

OUTLINE, AND BRIEF OUTLINE, OF RAWLS ON JUSTICE

AN OUTLINE OF RAWLS' IDEAS ON SOCIAL JUSTICE

First put forward in his 1958 paper 'Justice as fairness' and developed in book *A Theory of Justice* - 1971 - and summarised here from the summary on the internet Stanford Encyclopaedia of Philosophy

Justice as Fairness: Justice within a Liberal Society

Justice as fairness is Rawls's theory of justice for a liberal society. Rawls constructs justice as fairness around specific interpretations of the defining liberal ideas that citizens are free and equal and that society should be fair. He holds that justice as fairness is the most egalitarian, and also the most plausible, interpretation of liberalism's fundamental concepts.

Justice as fairness sets out a version of social contract theory that Rawls believes provides a superior understanding of justice to that of the dominant tradition in political philosophy: utilitarianism.

1 The Basic Structure of Society

Justice as fairness aims to describe a just arrangement of the major political and social institutions of a liberal society: the political constitution, the legal system, the economy, the family, and so on.

Rawls assumes that the liberal society in question is marked by reasonable pluralism, that there are enough resources for it to be possible for everyone's basic needs to be met and, for the sake of simplicity, that the society is self-sufficient and closed, so that citizens enter it only by birth and leave it only at death.

2 Two Guiding Ideas of Justice as Fairness

Social cooperation is necessary for a decent life, and that cooperation should be fair to all citizens - regarded as free and equal - free to conduct their lives according to their own conception of the good life insofar as this does not limit the similar freedom of others, and equal in that accidents of birth - like race, wealth, parental position - should not affect their rights and privileges as citizens. .

There should be a presumption that cooperatively-produced goods should be equally divided - unless any inequalities improve everyone's situation, and especially that of the worst-off.

3 The Two Principles of Justice as Fairness

These guiding ideas of justice as fairness are expressed in its two principles of justice:

First Principle: Each person has the same infeasible claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all;

Second Principle: Social and economic inequalities are to satisfy two conditions:
 They are to be attached to offices and positions open to all under conditions of *fair equality of opportunity*;
 They are to be to the greatest benefit of the least-advantaged members of society (the *difference principle*). (JF, 42-43)

The first principle of equal basic liberties is to be used for designing the political constitution, while the second principle applies primarily to social and economic institutions. Fulfilment of the first principle takes priority over fulfilment of the second principle, and within the second principle fair equality of opportunity takes priority over the difference principle.

The first principle affirms for all citizens familiar basic rights and liberties: liberty of conscience and freedom of association, freedom of speech and liberty of the person, the rights to vote, to hold public office, to be treated in accordance with the rule of law, and so on. The principle ascribes these rights and liberties to all citizens equally.

This reflects the general liberal belief in liberty, but Rawls idea is more radical in two respects. Firstly, the priority of this first principle means that these basic rights and liberties are not to be traded off against other social goods like economic efficiency. And secondly, his notion of *fair value of the political liberties* means that liberties concerned with the rights to hold public office, campaign, vote etc. should be substantially, and not merely formally, equal, regardless of social class.

Rawls's second principle of justice has two parts. The first part, fair equality of opportunity, means that e.g. that justice does not allow class of origin [or wealth] to turn into unequal real opportunities for education or meaningful work.

The second part of the second principle, the *difference principle*, allows in effect for financial incentives for greater social contribution, but on the condition that a given inequality can only be justified on the grounds that it, as opposed to other distributions, most benefit's the worse off.

This does not mean that the worse off benefit most. E.g. of the two following unequal distributions -

Economy	Least-Advantaged Group	Middle Group	Most-Advantaged Group
---------	------------------------	--------------	-----------------------

A	12,000	15,000	20,000
B	17,000	50,000	100,000

B would be preferred over A, because although A is more equal, the worst off are best off under B. But before B could be actually justified, Rawls' difference principle would also require it to be shown that there were no other, less unequal distribution, that would benefit the worse off as much as B.

