

RAWLS

Project: to interpret the initial situation, formulate principles of choice, and then establish which principles should be adopted. The principles of justice “provide an assignment of fundamental rights and duties and they determine the division of advantages from social cooperation.” p. 58

Subject: Basic Structure of Society – Social Justice. Society is a cooperative venture for mutual advantage. “The basic structure is a public system of rules defining a scheme of activities that leads men to act together so as to produce a greater sum of benefits and assigns to each certain recognized claims to a share in the proceeds... The distribution which results is arrived at by honoring the claims determined by what persons undertake to do in the light of these legitimate expectations.” p. 84. Rawls seeks to arrange major social institutions, not to find principles to apply to individuals or to particular circumstances.

Definition: *Institution* – “public system of rules which defines offices and positions with their rights and duties, powers and immunities” p. 55

“rules should be set up so that men are led by their predominant interests to act in ways which further socially desirable ends” p. 57

TWO PRINCIPLES OF JUSTICE p. 60 (*lexically ordered*, first before second)

“First: each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others.

Second: 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.”

Basic liberties are: political liberty (suffrage, speech, and assembly), freedom of thought, freedom of person, right to property, due process of law, etc.

Justice: “All social values – liberty and opportunity, income and wealth, and the bases of self-respect – are to be distributed equally unless an unequal distribution of any, or all, of these values is to everyone’s advantage.” Injustice is inequality that is not to everyone’s benefit.

MEANING OF PRINCIPLES OF JUSTICE:

	<u>“Everyone’s advantage”</u>	
<u>“Equally open”</u>	<i>Principle of efficiency</i>	<i>Difference principle</i>
<i>Equality as careers open to talents</i>	System of Natural Liberty	Natural Aristocracy
<i>Equality as equality of fair opportunity</i>	Liberal Equality	Democratic Equality

(Pareto) Efficiency: impossible to make one person better off without making someone worse off. Indeterminate... which efficient point to pick? Justice is a prior question to

efficiency, so some inefficient distributions can be just while efficiency does not equal justice.

“an arrangement of rights and duties in the basic structure is efficient if and only if it is impossible to change the rules, to redefine the scheme of rights and duties, so as to raise the expectations of any representative man without at the same time lowering the expectations of some other representative man.” p. 70

In the System of Natural Liberty: free-market outcomes are determined by initial distribution of wealth/talents. In the System of Liberal Equality: attempts are made to correct for the distribution of wealth by opening opportunity – redistributing wealth, open education. But outcomes are still determined by the initial distribution of talents. In the Natural Aristocracy: no attempt to regulate social contingency – natural endowments go to those who help poor “noblesse oblige”

DEMOCRATIC EQUALITY = fair equality of opportunity + difference principle

Difference Principle

Strongly egalitarian unless there is a distribution that makes both better off, an equal distribution is preferred. Big unless.

Utilitarianism, by contrast is less egalitarian, since it is indifferent to how the sum of benefits is distributed, equality only breaks ties.

Inequality is permissible only if lowering it would make worst off even worse off.
Chain connection: when least well off are improved, each higher person is also improved – assumes a close-knit society.

Fair Equality of Opportunity

Relates to pure procedural justice, if it is possible to improve everyone’s lot by being exclusive, then do it. Open access is not necessarily just. It is a system of cooperation in which there is pure procedural justice.

Perfect Procedural Justice (rare)

1. independent criteria defines fair division of benefits
2. a feasible procedure can lead to that outcome

Pure Procedural Justice

Design the system so the outcomes are within a certain range.

1. no independent criteria exist
2. correct/fair procedure exists such that the outcome will be fair

This requires a just system of institutions, when background conditions exist (a just political constitution and a just economic/social distribution) you will get a just procedure. Therefore, distributions of benefits (outcomes) cannot be judged as just if the procedure is not examined.

DIFFERENCE PRINCIPLE

Step One: identify least advantaged representative man – this is the position from which society will be judged. Ordinal measurements of utility scale those above him/her.

Expectations of primary social goods: defined by the index of goods a representative man can expect to receive. Goods: rights, liberties, opportunities, powers, income, wealth.

Equal Citizenship and one's place within the socio-economic hierarchy are the *Relevant Social Positions*.

Difference Principle achieves some of the intent of the principle of redress: undeserved inequalities (from social contingencies) should be compensated. Social contingency – the random lottery of talents, wealth. Those without endowments must benefit from those with them. Avoid the region where marginal contribution of those better off to the well being of less favored is negative! (Pick maximum point on the better off's income offer curve.)

JUSTICE: Principle of Fairness: "A person is required to do his part as defined by the rules of an institution when two conditions are met: first the institution is just, that is, it satisfies the two principles of justice; and second, one has voluntarily accepted the benefits of the arrangement or taken advantage of the opportunities it offers to further one's interests." p. 111-2. Rawls is thus providing a *Contractarian* notion of justice that satisfies his notion of how to maximize social welfare.

Natural Duties:

Mutual aid (positive); Do no harm (negative); Do not cause suffering (negative);

Fundamental natural duty: support/comply with your institutions of justice.

ORIGINAL POSITION

Veil of Ignorance

"The idea of the original position is to set up a fair procedure so that any principles agreed to will be just. The aim is to use the notion of pure procedural justice as a basis of theory. Somehow we must nullify the effects of specific contingencies which put men at odds and tempt them to exploit social and natural circumstances to their own advantage. Now in order to do this I assume that the parties are situated behind a veil of ignorance. They do not know how the various alternatives will affect their own particular case and they are obliged to evaluate principles solely on the basis of general considerations." (p. 136) On page 137, Rawls lists all the aspects of each person's identity which are unknown to him/her behind the Veil. They only know that society is subject to Justice. And they know how the world works (perfect knowledge of competitive markets, etc.) Purely hypothetical, Rawls is trying to account for moral judgment.

