

Phil 116, April 12, 2010
Rawls's Difference Principle

Rawls's two principles of justice:

First: each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties 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.

From the system of natural liberty to liberal equality:

In §12, Rawls says that two important phrases in the second principle are ambiguous and must be clarified:

- "everyone's advantage" and...
- ..."equally open to all."

Each phrase can be taken in two ways, resulting in four interpretations of the second principle.

	"Everyone's advantage"	
"Equally open"	Principle of efficiency	Difference principle
Equality as careers open to talents	System of Natural Liberty	Natural Aristocracy
Equality as equality of fair opportunity	Liberal Equality	Democratic Equality

The system of natural liberty accepts the "principle of efficiency":

fulfilled when it is impossible to alter the basic structure to improve the expectations of some representative person without worsening the expectations of some other representative person.

- But many different distributions are efficient...
- ...and some of these are plainly unjust.
- So the principle of efficiency must be supplemented by some other principles.

In the system of natural liberty, the principle of efficiency works against a background of equal liberty and "careers open to talents." This means formal equality of opportunity: everyone has the same legal rights of access to positions.

The system of natural liberty is more or less *laissez-faire* capitalism.

The efficient distributions that result from the system of natural liberty, will be strongly influenced by two kinds of contingency:

- (i) native talent; and
- (ii) social starting point.

"Intuitively, the most obvious injustice of the system of natural liberty is that it permits distributive shares to be improperly influenced by these factors so arbitrary from a moral point of view" (63).

From liberal equality to democratic equality:

Liberal Equality takes a stricter interpretation of “open to all.” It requires not only that positions are formally open to all, but also that everyone has an equal chance to hold them. Specifically: everyone with the same native talent and motivation should have the same chance of holding the position. The social class of one’s birth into should not affect one’s life-prospects. This equality of opportunity is achieved by preventing excessive accumulations of wealth and by ensuring equal access to education, among other measures.

Now while Liberal Equality does not allow social starting points to affect life prospects, it does allow native talents to affect life prospects. This makes Liberal Equality an unstable position. For “there is no more reason to permit the distribution of income and wealth to be settled by the distribution of natural assets than by historical and social fortune” (64). That is, if we accept the reasoning for rejecting the system of natural liberty, we ought to be dissatisfied, for analogous reasons, with liberal equality. Native talents are no less arbitrary from a moral point of view than social class.

The difference principle:

Democratic Equality combines equality of fair opportunity with the “difference principle”:
inequalities in social and economic expectations are just if and only if they improve the expectations of the worst-off representative person.

The only defense the better off can offer for enjoying their advantages is that if the worst-off would be even worse off if they (the better off) did not enjoy those advantages.

A *perfectly* just scheme is one in which not only the DP is observed, but also the expectations of the worst off are *maximized*.

Contrast with Nozick’s theory:

(1) *Historical/end-state*:

Utilitarianism is *end-state*: We only need to know something about the *present* to know whether a distribution is just: namely, that the distribution produces more happiness than any other possible distribution.

Nozick’s theory is *historical*: To know whether an individual’s holding is just (and, a fortiori, whether a distribution is just) we need to know something about the *past*: whether that holding is the last link in a chain of just transfers that leads all the way back to a just original acquisition.

(2) *Patterned/Nonpatterned*:

A principle is *patterned* if it specifies that a distribution is to vary along with certain characteristics of persons: e.g., according to their desert, or need. Utilitarianism is patterned.

Nozick’s theory is *nonpatterned*. His principles do not even mention personal traits, let alone dictate that shares correspond to those traits.

Is Rawls’s theory is end-state and patterned?

Rawls stresses that his concern is distributive justice, which he distinguishes from “allocative” justice.

- In cases of *allocative justice*, the problem is to decide how to distribute goods among people (i) with known needs and desires, (ii) who have not cooperated to produce the goods. Utilitarianism is essentially a theory of allocative justice.
- Rawls believes that allocative justice is incompatible with the idea of society as a fair system of cooperation. If we view society in that way, then we must view citizens as cooperating to produce the goods in question. So all have a prior claim on the goods.

Rawls also stresses that distributive shares are a matter of pure procedural justice.

- In pure procedural justice, recall, any outcome that results from people following the rules of the system, so long as the system is just, is itself just. There is no independent criterion of a just distribution.
- According to utilitarianism, the distribution is just if and only if it maximizes the satisfaction of desire. For utilitarianism, distributive shares are not a matter of pure procedural justice. There is an independent criterion.

(3) *Individualistic/Holistic*:

Nozick's principles of justice are *individualistic*. They apply in the first instance to the holdings of *individuals*. The notion of a just distribution is, in a sense, a derivative notion, derived from the idea of a just *individual* holding.

Utilitarianism, by contrast, is *holistic*. It applies first to the overall distribution. The notion of a just *individual share* is a derivative notion. A share is just (if and?) only if it is part of an overall distribution that is just. My share is just only if it is part of a distribution that maximizes the satisfaction of desire.

Question: Is Rawls's theory individualistic or holistic?

Why is the basic structure the "primary subject" of justice?

First kind of reason:

We begin with "the attractive idea that persons' social circumstances and their relations with one another should develop over time in accordance with fair agreements fairly arrived at" (52).

Suppose we start from a state in which everyone's holdings are just. Then so long as everyone respects rights and follows the property rules, the resulting states, it would seem, are also just.

However, we need not only a just initial state and fair agreements, but also *just social conditions* under which fair agreements are to be made. The accumulated results of seemingly fair agreements will, over time, undermine the conditions for free and fair agreements in the future.

This is why we need institutions to preserve background justice. These institutions do not *conflict* with the free and fair agreements of individuals. These institutions are necessary to make free and fair agreements between individuals *possible*.

Why do we need centralized institutions to solve the problem? Why not provisos on individual activities?

The difficulty is that any set of provisos that would ensure that background justice is preserved would be unworkable. Instead of facilitating individual choice, these provisos would paralyze it.

We need some coordinated, institutional solution to ensure that free and fair background conditions are maintained: the basic structure. This represents a kind of division of labor. So long as the basic structure is just, people can go about their business, secure in the knowledge that social institutions are doing what is necessary to preserve background justice.

Second kind of reason:

The basic structure has a profound and pervasive influence on life-prospects of the persons who live under it. People's life-prospects are shaped in fundamental ways by two important kinds of contingency: the social class of their birth and their native endowments.

Question: Why must we rely on *institutions* to mitigate the effects of these contingencies? Why not leave it up to *individuals*?

Answer: These contingencies shape who we are, what we aspire to, and what we can reasonably hope for. By the time we are in a position to do anything as individuals about these contingencies, those contingencies have already had their most profound impact. So we need a system of institutions that ensures that the society into which individuals are born is already structured to mitigate the effects of these contingencies on their lives.