The idea behind the difference principle is that natural endowments are undeserved and therefore do not warrant an greater share of socially produced goods - unless their use [and the incentives necessary to get them used] can be shown to benefit all, and especially the worse off.

4 The Formal Argument for the above Principles.

Rawls' formal argument is via an imaginary social contract in which first the principles of justice and then the details of constitution and laws and economic arrangements are progressively agreed. This is done under certain defended assumptions regarding the nature of the citizens taking part, the nature of society and the conditions under which the negotiation takes place. The following sections deal with these in turn.

5 The Conception of Citizens

Citizens are free in that each sees himself as being entitled to make claims on social institutions in his own right; their public identities are independent of any private beliefs -- e.g. a change of religion would not affect their political freedoms and rights - and finally are free in being able to take responsibility for planning their own lives, given the opportunities and resources that they can reasonably expect.

Citizens are equal in virtue of having the capacities to participate in social cooperation over a complete life. Citizens may have greater or lesser skills, talents, and powers "above the line" required to cooperate, but differences above this line have no bearing on citizens' underlying equal status.

Citizens are also assumed to be reasonable and rational. Reasonable in that they can abide by fair terms of cooperation, even at the expense of their own interests, provided that others are also willing to do so - the capacity for a *sense of justice*. And rational in that they have the capacity to pursue and revise their own view of what is valuable in human life - the capacity for a *conception of the good*. Together these underlying capacities are the *two moral powers*.

The *primary goods* - the basic needs of citizens - are those essential for developing and exercising the two moral powers, and useful for pursuing a wide range of specific conceptions of the good life. Primary goods are:

- The basic rights and liberties;
- Freedom of movement, and free choice among a wide range of occupations;
- The powers of offices and positions of responsibility;
- Income and wealth;
- The social bases of self-respect: the recognition by social institutions that gives citizens a sense of self-worth and the confidence to carry out their plans. (*JF*, 58-59)

All citizens are assumed to have fundamental interests in getting more of these primary goods, and equality and inequality of primary goods are of the greatest political importance.

6 The Conception of Society

Society is defined by fairness: social institutions are to be fair to all cooperating members of society, regardless of their race, gender, religion, class of origin, reasonable conception of the good life, and so on.

Publicity is an important aspect of fairness. In a *well-ordered society*, if the principles for the basic structure are to be coercively enforced, they and their grounds should be open to, and able to withstand, public scrutiny. In “public political life, nothing need be hidden.” (*PL*, 68)

7 The Original Position

For his formal argument Rawls moves to consider an imaginary kind of social contract. He does so by translating the question: “What are fair terms of social cooperation for free and equal citizens?” into the question “What terms of cooperation would free and equal citizens agree to under fair conditions?”

For reasons of simplicity he considers question being answered by an isolated community - self sufficient and with enough to meet citizens needs, but not all that all could want.

In order to meet the fair conditions he imagines an arrangement which would allow an open discussion without the intrusion of particular interests. Citizens would each be represented in this discussion by a person negotiating from behind a *veil of ignorance*.

Behind the veil of ignorance, the informational situation of the parties that represent real citizens is as follows:

- Parties do not know:
 - The race, ethnicity, gender, age, income, wealth, natural endowments,

- comprehensive doctrine, etc. of any of the citizens in society, or to which generation in the history of the society these citizens belong.
- The political system of the society, its class structure, economic system, or level of economic development.
- Parties do know:
 - That citizens in the society have different comprehensive doctrines and plans of life; that all citizens have interests in more primary goods.
 - That the society is under conditions of moderate scarcity: there is enough to go around, but not enough for everyone to get what they want;
 - General facts about human social life; facts of common sense; general conclusions of science (including economics and psychology) that are uncontroversial.

The strategy of the original position is to construct a method of reasoning that models abstract ideas about justice so as to focus their power together onto the choice of principles. So Rawls's conceptions of citizens as free and equal and of society as fair are built into the design of the original position itself. Rawls's intent is that readers will see the outcome of the original position as justified because they will see how it embodies plausible understandings of citizens and society, and also because this outcome confirms many of their considered convictions about justice on specific issues.