This is not deliberative, it is a perspective that one can adopt. There is no basis for bargaining or coalition formation in the Original Position.

On page 124, Rawls compares 5 broad categories of theories of justice, most notably comparing his with the doctrine of Utilitarianism. Rawls sets forth a type of proof of why his two principles of Justice is the unique, optimal conception of J.

Constraints on concept of Right (these are assumed premises in the argument): 1. principles must be general 2. principles must be universal 3. Publicity – there must be common knowledge of the terms of the contract 4. Must impose an ordering on claims (complete and transitive, ie. rational) 5. Final – the reasoning must be conclusive – there are no higher authorities.

Rawls argues that this rules out most of the other conceptions of justice besides TOJ and Utilitarianism. Two principles of Justice versus the Principle of Average Utility.

Rationality assumption: complete, transitive preferences, no envy. We just want more primary social goods than less.

The Maximin decision rule applies in the Original Position (it is the rational strategy)... this leads decision makers to choose TOJ over Utilitarianism.

Decisions	Circumstances		
	C1	C2	C3
D1	-7	8	12
D2	-8	7	14
D3	5	6	8

Maximin: The argument chooses the alternative from the set of alternatives such that it maximizes the utility of the individual with the lowest utility.

The Veil of Ignorance discounts probabilities on outcomes (increases uncertainty), makes actors discount benefits that are greater than the maximum minimum, and makes them risk averse.

POLITICAL LIBERALISM

Previous conceptions of Justice assume one concept of the good (Greeks, Scholastics, Utilitarians), while “political liberalism supposes that there are many conflicting reasonable comprehensive doctrines with their conceptions of the good, each compatible with the full rationality of human persons, so far as that can be ascertained with the resources of a political conception of justice.” p. 135

Political Legitimacy

Our exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens are free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason.

Constitutional essentials are settled by (overriding) political values alone. (eg. Principles of justice)

How can an overlapping consensus be stable? Stability is based on public acceptability and it wouldn't be liberal otherwise.

Overlapping Consensus

A consensus of reasonable comprehensive doctrines, reasonable pluralism. Public justice that is independent from comprehensive religious, philosophical, or moral doctrines.

Objections

1. Communitarian – hope for political society that is united by some comprehensive doctrine. Rawls: this hope should be abandoned because of pluralism and this requires totalitarianism anyway so it's bad.

2. By avoiding a general comprehensive doctrine, PL implicitly says that political conceptions of justice cannot be TRUE.

But we don't put forward more of our comprehensive views than is useful for the political aim of consensus, since we respect the limits of public reason. Where consensus exists, a comprehensive justification is not necessary.

3. A workable political conception of justice must be general and comprehensive, since myriad contingencies or conflicts can arise.

But can't conflicts be adjudicated other ways? Pluralism is not systematically unified. Some questions cannot be satisfactorily resolved. Just design the institution so that protracted conflicts do not arise.

“A political conception is at best but a guiding framework of deliberation and reflection which helps us reach political agreement on at least the constitutional essentials and the basic questions of justice.” p. 156

“Given the fact of reasonable pluralism, what the work of reconciliation by public reason does, thus enabling us to avoid reliance on general and comprehensive doctrines, is two things: first it identifies the fundamental role of political values in expressing the terms of fair social cooperation consistent with mutual respect between citizens regarded as free and equal; and second, it uncovers a sufficiently inclusive concordant fit among political and other values seen in a reasonable overlapping consensus.” p. 158.

4. Overlapping consensus is utopian.

But Constitutional consensus is not deep. Most people recognize Const. as just, or are willing to amend it.

Requirements for a Stable Consensus

Liberal principles to fix certain rights and liberties. Public reason: basic institutions and the form of reason within them encourages cooperative virtue.

“At the first stage of constitutional consensus the liberal principles of justice, initially accepted reluctantly as a modus vivendi and adopted into a constitution, tend to shift

citizens' comprehensive doctrines so that they at least accept the principles of a liberal constitution. These principles guarantee certain basic political rights and liberties and establish democratic procedures for moderating the political rivalry, and for determining issues of social policy... simple pluralism moves toward reasonable pluralism and constitutional consensus is achieved." p. 164

Why accept consensus? Not out of compromise. "while they all endorse it, the first does so as a deductively supported... the second as a satisfactory and possibly the best workable approximation... and the last as a resting on considered judgments balancing competing values, all things tallied up." p. 171

Questions on Rawls:

1. Can we use utilitarianism as a methodology of social science as well as a moral guideline to design social institutions? What about liberalism?
2. Why is utilitarianism so successful in political theory? What is attractive about it? What about liberalism?
3. Explain the debate between communitarianism and liberalism and tell me the advantages and disadvantages of the two.
4. utilitarianism: its strengths and weaknesses as a moral and descriptive theory.
5. rights theories and how they relate to utilitarianism/ what about liberalism?
6. What's the liberal/communitarian debate
7. Rawls - what do I find interesting about him?
8. Define liberalism.
9. compare the conception of justice as the right ordering of the soul with Rawls's Theory of Justice and ask if I thought Rawls could make use of that idea.

Questions on Kant:

1. Does contemporary theory have anything to gain from Kant's political theory as opposed to his ethics?
2. Is Kant democratic at all?
3. define Kant's notion of liberalism, discuss his approach to IR, why and how the state, what autonomy meant for him, his notion of perpetual peace. Her next link started by saying that some people critique Kant for being ahistoric. Do you know who made this criticism and do you agree?
4. We discussed the democratic peace and Kant.