

## Rawls

### Justice as Fairness

## Suppose . . . .

- Suppose you have a bag of chocolates. And, suppose you have the task of distributing those chocolate across the entire classroom. Also, suppose you don't get any chocolate until you have distributed the chocolate to everyone else.
- What principle will you use to distribute the chocolate?
- How will the constraint that you don't get any chocolate until you've distributed it to everyone else influence your system of distribution?

## Suppose . . . .

- Suppose you have the task of creating a new social contract. How would you do it fairly?
- You can't eliminate your biases completely. However, you would want to try to minimize them as much as possible.
- You know nothing of your place in society, your economic status, your natural abilities, your gender, race, etc.
- You assume that you and everyone else in society is an equal moral being, free, rational, and with basic human needs.
- What are the principles for this new contract and new social order?

## Original Position as State of Nature

- From this original position, it seems that the rational agent would want a social contract that was as just/fair as possible:
  - protecting individual liberties, and
  - distributing benefits and burdens in such a way that the least well-off are in as good a position as possible
- Only if it is rational for one to choose or contract into this society behind the "veil of ignorance" does that system meet the requirements of justice

## Guiding Idea

- “The guiding idea is that the principles of justice for the basic structure of society are the object of the original agreement. They are the principles that free and rational persons concerned to further their own interests would accept in an initial position of equality as defining the fundamental terms of their association.”
- The decision humans would make in a hypothetical state of equal liberty determines the principles of justice

## Original Position as State of Nature

- Hypothetical state of affairs that leads to a certain conception of justice
- Essential features:
  - No one knows his place in society, his class positions, or his social status
  - No one knows their “fortune” in the distribution of natural assets and abilities
  - No one knows their conceptions of the good or their psychological propensities

## Veil of Ignorance

- Principles of justice are selected behind this veil of ignorance
- Selecting principles of justice behind this veil guarantees that no one is advantaged or disadvantaged in the choice of principles of justice
- The principles of justice are the result of a fair agreement or bargain
- “Justice as fairness” is the idea that the principles of justice are arrived at by rational humans in an initial situation that is fair

## Justice as Fairness

- If we all knew that the hypothetical situation in which the principles of justice were decided were such to treat everyone fairly, then we would accept these principles as the most fair and just
- Rawls admits that in reality we are each born unequal and with different social, economic and natural advantages and disadvantages
- Even so, the principle of justice as fairness is one that rational individuals would enter voluntarily because it holds the most promise of being fair and unbiased

## Justice as Fairness is a Contract Theory

- Justice as fairness is a contract theory just like Hobbes and Locke
- Two parts of the contract theory
  1. an interpretation of the initial situation and the problem of choice
  2. a set of principles which we all could agree to
- Rawls admits that one could accept one part while rejecting the other

## What Principles Would Be Selected Behind the Veil of Ignorance?

- Principle One: basic rights and duties are assigned equally
- Principle Two: social and economic inequalities are just only if they result in compensating benefits for everyone, in particular for the least advantaged in society

## Justification of the Original Position

- In the original position, no one should be advantaged or disadvantaged by natural fortune
  - Justice as fairness is indifferent to and nullifies the “accidents of natural endowment and the contingencies of social circumstance”
  - From a moral point of view, the differences of birth and social circumstances are arbitrary
- In the original position, it should be impossible to shape the principles to one’s own situation
- In the original position, one’s personal view about the good should not affect the principles adopted
  - if you knew you were wealthy, then you might create principles that would benefit you but disadvantage others
- All parties in the original position are equal

## Constraints Define the Principles of Justice

- “Together with the veil of ignorance, these conditions define the principles of justice as those which rational person concerned to advance their interests would consent to as equals when none are known to be advantaged or disadvantaged by social and natural contingencies.”
- The conception of justice is justified by mutual support various considerations and coherence

## Two Principles of Justice

- First principle: “each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others”
- Second principle: “social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone’s advantage, and (b) attached to positions and offices open to all.”
- The principles are applied in a certain order: failure to meet the first principle (demands of equal liberty) cannot be justified by an increase in the second principle (greater economic or social advantages)

## First Principle and Liberties

- The first principle demands that a citizen’s basic liberties are equal
- These basic liberties include,
  - Political liberties: right to vote, eligibility for public office
  - Freedom of speech and assembly
  - Liberty of conscience and freedom of thought
  - Personal freedom and the right to hold property
  - Freedom from arbitrary arrest and seizure

## Second Principle and Distribution

- The second principle concerns the distribution of wealth and income and the design of those institutions which have authority over others
- Application of the second principle requires holding positions of authority open and then arranging social and economic inequalities to everyone’s mutual benefit

## How Are Goods Distributed?

- Suppose society distributes primary goods, both social and natural goods
- Suppose there is a starting situation in which everyone receives an equal share of social primary goods
  - everyone has similar rights and duties
  - income and wealth are shared evenly
- If some inequalities make everyone better off than they were in the hypothetical starting situation, then these unequal distributions are consistent with the principle of justice as fairness

