

nanner what we think on due reflection are the reasonable considerations to ground the principles of a political conception of justice.

6.5. To illustrate regarding fair conditions: the parties are symmetrically situated in the original position. This models our considered conviction that in matters of basic political justice citizens are equal in all relevant respects: that is, that they possess to a sufficient degree the requisite powers of moral personality and the other capacities that enable them to be normal and fully cooperating members of society over a complete life (§7). Thus, in accordance with the precept of formal equality that those equal (similar) in all relevant respects are to be treated equally (similarly), citizens' representatives are to be situated symmetrically in the original position. Otherwise we would not think that position fair to citizens as free and equal.

To illustrate regarding appropriate restrictions on reasons: if we are reasonable, it is one of our considered convictions that the fact that we occupy a particular social position, say, is not a good reason for us to accept, or to expect others to accept, a conception of justice that favors those in that position. If we are wealthy, or poor, we do not expect everyone else to accept a basic structure favoring the wealthy, or the poor, simply for that reason. To model this and other similar convictions, we do not let the parties know the social position of the persons they represent. The same idea is extended to other features of persons by the veil of ignorance.

In short, the original position is to be understood as a device of representation. As such it models our considered convictions as reasonable persons by describing the parties (each of whom is responsible for the fundamental interests of a free and equal citizen) as fairly situated and as reaching an agreement subject to appropriate restrictions on reasons for favoring principles of political justice.

§7. The Idea of Free and Equal Persons

7.1. To this point we have simply used the idea of free and equal persons; we must now explain its meaning and role. Justice as fairness regards citizens as engaged in social cooperation, and hence as fully capable of doing so, and this over a complete life. Persons so regarded have what we may call "the two moral powers," explained as follows:

(i) One such power is the capacity for a sense of justice: it is the capacity

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to understand, to apply, and to act from (and not merely in accordance with) the principles of political justice that specify the fair terms of social cooperation.

(ii) The other moral power is a capacity for a conception of the good: it is the capacity to have, to revise, and rationally to pursue a conception of the good. Such a conception is an ordered family of final ends and aims which specifies a person's conception of what is of value in human life or, alternatively, of what is regarded as a fully worthwhile life. The elements of such a conception are normally set within, and interpreted by, certain comprehensive religious, philosophical, or moral doctrines in the light of which the various ends and aims are ordered and understood.

7.2. In saying that persons are regarded as having the two moral powers, we are saying that they have the requisite capacities not only to engage in mutually beneficial social cooperation over a complete life but also to be moved to honor its fair terms for their own sake. In *Theory*, these two powers are taken as defining "moral persons" and "moral personality" (*Theory*, §§3-4). What is meant, though, by saying that persons are free and equal?

Here it is important to keep in mind that justice as fairness is a political conception of justice: that is, it is designed for the special case of the basic structure of society and is not intended as a comprehensive moral doctrine. Therefore, the idea of the person, when specified into a conception of the person, belongs to a political conception. (A fundamental idea becomes a conception if we specify its elements in a particular way.) This means that the conception of the person is not taken from metaphysics or the philosophy of mind, or from psychology; it may have little relation to conceptions of the self discussed in those disciplines. It must of course be compatible with (one or more) such philosophical or psychological conceptions (so far as they are sound), but that is another story. The conception of the person itself is meant as both normative and political, not metaphysical or psychological.

