

**Repulsed by Rawls:
Anthropology, (Criminal) Justice, and the Ethnographic Imperative**

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When I began teaching in the Justice Studies Department at James Madison University I was a newly minted cultural anthropologist. I was in the midst of completing a project on responses to the methamphetamine problem in a rural community in West Virginia (Garriott 2011). The basis of this project was twelve months of ethnographic research within the community, examining local experiences of the problem and the efforts in place to address it. My thinking about questions of justice in this context was shaped deeply by an anthropological tradition in which the concept of justice was viewed from a cultural, comparative, and—above all—ethnographic perspective. Much of this work examined local or popular conceptions of justice and its relationship to law or other formal institutions of dispute processing, social sanction, and the like. This literature shaped the approach I took in my own work. The point of departure was discovering how those living in the community in which I was a temporary researcher and resident were themselves thinking about justice in relation to the emergent problem of methamphetamine. In this regard I was following a long anthropological tradition by abiding by the call of what I term “the ethnographic imperative.”

Conceptualizing justice anthropologically means, in the first instance, heeding the call of the ethnographic imperative. By ethnographic imperative I mean the felt sense of obligation to think through a problem, theory, or concept—such as justice—ethnographically. Ethnographic work can take many forms. At bottom, however, is the concern with what anthropologist Laura Nader calls “concrete instances”: real, existing conditions in which actual human beings live.

The impact of the ethnographic imperative on anthropological approaches to justice is perhaps best captured in Laura Nader’s reaction to philosopher John Rawls’s seminal work, *A*

Theory of Justice. Published in 1971, *A Theory of Justice* is widely considered one of the most significant contributions to political and moral philosophy of the twentieth century. It has been widely influential, inspiring work not only in philosophy and the humanities, but the social sciences as well. In his introduction to the volume *Justice: Views from the Social Sciences*, Ronald L. Cohen describes Rawls's work as "[t]he most prominent contemporary theory of justice" (Cohen 1986: 1).

Rawls follows in the footsteps of Hobbes, Locke, Rousseau, and Kant by framing his inquiry in terms of the social contract. In this regard, Rawls would seem to have an affinity with work in the social sciences because he pursues the question of justice from the context of social relations. Rawls takes a different approach, however. Rather than take social relations as a point of departure, Rawls begins by obscuring and suspending them: hiding them behind a "veil of ignorance," the so-called "original position" in which

no one knows his place in society, his class position or social status, nor does anyone know his fortune in the distribution of natural assets and abilities, his intelligence, strength, and the like. I shall even assume that the parties do not know their conceptions of the good or their special psychological propensities. The principles of justice are chosen behind a veil of ignorance (Rawls 1971).

What seems to be implied in Rawls's theory is that adequate principles of justice can only be derived from a fictional, artificial position in which self-knowledge, social relations, cultural values and the like are suspended. The implication is that actually existing human beings and their communities have, at best, nothing to tell us about the concept of justice and, at worst, are barriers to the development of a principled account of justice that is, in the end, truly just.

This aspect of Rawls's theory has been the subject of much criticism (e.g., Sandel 1982), and has limited his influence in certain social science circles. This is particularly true in anthropology, where Rawls has had virtually no major impact. Laura Nader's reaction to Rawls suggests why this is the case, and is indicative of the anthropological take on the Rawlsian approach more generally. "[A]fter reading John Rawl's first edition of *A Theory of Justice* (1971)," Nader writes, "I felt repulsion—*where are the concrete instances*" (Nader 2010: 326; emphasis added)?

Nader is careful to note that this sense of repulsion had nothing to do with Rawls's politics. Indeed, even a cursory familiarity with the work of Nader and Rawls reveals a common concern with social (in)justice. Nader's repulsion is rooted instead in Rawl's methodology.

Specifically, she objects to the fact that he “deal[s] in the imaginary when writing about justice” (ibid). Commentators have noted that Rawls works in the realm of “ideal theory.” His efforts are geared at generating “realistic utopias”: “His accounts are utopian insofar as they do not reflect any existing arrangements, and realistic insofar as they are possible given what we know about human nature” (ibid). This eschewing of “existing arrangements” is what Nader finds most repulsive. This is most evident in her comparison of the Rawlsian approach with that of ethnography. “Ethnographers *go there*, participant observe by living there, leaving, and returning, recording what happens” (ibid; emphasis in original).

