

A note on reciprocity of reasons

1. Introduction

Authors like Rainer Forst and Stephan Gosepath claim that moral or political “normative claims,” widely conceived, depend for their validity, or justification, on meeting a requirement of reciprocal and general acceptability (henceforth RGA).¹ Forst (but perhaps not Gosepath) claims that RGA is reasonably non-rejectable as a standard of moral and political justification, that it is foundational in moral and political thought, and that it provides, or is part of what provides, a basis for “categorical” justifications of moral or political principles—that is, justifications that build on grounds and proceed by standards that cannot reasonably be rejected. Critics have argued that RGA is not reasonably non-rejectable, that it is not foundational, and that it cannot allow for “categorical” justifications.² However, even granting that RGA can reasonably be rejected and that it is not foundational, it may still be a good justification standard to adopt in at least some contexts, or for some purposes. And even if RGA does not allow for “categorical” justifications (if anything does), it might still allow for justifications on grounds and by standards that, in some contexts or for some purposes, are widely acceptable and cogent enough. Thus, does RGA allow for *good enough* justifications (at least sometimes)?

Below, I focus on a key component of RGA, namely, “reciprocity of reasons,”³ in order to argue that if RGA is construed in Forst’s terms, it may not serve as a standard of moral or political justification at all. Section 2 reconstructs RGA. Section 3 points out problems that arise in making use of the standard, given the idea of the reasonable that Forst builds into it, and considers some attempts to save the standard. Section 4 concludes with a few constructive observations.

2. Reciprocity of reasons?

What does reciprocal and general acceptability call for? “Generality” refers to RGA’s scope, or the range of people by whom ϕ must be reciprocally acceptable. For Forst, ϕ is acceptable generally if, roughly, ϕ is acceptable by everyone who is relevantly affected by ϕ , ϕ ’s endorsement, or ϕ ’s implementation. For what matters here, I set aside this idea of generality, and with it problems that RGA inherits from its view of scope,⁴ to focus exclusively on cases in which it is not in doubt who is to count as a relevantly affected person. What, in such cases, constitutes reciprocal, equal acceptability? Says Forst:

¹ Rainer Forst, *The Right to Justification* (New York: Columbia University Press, 2012), p. 214; Forst (ed.), *Justice, Democracy and the Right to Justification* (London: Bloomsbury Publishing, 2014); Forst, *Justification and Critique* (Cambridge: Polity Press, 2014); Forst, “The Justification of Human Rights and the Basic Right to Justification: A Reflexive Approach,” *Ethics*, Vol. 120/4 (2010), pp. 711-740; Stephan Gosepath, “On the (Re)Construction and Basic Concepts of the Morality of Equal Respect,” in Uwe Steinhoff (ed.), *Do All Persons Have Equal Moral Worth?* (Oxford: Oxford University Press, 2015), pp. 124-141.

² See Steinhoff, “Against Equal Respect and Concern, Equal Rights, and Egalitarian Impartiality,” in Steinhoff, *Do All Persons Have Equal Moral Worth?*, pp. 160-168; Thomas M. Besch, “On the Right to Justification and Discursive Respect,” *Dialogue: Canadian Philosophical Review* Vol. 54/4 (2015), pp. 703-726; Stephen K. White, “Does Critical Theory need strong foundations?,” *Philosophy and Social Criticism*, Vol. 41/3 (2015), pp. 207-211; John McGuire, “Two Rawls Don’t Make a Right: On Rainer Forst and the New Normativity,” in *Constellations* Vol. 23/1 (2016), p. 110-121; Lois McNay, “The limits of justification: Critique, disclosure and reflexivity,” in *European Journal of Political Theory*, published Oct. 2016, DOI 10.1177/1474885116670294. On conditional justification: Onora O’Neill, *Toward Justice and Virtue* (Cambridge: Cambridge University Press, 1996), p. 51.

³ Forst, “The Justification of Human Rights and the Basic Right to Justification,” p. 719.

⁴ See Eva Erman, “The Boundary Problem and the Right to Justification,” in Forst, *Justice, Democracy and the Right to Justification*, pp. 127-146.