As noted earlier (§2.1-2), the conception of the person is worked up from the way citizens are regarded in the public political culture of a democratic society, in its basic political texts (constitutions and declarations of human rights), and in the historical tradition of the interpretation of those texts. For these interpretations we look not only to courts, political parties, and statesmen, but also to writers on constitutional law and jurisprudence,

One reason why the original position must abstract from the contingencies—the particular features and circumstances of persons—within the basic structure is that the conditions for a fair agreement between free and equal persons on the first principles of justice for that structure must eliminate the bargaining advantages that inevitably arise over time within any society as a result of cumulative social and historical tendencies. “To persons according to their threat advantage” (or their de facto political power, or wealth, or native endowments) is not the basis of political justice. Contingent historical advantages and accidental influences from the past should not affect an agreement on principles that are to regulate the basic structure from the present into the future.¹⁶

6.3. The idea of the original position is proposed, then, as the answer to the question of how to extend the idea of a fair agreement to an agreement on principles of political justice for the basic structure. That position is set up as a situation that is fair to the parties as free and equal, and as properly informed and rational. Thus any agreement made by the parties as citizens’ representatives is fair. Since the content of the agreement concerns the principles of justice for the basic structure, the agreement in the original position specifies the fair terms of social cooperation between citizens regarded as such persons. Hence the name: justice as fairness.

Observe that, as stated in *Theory*, the original position generalizes the familiar idea of the social contract (*Theory*, §3). It does so by making the object of agreement the first principles of justice for the basic structure, rather than a particular form of government, as in Locke. The original position is also more abstract: the agreement must be regarded as both hypothetical and nonhistorical.

- (i) It is hypothetical, since we ask what the parties (as described) could, or would, agree to, not what they have agreed to.
- (ii) It is nonhistorical, since we do not suppose the agreement has ever,

16. This is an essential feature of justice as fairness as a form of the contract doctrine. It differs from Locke’s view in this respect, and also from the contract views of Robert Nozick in *Anarchy, State, and Utopia* (New York: Basic Books, 1974), of James Buchanan in *The Limits of Liberty* (Chicago: University of Chicago Press, 1975), and of David Gauthier in *Morals by Agreement* (Oxford: Oxford University Press, 1986). In these three works citizens’ basic rights, liberties, and opportunities, as secured by the basic structure, depend on contingencies of history, and social circumstance and native endowment, in ways excluded by justice as fairness. We come back to this in §16.1.

or indeed ever could actually be entered into. And even if it could, that would make no difference.

The second point (ii) means that what principles the parties would agree to is to be decided by analysis. We characterize the original position by various stipulations—each with its own reasoned backing—so that the agreement that would be reached can be worked out deductively by reasoning from how the parties are situated and described, the alternatives open to them, and from what the parties count as reasons and the information available to them. We return to this in Part III.

6.4. Here there may seem to be a serious objection: since hypothetical agreements are not binding at all, the agreement of the parties in the original position would appear to be of no significance.¹⁷ In reply, the significance of the original position lies in the fact that it is a device of representation or, alternatively, a thought-experiment for the purpose of public- and self-clarification. We are to think of it as modeling two things:

First, it models what we regard—here and now—as fair conditions under which the representatives of citizens, viewed solely as free and equal persons, are to agree to the fair terms of cooperation whereby the basic structure is to be regulated.

Second, it models what we regard—here and now—as acceptable restrictions on the reasons on the basis of which the parties, situated in fair conditions, may properly put forward certain principles of political justice and reject others.

Thus if the original position suitably models our convictions about these two things (namely, fair conditions of agreement between citizens as free and equal, and appropriate restrictions on reasons), we conjecture that the principles of justice the parties would agree to (could we properly work them out) would specify the terms of cooperation that we regard—here and now—as fair and supported by the best reasons. This is because, in that case, the original position would have succeeded in modeling in a suitable

17. This question is discussed by Ronald Dworkin in §1 of his critical review entitled “Justice and Rights,” *University of Chicago Law Review* (1973), reprinted in *Taking Rights Seriously* (Cambridge, Mass.: Harvard University Press, 1977), as chap. 6. I have discussed his interpretation briefly in “Justice as Fairness: Political Not Metaphysical,” *Philosophy and Public Affairs* 14 (Summer 1985): 236f., n. 19; reprinted in Rawls, *Collected Papers*, ed. Samuel Freeman (Cambridge, Mass.: Harvard University Press, 1999), 400f., n. 19.

structure does not imply that we cannot revise our account for a democratic society (domestic justice) in view of what justice between peoples turns out to require. The two parts of a more complete political conception—the justice of domestic society as well as of the relations between societies—can be adjusted to each other in the course of working them out.

