CHAPTER – 4

The Two Principles of Justice

In 1971, the publication of John Rawls extremely influential A Theory of Justice brought moral and political philosophy back from what had been a long hiatus of philosophical consideration. Rawls theory relies on a Kantian understanding of the persons and their capacities. For Rawls, as for Kant, persons have the capacity to reason from a universal point of views, which in turn means that they have the particular moral capacity of judging principles from an impartial standpoint. In A Theory of Justice, Rawls argues that the moral and political point of view is discovered via impartiality. In A Theory of Justice, Rawls attempts to solve the problem of distributive justice by utilizing a variant of the familiar device of the social contract. The resultant theory is known as “Justice as Fairness”, from which Rawls derives his two famous principles of justice: the liberty principle and the difference principle.¹

It is important to note that this view, delineated in A Theory of Justice, has undergone substantial revisions by Rawls, and that he described his later view as “Political Liberalism”. He invokes this point of view by imagining persons in a hypothetical situation, the original position, which is characterized by the epistemological limitation of the veil of ignorance. Rawls original position in his highly abstracted version of the state of nature. It is the position from which we

can discover the nature of justice and what it requires of us as individual persons and of the social institutions through which we will live together cooperatively. In the original position, behind the veil of ignorance, one is denied any particular knowledge of one’s circumstances such as one’s gender, race, particular talents or disabilities, one’s age, social status, one’s particular conception of what makes for a good life, or the particular state of the society in which one lives. Persons are also assumed to be rational and disinterested in one another’s well-being. Those are the conditions under which, Rawls argues, one can choose principles for a just society which can themselves chosen from initial conditions that are inherently fair.²

In such a position, behind such a veil, everyone is in the same situation and everyone is presumed to be equally rational. Since everyone adopts the same method for choosing the basic principles for society, everyone will occupy the same standpoint: that of the disembodied, rational, universal human. Therefore, all who consider justice from the point of view of the original position would agree upon the same principles of justice generated out of such a thought experiment. Anyone person would reach the same conclusion as any other person concerning the most basic principles that must regulate a just society.³

The principles that persons in the original position, behind the veil of ignorance, would choose to regulate a society at the most basic level are called by


Rawls, optly enough, the two principles of justice. These two principles determine the
distribution of both civil liberties and social and economic goods. The first principle
states that each persons in a society is to have as much basic liberty as possible, as
long as everyone is granted the same liberties. That is, there is to be as much civil
liberty as possible as long as these goods are distributed equally. And the second
principle states that while social and economic inequalities can be just, they must be
available to everyone equally and such inequalities must be to the advantage of
everyone.4 This means that economic inequalities are only justified when the least
advantaged member of society is nonetheless better off than she/he would be under
alternative arrangements. So, only if a rising tide truly does carry all boats upward,
can economic inequalities be allowed for in just society. The method of the original
position support this second principles, referred to the difference principle, because
when we are behind the veil of ignorance, and therefore do not know what our
situation in society will be once the veil of ignorance is lifted, we will only accept
principles that will be to our advantage even if we end up in the least advantage
position in society.

These two principles are related to each other by a specific order. The first
principle, distributing civil liberties as widely as possible consistent with equality, is
prior to the second principle, which distributes social and economic goods. In other
words, we cannot decide to forgo some of our civil liberties in favor of greater
economic advantage. Rather, we must satisfy the demands of the first principle,
before we move on to the second. From Rawls point of view, this serial ordering of

the principles expresses a basic rational preference for certain kinds of goods, i.e., those embodied in civil liberties, over other kinds of goods, i.e., economic advantage.⁵

Having argued that any rational person inhabiting the original position and placing him or herself behind the veil of ignorance can discover the two principles of justice, Rawls has constructed what is perhaps the most abstract version of a social contract theory. It is highly abstract because rather then demonstrating that we would or even have signed to a contract to establish society, it instead shows us what we must be willing to accept as rational persons in order to be constrained by justice and therefore capable of living in a well-ordered society. The principles of justice are more fundamental than the social contract as it has traditionally been conceived. Rather, the Principles of justice constrain that contract, and set out the limits of how we can construct society in the first place, if we consider, for example, a constitution as the concrete expression of the social contract, Rawls two principles of justice delineate what such a constitution can and cannot require of us. Rawls theory of justice constituted, then, the Kantian limits upon the forms of political and social organization that are permissible within a just society.

Principles of Justice are sought to guide the conduct of the parties. These parties face moderate scarcity, and they are neither naturally altruistic nor purely egoistic: they have ends, which they seek to advance, but desire to advance them through cooperation with others on mutually acceptable terms. Rawls offers a model of a fair choice situation within which parties would hypothetically choose mutually acceptable principles of justice. Under which constraints, Rawls believes that parties

would find his favored principles of justice to be especially attractive, winning out over varied alternatives, including utilitarian and libertarian accounts.

