of an earthquake or other natural disasters, while others face it due to political exploitation. The latter case is often regarded as a case of injustice due to the political domination relations, while the former is not often understood as a severe problem of injustice. Finally, distributive justice emphasizes too much allocation but ignores production. Therefore, Forst argues that people should liberate themselves from the goods-centered or recipient-centered understanding of justice focused solely on quantities of goods.

Forst has a new picture of justice from his reflection on the negative experience of injustice. Injustice is arbitrary rule and domination, which refers to the rule of some people over others without legitimate reasons. I want to use an example to illustrate Forst’s ideas. Imagine rulers imposing high taxes only based on their own wishes. In that case, the underlying impulse to oppose the high taxes is not primarily the impulse to have much lower taxes but rather the impulse to defend the right to justification in the tax field where everyone should be treated as a free and equal justificatory being. Therefore, justice “rests on the claim to be respected as a subject of justification.” [5] In other words, the free and equal right to justification is the cornerstone of justification.

Forst reconceptualizes justice as non-domination. Justice is the status of the free and equal agent of justification. Forst puts forward a picture of justice focusing on intersubjective relations and structures. In other words, Justice is not “who gets what” but “who determines who gets what”. Justice is primarily about

status of agents, not about goods. “Justification is the creation of the appropriate orders of justification in which individual’s claim can be heard, respected, and adjudicated.” [4]

I will elaborate more about Forst’s Kantian conception of justice as nondomination. His conception of nondomination is somewhat different from Philip Pettit’s negative republican conception of freedom as non-domination, a sheltering mechanism for freedom of choice fighting against arbitrary interference. Forst’s notion of nondomination highlights the status of a subject of justification. His idea of freedom as nondomination is grounded and defined by the theory of justice focusing on intersubjective relations. He thinks that the basic claim to freedom is freedom from domination; therefore, the basic claim to freedom is based on one’s standing as a free and equal subject of justification. Also, the basic claim to liberty is defined by what they can justly and justifiably owe to one another in a social base structure. Forst argues that to ensure non-domination, both “contestation” and “shared control” are essential practices of democratic justification and ought to be combined under one’s basic rights to justification. When legitimate claims of certain persons or groups have been neglected, one kind of contestation that criticizes policies or norms that can not meet a requirement of reciprocal and general acceptability has to take place in the democratic process. Otherwise, these people would be dominated and suffer their rights to justification. For another, when the protective function of the rule of law is performed, “shared control” should be controlled by public justification to ensure non-domination. Forst thinks that since the right to justification is one’s basic right, the theory of justice as non-domination has to be the basic structure covering all areas of social lives and institutions, not only for a political sphere in a narrow sense.

### **3. FORST’S VIEW OF RELATIONSHIP BETWEEN LEGITIMACY, DEMOCRACY AND JUSTICE**

Rainer Forst believes that the relationship between legitimacy, democracy, and justice is that the concept of legitimacy is normatively dependent on the notion of democracy in modern liberal society, and the concept of democracy is normatively dependent on the concept of justice.

Rainer Forst argues that the concept of legitimacy is normatively dependent because we can’t appeal to a single concept of legitimacy itself to affirm or question the legitimacy of normative orders. Further normative resources are required to evaluate the legitimacy of normative orders. However, further normative resources that the normative content of legitimacy derives from may be heterogeneous. For example, according to Max Weber’s theory of political legitimacy, the normative

content of legitimacy of the authority comes from different ideas, such as tradition or custom in the case of traditional authority, the personality and leadership qualities of the individual in charismatic authority, and the system of bureaucracy and legality in rational-legal authority.<sup>[6]</sup>

What is more, Rainer Forst argues that within a liberal democratic framework, liberal democracy, regarded as a way of respecting and protecting the rights of individuals, provides a normative context for forming the concept of legitimacy. In other words, if people want to understand what makes a liberal state legitimate, they could appeal to the normative idea of liberal democracy as something that aims to respect individuals' rights properly. Therefore, the concept of legitimacy relies normatively on the notion of democracy in modern liberal society.

Rainer Forst believes that the concept of democracy is normatively dependent on the concept of justice because the normative core of democracy is the fundamental moral claim of the right to justification, while the right to justification is the keystone to the theory of justice.

Firstly, Rainer Forst regards the right to justification as the normative core of democracy because, for Rainer Forst, democracy as a justificatory practice is committed to respecting the right to justification of each relevant person. Rainer Forst defines the core idea of democracy or democratic practice as co-authorship. To be specific, every citizen within the normative order must be capable of being a co-author of the norms, especially through institutional procedures, like representative procedures. In other words, democracy as a justificatory practice rests on the moral claim of the right to justification of everyone, which asserts that nobody within a normative order may be subjected to actions or norms that can't be justified to him or her as an autonomous and equal justificatory authority.<sup>[7]</sup> Therefore, the right to justification is the normative core of democracy.