The original position is a thought experiment: an imaginary situation in which each real citizen has a representative, and all of these representatives come to an agreement on which principles of justice should order the political institutions of the real citizens.

The veil of ignorance is intended to situate the representatives of free and equal citizens fairly with respect to one another. No party can press for agreement on principles that will arbitrarily favor the particular citizen they represent, because no party knows the specific attributes of the citizen they represent. The situation of the parties thus embodies reasonable conditions, within which the parties can make a rational agreement. Each party tries to agree to principles that will be best for the citizen they represent (i.e., that will maximize that citizen's share of primary goods). Since the parties are fairly situated, the agreement they reach will be fair to all actual citizens.

This is the *original position*, which embodies ideas of fairness, equality and openness.

8 The Argument from the Original Position: The Selection of Principles

Rawls argues that from this 'original position' people - the representatives - would agree on his above two principles of justice. In fact he only considers why they would prefer his principles to utilitarianism, the main contender at the time he was writing, which he considers in two forms.

First he has the parties compare the two principles to *the principle of average utility*: the principle that the basic structure should be arranged so as to produce the highest level of

utility averaged among all citizens.

In this first comparison Rawls argues that the parties would prefer his two principles to average utility because it is rational for the parties here to use *maximin* reasoning: to maximize the minimum level of primary goods that the citizens they represent might find themselves with. Under average utilitarianism the basic liberties of some citizens might be restricted for the sake of greater benefits to other citizens - and since, under the veil of ignorance, it might be the their citizen who is so discriminated against, no representative would find this acceptable.

Moreover, Rawls says, a society governed by his two principles has other advantages over a utilitarian society. Securing equal basic liberties for all encourages a spirit of cooperation among citizens on the basis of mutual respect, taking divisive conflicts about whether to deny liberties to certain groups off of the political agenda. By contrast a utilitarian society would be riven by mutual suspicions, as different groups put forward highly speculative arguments that average utility could be increased by implementing various partisan policies.

Next the representatives compare the two principles and *the principle of restricted utility*, which is identical to Rawls's two principles except that the difference principle is replaced with a principle of average utility to regulate the distribution of wealth and income, constrained by a social minimum. While the first comparison turned on the importance of the basic liberties, the second scrutinizes the reasons for the difference principle.

Here neither maximin reasoning nor aversion to uncertainty play any role in the argument for the difference principle. Rather, the parties favor Rawls's two principles because they provide a better basis for enduring cooperation among all citizens. The two principles ask less of the better-off than restricted utility asks of the worst-off. Under the two principles those who are better endowed are permitted to gain more wealth and income, on the condition that their doing so also benefits their fellow citizens. Under restricted utility, in contrast, those living at the minimum will suspect that their interests have been sacrificed to make the better-off better off still. They may become cynical about their society, and withdraw from active participation in public life. Moreover, it is difficult to agree about which policies actually will maximize average utility, whereas the difference principle is clear cut and each party will see the advantages of securing such a social world for the citizen they represent.

9 The Argument from the Original Position: The Check for Stability

Having selected the two principles of justice as fairness, the parties next check that these principles can order a society stably over time.

The two principles are congruent with each citizen's good. Citizens will see that the basic liberties allow them to pursue their reasonable conceptions of the good, and that the

economic arrangements serve their interests. Consequently, Rawls argues that it is reasonable to suppose that citizens will develop a desire to act in accordance with them. Rawls says, “is one that is perspicuous to our reason, congruent with our good, and rooted not in abnegation but in affirmation of the self.” (*TJ*, 261)

10 Institutions: The Four-Stage Sequence

Deciding in favour of the two principles of justice is the first of a four stage process during which the veil of ignorance is gradually lifted and increasingly concrete interpretations of the principles are made to the actual society in question. At these stages the parties devise the institutions necessary to realize the fair value of the equal political liberties in accordance with the first principle, and those necessary to implement the distribution of wealth in accordance with the second principle..

One further matter is decided at the first stage: a *principle of just savings* to regulate how much one generation must save for future generations. This policy may favour a steady state versus continuous economic growth.