To be able to distinguish “acceptable” from “unacceptable” reasons, two criteria are required: *reciprocity* and *generality*. First, reasons that justify specific normative claims must be reciprocally non-rejectable, that is, the author of these claims may not demand any rights or privileges that he or she denies his or her addressee. Moreover, the author may not project her own opinions, interests or values onto others and thus decide for him- or herself, rather than reciprocally, how to fulfil the criterion of reciprocity. The same is the case for the addressee of the claims.⁵

Reciprocity means that no one may make a normative claim (...) he or she denies to others (call that reciprocity of content) and that no one may simply project one’s own perspective, values, interests, or needs onto others such that one claims to speak in their “true” interests or in the name of some truth beyond mutual justification (reciprocity of reasons).⁶

In a similar vein, Gosepath, who closely follows Forst, stresses that “[o]nly that which is *equally* acceptable to everyone can be regarded as justified,” so that to justify a norms is to show that it “can be equally accepted” by relevant people.⁷

Reciprocal, equal acceptability requires reciprocity “of content” and reciprocity “of reasons”. What does this mean? Reciprocity of content seems relatively straightforward: in essence, it asks us to treat like cases alike and hence requires some form of universalizability. This, too, I shall set aside now in order to focus on reciprocity of reasons. From what Forst says in the passage quoted above, it is not clear what exactly reciprocity of reasons calls for. But the following brings out his point. To begin with, Forst rehearses that normative claims—such as reason claims, principles, norms, value judgments—must meet RGA (for any normative claim, ϕ):

RGA ϕ is valid, or justified, iff ϕ is, or is based on reasons that are, reciprocally and generally acceptable: ϕ is *equally acceptable* (reciprocity) by *all affected people* (generality).

The two passages quoted above then specify what *kind* of acceptability RGA calls for. Forst draws on a contrast between an agent’s *actual* perspective, or her actual opinions, interests, needs, and so on, and a perspective that others inaccurately attribute to her. And he seems to tell us that ϕ must be acceptable by the agent in light of her *actual* perspective:

RGA-a ϕ is valid, or justified, iff ϕ is, or is based on reasons that are, reciprocally and generally acceptable: ϕ is equally acceptable by all affected people in light of perspectives, opinions, interests, or needs, that they *actually* have.

Call this an *actualist* reading of RGA. Note here that RGA is not an ideal theory standard. It does not require ϕ to be suitably acceptable by people in light of their actual perspectives, or their actual deliberative resources, widely conceived, *provided* people were situated in ideal societal or deliberative circumstances, such as Rawls’s well-ordered society, or a Habermas-type ideal speech situation. RGA requires ϕ to be suitably acceptable by actual people in light of their actual deliberative resources, given their actual circumstances.

An actualist reading sits well with the putative emancipatory role of RGA: where justification practices abide by RGA, Forst insists, affected people are being allocated a “qualified veto-right” in matters that affect them, and this protects, or goes some way toward

⁵ Forst, *The Right to Justification*, p. 214.

⁶ Forst, “The Justification of Human Rights and the Basic Right to Justification,” p. 719.

⁷ Gosepath, “On the (Re)Construction and Basic Concepts of the Morality of Equal Respect,” p. 133. Emphasis is Gosepath’s.

protecting, their “freedom from unjustified domination.”⁸ But to serve in such a role, RGA must accord people not merely a normative say, but a say that is *accessible* and *authentic*. To be accessible, it must be within their actual reach to exercise their say. E.g., if RGA counts Betty’s acceptance or rejection of ϕ as “qualified,” or authoritative, only if it is ideally informed and perfectly rational—a bar she cannot actually meet—then Betty’s normative say is not within her reach: she has a normative say, but no voice. And to be authentic, what RGA records as Betty’s say must recognizably be hers by her lights. Suppose she is committed to reject ϕ (and hence rejects ϕ), while it is true of her that she could accept ϕ if she met liberal “threshold tests of reasonableness,”⁹ which she has the ability, but not the conviction or motivation to meet. If RGA then records as her normative say that ϕ is acceptable by her—say, because RGA only considers what people can reasonably accept or reject—then Betty’s normative say would not recognizably be hers, at least not by her lights. It is plain that RGA-a accommodates accessibility and authenticity. On an actualist reading, RGA ranges over actual Betty’s actual deliberative resources, and it records her actual say.

