

Phil 115, Bonus Handout

The Relation of the Family to the Basic Structure

The principles of justice do *not* apply *within* associations such as churches, clubs, businesses, and the family. For example, they do not need to be democratic, or realize the difference principle.

However, the principles of justice do apply to the basic structure, and the basic structure *limits and shapes* the forms that these associations may take.

Examples:

- The first principle (in particular, freedom of association) requires that the law (which is part of the basic structure) permit people to leave churches and marriages.
- The second principle (in particular, equality of fair opportunity) requires that the law (again, part of the basic structure) require nondiscrimination in hiring.

One question: “Does family law, as we know it, really satisfy these principles? For example, it does not give *children* freedom of association.”

To this, the answer may be the uninteresting, but nonetheless compelling one. Given children’s incapacity for reflective choice, this does not count as a meaningful infringement of freedom of association.

Erin’s main question: “If the family is *like* other associations in these ways, then why does Rawls say that the family *is* part of the basic structure, whereas these other associations are *not*?”

Rawls’s answer: The family performs social roles that none of these other particular associations does: e.g., preserving society, helping children to develop a sense of justice. In this way, the family is not only *regulated by* (other parts of) the basic structure (such as the law), but also *is part of* the basic structure (along with the law).