At the second stage the parties are given more information about the society's political culture and economic development, and take on the task of crafting a constitution that realizes the two principles. At the third stage the parties learn still more about the details of the society, and agree to specific laws and policies that realize the two principles within the constitutional framework decided at the second stage. At the final stage the parties have full information about the society, and reason as judges and administrators to apply the previously-agreed laws and policies to particular cases. When the four stages are complete the principles of justice as fairness are fully articulated for the society's political life.

E.g. at the constitutional and legislative stages the parties translate abstract basic liberties such as “freedom of thought” into more particular rights like the right to free political speech, which is then further specified as the right to criticize the government, the special rights of the press, and so on.

Rawls explicitly rejects the welfare state. Welfare state capitalism leaves control of the economy in the hands of a group of rich private actors. It therefore fails to ensure for all citizens enough resources to have even roughly equal chances of influencing politics, or to have sufficiently equal opportunity in education and employment. The welfare state tends therefore to generate a demoralized under-class. Laissez-faire capitalism is even worse for equality than the welfare state along these dimensions. And a socialist command economy puts too much power in the hands of the state, again endangering political equality and also threatening basic liberties such as free choice of employment. Justice as fairness, Rawls says, favours either a *property owning democracy* - with widespread ownership of productive assets and broad access to education and training - or democratic socialism - which is similar but features worker-managed firms.

The Original Position and Political Constructivism

The original position is also the crux of Rawls's metaethical theory, *political constructivism*. Rawls holds, roughly, that the judgements following from the original position are, not true, but objective in the sense that the original position embodies shared notions of person and society and principles of practical reasoning for making judgments about justice, and its consequences are agree - and therefore provide a motivation and reasons independent of any individual motives or reasons. It is also reasonable.

BRIEF OUTLINE

Rawls began as a Utilitarian, but came to think it had flaws - which come out in his argument.

The Ideal Just State: His aim is to construct an idea of the Ideally Just State - although to an extent he seems to allow for variations in detail. (If we know what the ideal would be like then we could better see where real states were falling short.)

The 'Original Position'

He defends his idea via an imaginary social contract - made under certain conditions - which he calls the 'original position'. (All social contract theorists appear to have considered the social contract a kind of thought experiment.)

Basic Liberal Ideas - the two 'guiding ideas'

Everyone is in principle equal and free to pursue their own conception of the good life.

Social cooperation is necessary for the good life, but it should be a presumption that the results of that cooperation be equally shared - unless differences benefit all.

The Two Principles of Justice

First Principle: Each person has the same infeasible claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all;

Second Principle: Social and economic inequalities are to satisfy two conditions:
They are to be attached to offices and positions open to all under conditions of *fair equality of opportunity*;
They are to be to the greatest benefit of the least-advantaged members of society (the *difference principle*).

The first principle takes priority over fulfilment of the second principle, and within the second principle fair equality of opportunity takes priority over the difference principle.

The first principle concerns especially political liberties - free speech, rights to vote and hold political office etc. - and its priority means that these basic rights and liberties are not to be traded off against other social goods like economic efficiency.

Furthermore these political liberties should be substantially, and not merely formally, equal, regardless of social class - which Rawls calls the *fair value of the political liberties*.

Rawls' Social Contract, - the 'Original Position' and political constructivism

All such have been thought experiments - if people were to come together to devise a society, what sort of society would they agree on - what would be its underlying principles of justice and what kind of social institutions and rules would they set up?

For Rawls, it seems, this is not just a more dramatic way of presenting his argument: it also provides the kind of standard objectivity to which Rawls thinks questions of justice can aspire.

There are problems about how value judgements can be *true* (or false). Descriptions are true if they correspond to how the world actually is. If I say "This table top is rectangular." then what I say is true if the table top is rectangular - and false otherwise. But value judgements, including statements about what is just, are statements about how things *should be*, and of course things need not be as they *should be*. So it is not clear what value judgements correspond to - and so not clear how they can be true - or false.

Rawls [apparently] believes that value judgements, including judgements about justice, or what is a just society, cannot be true or false in the way that descriptions can. But he does think that they can have a certain kind of objectivity - i.e. be more than just a matter of individual opinion. A rule or value would have this kind of objectivity if it were what rational people would agree to abide by following impartial consideration.