My own efforts to understand the effect of methamphetamine on rural America were shaped by a felt sense I needed to “go there.” Between 2006 and 2007 I conducted ethnographic research looking at the impact of the methamphetamine problem on the rural community of Baker County, West Virginia. For more than a year I combed through archives, spoke with townspeople, and observed the impact meth was having on the social order itself. I focused particularly on everyday social relationships such as kinship networks, neighboring practices, exchanges of rumor and gossip and community involvement, to see how these were being reoriented around the growing concern over meth.

Concerns about justice were at the center of my work, though they were not always articulated in these terms. I watched as prosecuting priorities of the courts shifted towards meth offenders, increasing caseloads and bringing new people into the criminal justice system; as community groups advocated for expanded drug testing in schools, causing tension between teachers and students, parents and children; as rumors circulated over who had been seen going to receive treatment for addiction at the local mental health facility; and as addicts, driven into a life of crime by their use of methamphetamine, were sent to overcrowded regional jails and state prisons where they received little medical treatment. Upon their release they struggled to find a place for themselves in their communities where they lived with the double stigma of both their criminal record and their addiction. In this way I was able to chart the subtle changes that, in their accumulation, were progressively transforming the practice of everyday life in the wake of meth.

What did this research reveal about justice? No one answer will suffice. What can be said, however, in the small space I have here is that the continued focus on drug offenders appears to be having an erosive effect, chipping away rather than galvanizing faith in public

institutions and their capacity to justly solve social problems. Indeed, one of the most striking findings of my research was the pessimistic light in which residents viewed efforts to address methamphetamine.

This was true, not just among citizens, but among those given the task of dealing directly with the meth problem itself – police, probation officers, public health workers, judges, etc. To briefly illustrate: I asked Frank Fields, a state trooper who spent two years working exclusively on drug-related cases, if he thought what he and his fellow officers were doing was having any effect. He smiled slightly and shook his head no. “All we can do is try and contain it,” he said. “But we’ll never get rid of it.”

Daryl Montgomery, a sheriff’s deputy who had carried out undercover drug investigations for two years as part of a Federal Drug Task Force, echoed this sentiment. After explaining in detail all he had done to locate and arrest local methamphetamine dealers, he sighed and with a slight grin wistfully concluded, “Yeah, but we’ll never win the war. We’re just a nation of drug users.”

Perhaps the most telling came during an early interview I conducted with Rose Hinkle, a probation officer whose caseload had doubled with the rise of methamphetamine use in the area. She lamented meth’s availability and addictiveness, describing person after person who’d ended up sitting in her office because of their involvement with meth. “Meth is impossible,” she said, shaking her head wearily. “*What do you do with them?*”

How should we understand these attitudes? And what do they reveal about justice? My own view is that they serve as commentaries on U.S. drug policy which has emphasized criminalization as the key tool in addressing the social harms posed by illicit drugs. These policies have had a significant impact on multiple facets of U.S. society, but nowhere has the impact been as significant as on the criminal justice system. This system now has as one of its key functions the punitive management of drug offenders, as well as, by extension, the wider social problems from which their drug use and criminality stems—poverty, unemployment, and social insecurities of all kinds. This has led to numerous problems and complications, not least of which is a sense of futility on the part of those working in the system, saddled with the task of drug enforcement and drug offender management. Though they did not articulate it in these terms, there was a common attitude among criminal justice workers that, on the whole, justice was not being done. This attitude was shared among many in the community, who likewise

expressed frustration with both the limitations and excesses of the criminal justice system's efforts to address methamphetamine and its correlate social problems.

Being exposed to this perspective revealed that the possibilities for change, for developing a more just drug policy, were, perhaps, starting to become a reality. Though the punitive orientation of U.S. drug policy has, in many ways, been a boon for the criminal justice system, creating a constant rationale for increased funding, changing laws so as to increase the scope of police power, and the like, it has also caused problems for the system, the effects of which are being felt by those working in the system as well as those subject to its sanctions. At bottom, this is a crisis of justice, one seemingly felt by everyone involved in the criminal justice system, and one that comes through with particular force when viewed from an ethnographic perspective.