Rawls calls his conception “justice as fairness”, his aim in designing the original position is to describe an agreement situation that is fair among all the parties to the hypothetical social contract. He assumes that if the parties to the social contract are fairly situated and all relevant information is taken into account, then the principles that would be agreed to are also fair. The fairness of the original agreement situation transfers to the principles agreed to, so that whatever laws or institutions are required by the principles of justice are also fair. The principles of justice chosen in the original position are in this way the result of a choice procedure designed to “incorporate pure procedural justice at the highest level”.  

What is a fair agreement situation among free and equal persons when the purpose of the agreement is fundamental principles of justice for the basic structure of society? Here it is helpful to compare Rawls’s and Locke’s social contracts. A feature of Locke’s social contract is that it transpires in a state of nature among free and equal persons who know everything about themselves that you and I know about ourselves and each other. Thus Locke’s parties know their natural talents and other personal characteristics, their social class and careers, their level of wealth and income, their religious and moral beliefs, etc. Given this knowledge, Locke assumes that, while starting from a position of equal political right, the great majority of free and equal

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persons in a state of nature could and most likely would rationally agree to alienate their natural rights of equal political jurisdiction in order to gain the benefit of political society. Thus Locke envisions as legitimate a constitutional monarchy that is on effect a class state, a state wherein only a small class of empty propertied males exercise political rights to vote, hold office, exercise political influence, etc.  

The problem with this, of course, is that gender and lack of wealth are, like absence of religious belief, not good reasons for depriving people of their equal political rights. These reasons are not morally relevant for deciding who qualifies to vote, hold office, and actively participate in governing society. Rawls suggests that the reason Locke’s social contract results in this unacceptable outcome is that it transpires under unfair conditions of a state of nature, where the parties have complete knowledge of their characteristics and situations – their gender, wealth, social class, talents and skills, religious convictions, etc. More powerful parties rely on knowledge of their “threat advantage” to extract favorable terms from those in less advantaged positions. Consequently the parties judgments are biased by their knowledge of their circumstances and are insufficiently impartial.  

The remedy for such biased judgments is to redefine the initial situation. Rather than a state of nature Rawls situates the parties to his social contract so that they do not have access to knowledge that can distort their judgments and result in

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unfair principles. Rawls’s original position is an initial situation wherein the parties are without information that enables them to tailor principles of justice favorable to their personal circumstances. Rawls says, “Among the essential features of this situation is that no one knows his place in society, his class position or social status, nor does any one knows his fortune in the distribution of natural assets and abilities, his intelligence, strength and the like. We shall even assume that the parties do not know their conceptions of the good or their special psychological propensities. The principles of justice are chosen behind a veil of ignorance”.


This veil of ignorance deprives the parties of all knowledge of particular facts about themselves, about one another, and even about their society and its history.

The parties are not however completely ignorant of facts. They know all kinds of general facts about persons and societies, they also know about the circumstances of justice – moderate scarcity and limited altruism – as well as the desirability of the “primary social goods” that are needed to live a good life and to develop their “moral power”. What they lack however is knowledge of any particular facts about their own lives or other persons lives, as well as knowledge of any historical facts about their society and its population, level of wealth and resources, etc. Rawls thinks that since the parties are required to come to an agreement on objective principles that supply universal standards of justice applying across all societies, knowledge of particular and historical facts about any person or society is morally irrelevant and potentially prejudicial to their decision.
Rawls’s “thick” veil of ignorance is that it is designed to be a “position of equality”.¹⁰ that represents persons purely in their capacity as free and equal moral persons. The parties in the original position do not know any particular facts about themselves or society; they all have the same general information made available to them. They are then situated equally in a very strong way, “symmetrically” and purely as free and equal moral persons. The moral powers are the “basis of equality, the features of human beings in virtue of which they are to be treated in accordance with the principles of justice”.¹¹

Rawls’s original position with its “thick” veil of ignorance represents a different conception of impartiality than utilitarian accounts. Unlike utilitarian’s, Rawls seeks to abstract from current conditions and the status. Utilitarian’s take peoples desires and interests as given and seek to maximize their satisfaction; in so doing utilitarian suspend judgment regarding the moral permissibility of peoples preferences and of the social circumstances and institutions within which preferences were formed. For Rawls, a primary reason for a thick veil of ignorance is to enable on unbiased assessment of the justice of existing social and political institutions and of existing preferences and conceptions of the good. If the parties to Rawls’s original position had knowledge of people’s beliefs and desires, as well as knowledge of the laws, institutions and circumstances of their society, then this knowledge would influence their decisions or principles of justice. The principles agreed to would then


not be sufficiently detached from the very desires, circumstances, and institutions these principles are to be used to critically assess. Since utilitarian’s take peoples desires and interests as given by existing circumstances, any principles, laws or institutions chosen behind their thin veil of ignorance will reflect and be biased towards maintaining the status.