And so, in effect he translates the question: "What are fair terms of social cooperation for free and equal citizens?" into the question "What terms of cooperation would free and equal citizens agree to under fair conditions?"

He then spells out a situation - what he calls 'the original position' - in which people debate what principles of justice to adopt - and then what social institutions to implement these principles. And then by arguing how these people would decide he arrives at what he defends as objective principles of justice.

'The Original Position'

Rawls does not imagine the 'original position' as people in a 'state of nature' coming to discuss setting up a society; rather he imagines people already in a society coming together to negotiate basic principles of justice and then to decide how to reform their society to meet them.

But he makes a number of stipulations about the original position - about the people, the society and the procedure of negotiation.

Of the People

These are kind of assumptions about human nature.

People are not just the satisfaction seekers of many economists.

1. They are Free and Equal
2. And also Reasonable and Rational

Reasonable in that they have a *capacity for a sense of justice* - they can abide by fair terms of cooperation, even at the expense of their own interests, provided that others are also willing to do so

Rational in that they have a *capacity for a conception of the good* - they can reason about what makes for a good life.

Rawls calls these *the two moral powers*

3. Plurality: they do not all have the *same* notion of the good life.
4. They have a desire to meet their need for *Primary Goods*
 - The basic rights and liberties;
 - Freedom of movement, and free choice among a wide range of occupations;
 - The powers of offices and positions of responsibility;
 - Income and wealth;
 - The social bases of self-respect: the recognition by social institutions that gives citizens a sense of self-worth and the confidence to carry out their plans.

Of the Society

These are strictures laid down for the sake of the argument.

1. For simplicity he assumes the society is *isolated* - no one joins or leaves, and there is no communication with other societies.
2. There is enough to meet everyone's needs, but not everyone's desires.

Of the Procedure for Debate

1. *The Veil of Ignorance.*

Here Rawls is seeking conditions which will achieve *impartiality*.

To achieve this he imagines that each citizen of the society will be represented in the negotiations by another person *who has no knowledge of the society in question or of the person whom they represent* - no knowledge of their social position, or of their sex or their of mental and physical capacities.

Thus the representatives negotiate from behind a *veil of ignorance*. .

2. The Stages of the Negotiation and the Lifting of the Veil

First, the principles of justice (for which the veil is complete), Second, discussion of institutions and laws (when the representatives learn of the current nature of the society in question so that they can make suitable reforms) and Finally, the representatives (or by now it could just be the citizens themselves) have full knowledge and administrate the system agreed.

The Negotiation

On the Principles of Justice: Rawls has the representatives compare his two principles with Utilitarianism - which he considered as the major rival theory.

1. Compared with the *Principle of Average Utility* - that average utility should be maximized - Rawls argues that representatives would prefer his Principles rather than risk their citizen being deprived of basic liberties for the sake of maximising overall utility.

2. Compared with *Restricted Utility* - which is like Rawls principles except that the *Difference Principle* is replaced with a utility maximizing principle. Here Rawls avoids appealing to maximin or risk aversion arguments. Representatives would favour his principles since they are a) more socially cohesive - ask less of the well off than restricted utility asks of the worse - and are more transparent - since the difference principle is more clear cut than questions of utility - its benefits to all are apparent and so less liable to give rise to envy and resentment.

I'll skip over the rest. Rawls has his representatives, still behind the full veil of ignorance, to agree that a society governed by such principles of justice would be a stable society, and they also agree a 'savings policy' - how much each generation will invest in the next.

Then the representatives are allowed to know the structure of the society in question and decide how to modify it to meet the justice principles.

E.g. the parties move from the abstract idea of a freedom in the first principle to more

concrete rules such as “freedom of thought” and then to its implementation in laws providing for a free press etc.

Justice as fairness, Rawls says, favours either a *property owning democracy* - with widespread ownership of productive assets and broad access to education and training - or democratic socialism - which is similar but features worker-managed firms. (He rejects the welfare state as a mere salve for a radically unjust capitalism.)