Then, Rainer Forst also claims that the right to justification is the conceptual core of justice. Rainer Forst reconceptualizes justice as the establishment of a basic structure of justification because, for Rainer Forst, justice aims to oppose political domination, that is, arbitrary rule.<sup>[5]</sup> To be specific, Rainer Forst believes that political domination or arbitrary rule is not only the form of rule of some over others without legitimate reasons but also the form of rule over others without sufficient institutional procedures of justification in a normative order. When power is deployed arbitrarily without justifiable reasons and sufficient institutional procedures of justification, citizens can't be treated as equal justificatory beings and never have a chance to determine the justifiability of the normative order. Therefore, justice should be regarded as establishing a proper order of justification by which every citizen could give his or

her assent to the normative order to which he or she is subjected as a free and equal justificatory being. Then, justice, according to Rainer Forst's definition of justice mentioned above, that is, the establishment of a basic structure of justification, depends on a fundamental moral claim that every citizen should be respected as an equal and free agent with a fundamental right to justification who can provide and demand justification within a normative order. Therefore, the right to justification is the keystone of Rainer Forst's theory of justice.

Finally, democracy as a justificatory practice fulfills the requirement of justice, that is, the requirement of equal respect for the right to the justification of each relevant person. Specifically, Rainer Forst believes that this kind of democracy as a justificatory practice is the essential part of justice, and all other parts of justice, such as distributive justice, spring from this kind of democracy as a justificatory practice and are secondary. It is only through this justificatory practice that people within the normative order can identify or determine which principles of distributive justice should be implemented or enacted. In other words, only if justice as respect for the right to the justification of each relevant person is realized then, people are in the place to determine the principles of distributive justice and the results of justice could be achieved. Therefore, the concept of democracy is normatively dependent on the concept of justice.

#### **4. SOME COMMENTS**

I can't entirely agree with Rainer Forst's opinion that the idea of democracy, as democracy as a justificatory practice should be done in a normative sense rather than a factual sense, is normatively dependent on Rainer Forst's concept of justice as the establishment of a proper order of justification. My argument is that people in normative orders are unconsciously subject to ideological power in justification practices. Therefore they have no way of ensuring that justice is being upheld, i.e., every person's right to justification is respected equally.

First, I will take it that ideological power involves the power to shape interests, ideas, and preferences.<sup>[8]</sup> For example, mass media can have the kind of ideological power to shape people's ideas. Here, I want to give a vivid example to explain how ideological power has a problematic impact on shaping people's ideas in justificatory practice without people's awareness when the requirement of equal respect for the right to justification of each relevant person seems to be satisfied. Rupert Murdoch, who is a media mogul and owns many newspapers, has a strong influence on the formation of public opinions. In other words, Rupert Murdoch has strong ideological power to shape public opinions. Suppose that Rupert Murdoch decides to speak highly of

the conservative party and speak lowly of the progressive party in Australian politics. At the same time, suppose that Rupert Murdoch is so influential in forming the public opinion that every citizen in Australia agrees with the false political beliefs that all conservative candidates and politics are excellent and rational. In contrast, all progressive candidates and progressive politics are stupid and irrational. In other words, every citizen in Australia is manipulated and controlled by Rupert Murdoch's ideological power. Imagine there is a political justificatory practice to determine which policy, conservative or progressive, should be enacted, and only Australian citizens are affected by the decision so that only Australians count as relevant people for the purpose. In this democratic practice, all Australian citizens agree in a manner that is equally acceptable for all affected others that the conservative policy should be implemented.

In this situation, this kind of justificatory practice seems to satisfy the requirement of equal respect for the right to justification of each relevant person from the perspective of Rainer Forst, but knowing that people are subject to ideological power undermines the belief that the requirement of equal respect of the right to justification of everyone is met.

Here is the argument. Firstly, the right to justification can only be justified in justification discourses. Secondly, ideological power can have a problematic influence on justification discourses subconsciously, just as I mentioned above. Then, suppose ideological power can problematically impact justification discourses in general. In that case, ideological power can also problematically impact justification discourses that cope with the justification of the requirements of equal respect of the right to justification of everyone. What is more, people are unaware of being subject to ideological power and being brainwashed, so they can't correct the brainwashing and fight off the impact of ideological power on justification discourses. Similarly, people are unconsciously brainwashed by ideological power. They have no way to eliminate the impact of ideological power on the specific justification that deals with equal respect for the right to the justification of everyone. Therefore, knowing that we can unconsciously be subject to ideological power will undermine our faith in the conclusion that justificatory practice satisfies the

requirement of equal respect for the right to justification of each relevant person that we were arriving at.

## 5. CONCLUSION

Rainer Forst believes that the normative content of legitimacy derives from the notion of democracy in modern liberal society, and democracy as a justificatory practice relies on the moral claim of the right to justification of everyone, which is the conceptual core of justice as non-domination. Nevertheless, in my opinion, in democratic practice, people within a normative order can unconsciously fall victim to ideological power. They may be unable to ensure that justice, i.e., the right to justification for all, is upheld.

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