5.2. Finally, I stress a point implicit in what we have said: namely, that justice as fairness is not a comprehensive religious, philosophical, or moral doctrine—one that applies to all subjects and covers all values. Nor is it to be regarded as the application of such a doctrine to the basic structure of society, as if this structure were merely another subject to which that comprehensive view is to be applied. Neither political philosophy nor justice as fairness is, in that way, applied moral philosophy. Political philosophy has its own distinctive features and problems. Justice as fairness is a political conception of justice for the special case of the basic structure of a modern democratic society. In this respect it is much narrower in scope than comprehensive philosophical moral doctrines such as utilitarianism, perfectionism, and intuitionism, among others. It focuses on the political (in the form of the basic structure), which is but a part of the domain of the moral.

§6. The Idea of the Original Position

6.1. So far we have discussed three fundamental ideas introduced in *Theory*, §§1–2, the idea of a society as a fair system of cooperation and the idea of a well-ordered society, and the idea of the basic structure of society. Next we discuss two other fundamental ideas, introduced in *Theory*, §§3–4. One is the idea of the original position; the other is the idea of citizens as free and equal persons. The sixth fundamental idea, that of public justification, is discussed in §§9–10.

Let us begin with how we might be led to the original position and the reasons for using it. The following line of thought might lead us to it: we start with the organizing idea of society as a fair system of cooperation between free and equal persons. Immediately the question arises as to how the fair terms of cooperation are specified. For example: Are they specified by an authority distinct from the persons cooperating, say, by God's law? Or are these terms recognized by everyone as fair by reference to a moral order of values,¹⁴ say, by rational intuition, or by reference to what some

14. This order I assume to be viewed as objective as in some form of moral realism.

have viewed as “natural law”? Or are they settled by an agreement reached by free and equal citizens engaged in cooperation, and made in view of what they regard as their reciprocal advantage, or good?

Justice as fairness adopts a form of the last answer: the fair terms of social cooperation are to be given by an agreement entered into by those engaged in it. One reason it does this is that, given the assumption of reasonable pluralism, citizens cannot agree on any moral authority, say a sacred text or a religious institution or tradition. Nor can they agree about a moral order of values or the dictates of what some view as natural law. So what better alternative is there than an agreement between citizens themselves reached under conditions that are fair for all?

6.2. Now this agreement, like any other, must be entered into under certain conditions if it is to be a valid agreement from the point of view of political justice. In particular, these conditions must situate free and equal persons fairly and must not permit some to have unfair bargaining advantages over others. Further, threats of force and coercion, deception and fraud, and so on must be ruled out. So far, so good. These considerations are familiar from everyday life. But agreements in everyday life are made in determinate situations within the background institutions of the basic structure; and the particular features of these situations affect the terms of the agreements reached. Clearly, unless those situations satisfy the conditions for valid and fair agreements, the terms agreed to will not be regarded as fair.

Justice as fairness hopes to extend the idea of a fair agreement to the basic structure itself. Here we face a serious difficulty for any political conception of justice that uses the idea of contract, whether or not the contract is social. The difficulty is this: we must specify a point of view from which a fair agreement between free and equal persons can be reached; but this point of view must be removed from and not distorted by the particular features and circumstances of the existing basic structure. The original position, with the feature I have called the “veil of ignorance” (*Theory*, §24), specifies this point of view. In the original position, the parties are not allowed to know the social positions or the particular comprehensive doctrines of the persons they represent. They also do not know persons' race and ethnic group, sex, or various native endowments such as strength and intelligence, all within the normal range. We express these limits on information figuratively by saying the parties are behind a veil of ignorance.¹⁵

15. [See Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), pp. 24–25.]