But then RGA is a non-starter.¹⁰ Consider a principle that prohibits marital rape. If RGA disqualifies this principle as invalid, it cannot plausibly serve as a standard of moral validity. Yet RGA-a disqualifies this principle. A prohibition of marital rape is not acceptable by all affected others in light of their *actual* commitments. Some husbands take it to be their role prerogative as husbands to force their spouses to have sex; and for some, this view might reflect deeply held social, cultural, religious, or other commitments. By RGA-a’s lights, then, the principle is invalid. The same holds for a principle that *permits* marital rape. You and I are committed to reject it. Thus, marital rape is neither prohibited, nor permitted—which is morally absurd. Similar things follow in other cases in which relevant people are deeply divided about proposed moral content. Given real world facts of interpersonal difference, then, RGA-a has morally absurd results, and renders morality systemically incoherent.

Can RGA escape this problem? To do so, either RGA’s scope must be tailored so as to exclude everyone who is committed to reject what should not be rejected. I set this aside, given RGA’s focus on *general* acceptability. Or there is more to RGA than RGA-a allows. And there is: at least some of the time, Forst employs a normatively reinforced version of RGA. Consider:

[R]easons that can justify moral claims [are] *reasons that cannot be reasonably—that is not reciprocally and generally—rejected*. As such they justify norms (...) as norms against whose validity no good reasons can speak. [This] conforms to the idea that such reasons must be “shared” reasons, but accentuates (...) that they must be *sharable*, in order to do justice to the openness of the procedure of justification and to underscore the (in this sense counterfactual) moment of reciprocal and general acceptability – or better, nonrejectability – independent of the factual acceptance or nonacceptance of reasons.¹¹

In passing: Forst often moves back and forth between positive and negative formulations of RGA. On balance, he prefers a negative version. Bearing this in mind, the above suggests:

F1 Normative claims must be based on reasons that no affected person can reject *reasonably*.

⁸ Forst, “Toward a Critical Theory of Transnational Justice,” *Metaphilosophy*, Vol. 32/2 (2001), p. 168f; “The Justification of Human Rights and the Basic Right to Justification,” p. 719.

⁹ Stephen Macedo, *Liberal Virtues* (Oxford: Clarendon Press, 1991), p. 47.

¹⁰ This paragraph draws of Uwe Steinhoff’s discussion: see his “Against Equal Respect and Concern, Equal Rights, and Egalitarian Impartiality.” In Steinhoff, *Do All Persons Have Equal Moral Worth?*, p. 167ff.

¹¹ Forst, *The Right to Justification*, p. 21. Forst’s emphasis.

- F2 Reasons that affected people cannot reject *reasonably* are reasons that they cannot reject on the basis of reasons that meet the standard of reciprocity and generality.¹²

This suggests a normatively reinforced variant of RGA:

RGA-r ϕ is valid, or justifiable, iff ϕ is based on reasons “*that cannot be reasonably—that is not reciprocally and generally—rejected.*”

RGA-r openly accommodates a need that non-ideal theory standards of acceptability-based justification must address. They must somehow qualify the kind of acceptability, or non-rejectability, that they take to constitute, or contribute to, validity, or justification. Acceptability can count toward validity, or justification, in a given context and relative to a given subject matter only if it is, or counts as, *authoritative* in that context and relative to that subject matter. In RGA-r’s case, an idea of the reasonable serves as the relevant bar for authoritativeness. Thus, the standard of reciprocal and general acceptability is a standard of reciprocal and general reasonable acceptability.

Prior to further analysis, RGA-r seems more promising than RGA-a. It is open whether RGA-r can accord people a relevantly accessible and authentic normative say. But it might save RGA from the above problems. That some rapists are committed to reject a principle that prohibits marital rape does not count against the principle if their rejection reasons are unreasonable. And perhaps Forst’s bar for reasonableness might help also in other cases to avoid counter-intuitive results and systemic incoherence. Thus, let us read RGA as RGA-r.

3. RGA-r: problems

Assuming RGA takes the form of RGA-r, can it serve as a standard of moral or political justification? I shall now argue that the standard cannot serve in this role at all.

To start with, recall F1 and F2, above: normative claims must be based on reasons that relevant people cannot reject “reasonably;” and these are reasons that they cannot reject on grounds that are reciprocally and generally acceptable. This reiterates RGA as a constraint on the reasonableness of rejection reasons. Forst re-iterates RGA in this way presumably because he takes the requirement of reciprocity and generality to be foundational in, and hence to apply at all levels of, moral and political reasoning. For Forst, this means that RGA, or the content of the standard, must itself be reciprocally and generally acceptable. But this undermines the standard, or our ability to employ it in its designated role.