## Constraints on Unequal Distributions

- The principle of justice places no constraints on which inequalities are permissible
- All that the principle of justice requires is that everyone's position be improved
  - E.g., humans might give up some political rights when the economic returns are significant
- Rawls thinks that the two principles require that everyone benefit from social and economic inequalities

## When are Unequal Distributions Permissible?

- Unequal distributions are permissible when “they maximize, or at least contribute to, the long-term expectations of the least fortunate group in society.”
- There is a restriction on the sort of inequalities allowed
  - The serialization of principles forbids the exchange of “basic liberties” for economic or social benefits
    - In other words, you can't pay someone to give up their right to vote

## Denial of Equal Liberty

- Rawls seems to concede that one could deny equal liberties only if the denial is necessary to “raise the level of civilization” and bring about a free and just society
  - E.g., imposing martial law in order to bring stability to a society
- But, he thinks that the serial ordering of the two principles will help guarantee the realization of equal liberties

## What's the Worst That Can Happen?

- The original position is one where the “maximin” rule applies
- Maximin rule (*maximum minimorum*): rule that considers the worst that can happen under some proposed course of action and decides what to do based on the worst that can happen
- Rawls thinks this rule applies to the original position because those in the original position deciding on principles of justice will agree (i) that the distribution is fair and the risk of seeking more benefits cannot be justified, and (ii) that one is not likely to accept the other alternatives

## Difference Principle

- Difference principle is a principle in which undeserved inequalities demand redress, or to be set right
- If we are to treat people equally and provide equality of opportunity, then society must pay more attention to those with “fewer native assets” and to those born into socially disadvantaged positions
  - e.g., more money should be spent to educate the “less intelligent” in early education

## Difference Principle is Not Principle of Redress

- Difference principle does not require that all handicaps be evened out so that all could compete on an even basis
- Rather, the principle is intended to justify the allocation of resources in order to improve the long-term conditions and expectations of the least favored
- Difference principle does treat the distribution of natural talents as a common asset
  - Those who have been favored by nature may gain from their good fortune only on terms that improve the situation of those who have not been favored by nature

## Do the More Talented Deserve Their Rewards?

- Rawls says that “no one deserves his greater natural capacity nor merits a more favorable starting place in society.”
  - But, he also argues that one should not (and probably cannot) eliminate these differences
- A better way to deal with these differences is to arrange the structure of the distribution of goods such that the distributions work for the good of the least fortunate
- “Thus we are led to the difference principle if we wish to set up the social system so that no one gains or loses from his arbitrary place in the distribution of natural assets or his initial position in society without giving or receiving compensating advantages in return.”

## Difference Principle and Reciprocity

- Difference principle is a principle of mutual benefit
  - The scheme of social cooperation benefits the well-being of each
  - Cooperation is expected only if the terms of the scheme are reasonable

## What is Just and Unjust?

- The natural distribution of natural talents and social position is neither just or unjust
- The way institutions deal with the facts of these natural distributions is just or unjust
  - Justice as fairness requires that humans agree to share one another's fate

## Do the Better Off Deserve Greater Advantages?

- Do those better situated deserve their greater advantages, even if they are not a benefit to others?
- Rawls thinks that “no one deserves his place in the distribution of native endowments, any more than one deserves one's initial starting place in society.”
- What if one gains his position because of his superior character?
  - Again, Rawls thinks that one's character is in large part determined by one's family and social circumstances which are both out of one's control

## What Does One Deserve?

- Rawls concludes,
  - “Thus, the more advantaged representative man cannot say that he deserves and therefore has a right to a scheme of cooperation in which he is permitted to acquire benefits in ways that do not contribute to the welfare of others. There is no basis for his making this claim.”
- The difference principle is equally concerned with and acceptable to the more advantaged and the less advantaged

## Democratic Interpretation of the Principles of Justice

- The democratic principles of liberty, equality and fraternity are consistent with a democratic interpretation the principles of justice
  - Liberty corresponds with the first principle
  - Equality corresponds to the idea of equality in the first principle and in the difference principle with regard to the idea of fair opportunity
  - Fraternity corresponds to the difference principle, in that we would not want greater advantages unless those with lesser advantages are benefited as well

## Who is Guaranteed Justice?

- The moral person is guaranteed justice
- What distinguishes the moral person?
  1. The moral person is capable of having, and assumed to have, a conception of their good, which is expressed by a rational plan of life
  2. The moral person is capable having, and assumed to acquire, (i) a sense of justice and (ii) a desire to apply and to act upon the principles of justice
- Basic rights and liberties are owed to any individual who meets the minimum for moral personality

## Why Not Base Equality on Something Other Than Moral Personality?

- Rawls bases equality on the minimum capacity for a moral personality
- What other property or properties might equality be based upon?
- Rawls argues that there are no other properties upon which to base equality
  - One cannot base equality on natural abilities because there is no natural feature upon which all humans could be considered equal
  - Even if we all had some common property, it is not clear we would all have it in equal measure

## Equal Consideration

- The essential feature of equality is equal consideration
- Equal consideration demands that we have mutual respect for others
  - We should consider another's point of view in terms of their conception of their good
  - We should offer reasons for our actions when those actions affect others