Suppose we ask whether ϕ is valid. According to RGA-r, ϕ is valid only if ϕ is based on reasons “*that cannot be reasonably (...) rejected.*” To know whether ϕ is valid, then, we need to know whether ϕ can be rejected by reasons that meet RGA-r. But a putative rejection reason meets RGA-r only if it is not the case that this reason, or its role as a rejection reason, is rejectable on the basis of reasons that—again—meet RGA-r. But then we enter a regress: we cannot know whether ϕ is reciprocally and generally acceptable, or non-rejectable, unless we know whether ϕ can be rejected reasonably, on the basis of reasons, ϕ_1 , that are reciprocally and generally acceptable, or non-rejectable. Yet in order to know this, we need to know whether ϕ_1 -reasons can be rejected reasonably, i.e., on the basis of reasons, ϕ_2 , that are reciprocally and generally acceptable, or non-rejectable. And so on for all reasons ϕ_i . Unless there is more to the picture, therefore, we can never know whether normative claims are valid in RGA-r’s sense. Hence, any claim to the effect that ϕ is (is not) reciprocally and generally acceptable must at best be stipulative, if not merely arbitrary or dogmatic.

Can we repair RGA? More content must be built into RGA-r for it to be able to avoid the regress problem. And Forst concedes that more content may be built into RGA if this

¹² Forst, *The Right to Justification*, p. 214.

content, or building it into RGA, “fulfil[s] the criterion of reciprocity [and generality].”¹³ Might this help? Now it is plain that there are many predicates, or sets of predicates, α , such that adding α to RGA-r would render the then-enriched standard, α RGA-r, determinate enough to avoid the regress problem (for instance, consider the various components of Rawlsian, liberal reasonableness).¹⁴ But is it permissible to add α to RGA-r, considering that α , or adding α to RGA-r, must pass the test of reciprocal and general acceptability?

Set aside the general issue whether reflexivity is a good constraint on a standard of acceptability-based justification, and consider only whether RGA-r can act as a genuine constrain in the present case. Plainly, RGA-r can act as a genuine constraint here only if it is available in a form that allows it to do any *constraining*—thus, it must be determinate enough to allow us to tell whether ϕ is (is not) reciprocally and generally acceptable. But RGA-r is not available in such a form. The regress problem arises because we cannot tell whether ϕ meets that standard. But then reflexivity accomplishes nothing: the problem that we try to remedy by adding α will reappear when we try to examine whether our proposed remedy is permissible. This leaves us with the above problem. Claims to the effect that it is (is not) reciprocally and generally acceptable to build α into RGA-r are at best stipulative, if not merely arbitrary or dogmatic. And, other things being equal, justifications by the standard α RGA-r would for that reason be objectionable.

This conclusion may be premature. Suppose we ask whether adding α to RGA-r—thus yielding α RGA-r—is reciprocally and generally acceptable. To test reflexivity, we might examine either of two things:

1. Does adding α to RGA-r meet RGA-r? (This tests, say, *simple* reflexivity.)
2. Does adding α to RGA-r meet α RGA-r? (This tests, say, *enriched* reflexivity.)

The problem noted in the previous paragraph occurs if we answer (1). Any indeterminacy that we seek to remedy by adding α to RGA-r troubles us again when we examine whether α , or adding α to RGA-r, meets RGA-r. Thus, a test of simple reflexivity is pointless. But the problem might not arise if we answer (2): α RGA-r might be determinate enough to allow us to tell whether α , or adding α to RGA-r, meets α RGA-r. Thus, might subjecting α RGA-r to a test of enriched reflexivity help?

It is difficult to tell what kind of merit enriched reflexivity is. For one thing, Forst never proposes or defends any candidate predicate, or set of predicates, that may come in here (at least I do not know where he does this). Thus, we have nothing concrete to go by. More important now is another matter: even if there is some predicate α such that α , or adding α to RGA-r, is reciprocally and generally acceptable in light of α RGA-r (and granting, as well, that α RGA-r would be determinate enough to not be viciously regressive), it does *not* follow that it is permissible to build α into RGA-r. Whatever merit a test of enriched reflexivity tests for, in the case at hand this test puts the bar for success *too low*.

To see why, consider a *fundamentalist* conception of reciprocity and generality. Suppose we take ϕ to be valid if and only if ϕ is reciprocally and reasonably acceptable by all affected people. But suppose also we define reasonableness as follows: actual or possible acceptances or rejections are reasonable only if they are based on reasons that {the right-minded can coherently accept as good reasons, while people are right-minded just in case they always give highest priority to True Doctrine}. Let the bracketed part of the last sentence serve as our candidate addition to RGA-r, α^* . We are to consider, then, whether α^* ,

¹³ See Forst, *The Right to Justification*, p. 214

¹⁴ See Andrew Lister, “Public Reason and Reciprocity,” *The Journal of Political Philosophy* Vol 25/2 (2017), p. 158; Besch, “Political Liberalism, the Internal Conception, and the Problem of Public Dogma,” *Philosophy and Public Issues*, Vol. 2/1 (2012), pp. 158-160.

or building α^* into RGA-r, is reciprocally and generally acceptable in terms of α^* RGA-r. Presumably, this would have us consider something like:

- Q1 Is it reciprocally acceptable by all affected people, provided they always give highest priority to True Doctrine, to require ϕ to be reciprocally acceptable by affected people, provided they, too, always give highest priority to True Doctrine?

We do not know what the answer to Q1 is unless we know what exactly the commands of True Doctrine are. What we do know, however, is that the answer to Q1 will almost entirely depend *on the contents of True Doctrine*—rather than, for instance, what all affected people could coherently, intelligently, or respectably accept, or what they should be able to accept whether or not they endorse True Doctrine. We know, as well, that the answer to Q1 will most certainly be in the affirmative so long as True Doctrine is *exclusionary enough* so as to *not* require acceptability by anyone other than its fundamentalist adherents. Clearly, then, even if α^* RGA-r passes a test of enriched reflexivity, this does not show that it is permissible to build α^* into RGA-r, or that α^* RGA-r *may* serve as a standard of moral or political justification. At most, it might show that it is not self-defeating for fundamentalist adherents of True Doctrine to adopt α^* RGA-r (and so much the worse for them).

Thus, even if α , or building α into RGA-r, passes a test of enriched reflexivity, not much is gained. Perhaps this might show that one possible reason to reject α RGA-r does not obtain. But this may not recommend the standard *at all*. That a standard of moral or political justification passes the test of enriched reflexivity cannot recommend the standard if the reason *why* it passes that test is not relevantly meritorious to begin with. And this it may not always be. In the above example, it is the fact that True Doctrine is relevantly *exclusionary*, if anything, that renders α^* RGA-r able to pass the test of enriched reflexivity. In this case, the fact that α^* RGA-r passes that test does not recommend the standard, but reflects the presence of reasons to *reject* it.

To sum up, RGA, even in its more promising variant RGA-r, is subject to fatal flaws. In the form Forst gives RGA-r, the standard is regressive, and should be rejected. And while it may be possible to save RGA-r by adding content that renders it suitably determinate, subjecting the then-enriched standard to a test of reflexivity either gains nothing (simple reflexivity), or not enough (enriched reflexivity). As it stands, then, RGA is unsuitable as a standard of moral or political justification.

4. Conclusion

Where does this leave matters? For one thing, it is at best mysterious how authors like Forst, Gosepath, and others who follow them, can with any confidence recommend or criticise any substantive, internally coherent ϕ for its (putative) ability or inability to meet RGA. What we have seen suggests that when any such ϕ is recommended or criticised on such grounds, this must involve reasoning that proceeds from stipulation, or that is arbitrary or dogmatic.

However, it does not follow that there cannot be a version of RGA that may serve as a standard of moral or political justification—in some contexts, or for some purposes. Instead, what follows is this.

First, RGA-a must be rejected if RGA-a is to apply in justification contexts in which interpersonal differences would lead to morally absurd or incoherent outcomes. But perhaps an evolution of the doctrine of reciprocity and generality is conceivable such that RGA-a applies exclusively in justification contexts where such outcomes do not stand to be avoided (for instance, contexts in which all affected people share suitable moral commitments). Second, RGA-r cannot serve as justification standard in *any* justification context if RGA-r takes the form Forst gives the standard. But perhaps an evolution of the doctrine of

reciprocity and generality is conceivable such that RGA-r builds on a relevantly enriched conception of reasonableness that avoids the regress problem and is reflexively stable within its own scope—whether or not reflexive stability is construed in terms of simple or enriched reflexivity.

Of course, reasons to recalibrate RGA, which must be part of a justification of the then-recalibrated RGA, cannot meaningfully be constrained by RGA. Accordingly, such attempts to save RGA would need to downgrade RGA to a lower-order standard in the order of moral or political justification. Still, theorists who are inclined to hold on to RGA have a path forward.