For Rawls well-ordered society is a closed self—sufficient society, so that everyone enters it by birth and exists by death and lives his life in it. And a well-ordered society requires fair terms of cooperation. But how is one supposed to determine these fair terms of cooperation. According to Rawls these fair terms of cooperation must be thought of as agreed to unanimously by members themselves by reference by reference to their reciprocal interests. Hence Rawls conceives the principles of justice as agreed to unanimously in the original position where parties are conceived as under a veil of ignorance about particular facts about themselves and their society. Since the veil of ignorance situates the persons equally and fairly the principles agreed to will be fair.

According to Rawls the parties behind the veil of ignorance in the original position will agree to the following two principles unanimously:

First Principle –

Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all.

Second Principle –

Social and economic inequalities are to be arranged so that they are both:

(a) To the greatest benefit of the least advantaged, consistent with the just saving principle, and
(b) Attached to offices and positions open to all under conditions of fair equality of opportunity.¹²

According to the first principle of justice everyman is to be provided with equal rights and equal liberties which must be compatible with those of others. No one is to be treated as privilege. Certain rights and liberties, like political liberty, liberty of conscience and freedom of thought, right to personal property etc., are quite necessary to further one’s rational plan of life in achieving one’s primary goods. They provide the avenue for a better life. If man is not provided with certain basic rights over his fundamental liberties, it amounts to obsession. Liberty cannot be sacrificed for an alien end. Liberty can be sacrificed only for the sake of liberty.¹³

The second principle of justice enunciated by Rawls deals with the basic structure of society. It looks into inequalities and natural contingencies in the original position, and seeks to regulate them in a suitable manner so as to bring advantage to all, specially the least advantaged. Inequalities are there in the original position though people are ignorant of it. Some are better gifted and some are less advantaged. Some possess more wealth, assets, position and power by the mere fact that they are born to such privileged. Such discrepancies in natural gifts cannot be curbed altogether, but can be regulated for the benefit of all, justice lies, not in inequalities, but is regulating the inequalities to the benefit of one and all, especially in the improvement of the overall conditions of the less advantaged man.¹⁴

¹³Ibid, P.61.
¹⁴Ibid, P.62.
The second part of the second principle of justice speaks that social and economic inequalities are to be arranged so that they are attached to offices and positions which are open to all under conditions of fair equality of opportunity. Inequalities are inevitable in the social arrangements. Peoples are not only unequal in wealth, but also in ability and talent. The better endowed usually get a fair chance of gaining offices and positions of command. Rawls does not confine such positions to these naturally privileged group. He keeps these offices open to all under fair equality of opportunity. Everyone, the better or the less endowed, should get the chance of achieving such positions of command. Rawls attaches more importance to the ability of man.¹⁵

In Rawls justification of principles of justice the idea of primary goods plays a very important role; on one hand, it provides the criterion for identifying the least advantaged, and on other hand, it provide the motive for persons in original position to act. Primary goods includes three main classes of things, they are, basic rights and liberties like free speech, freedom of religion etc, the rights and prerogatives of political office, and lastly income and wealth.

According to Rawls, justice means dividing things equally. And the things to be divided up are, on his theory, the primary goods. The first principle of justice applies to the primary goods of basic rights and liberties. They are to be distributed equally, and in such a way that each person enjoys the greatest amount of them consistent with everyone else having the same amount.

The second principle of justice applies to the primary good of the rights and

prerogatives of political office and income and wealth. These are to be divided up equally unless an unequal distribution benefits the least advantaged group in society. And in any case, each person must be given an equal fair opportunity to obtain these goods. If we are in the original position, we cannot base our reasoning on our goals and life-plans, since behind the veil of ignorance; we don’t know what our goals are. But we do know that we care about achieving them. The primary goods are all-purpose means, that is, they are means to whatever goals we might have.

Rawls says that in the original position, “The Reasonable frames the Rational”¹⁶ by which he means it is a situation where rational choice or the parties is made subject to reasonable constraints. More generally, for Rawls rational persons upon reflection can formulate a conception of their good, or of their primary values and purposes and the best way of life for themselves to live. This conception incorporates their primary aims, ambitions, and commitments to others, and is informed by the conscientious moral, religious, and philosophical convictions that give meaning to their live. Ideally, rational persons have carefully thought about these things and their relative importance, and they can coherently order their purposes and commitments into a “rational plan of life”, which extends over their lifetimes.¹⁷

Rawls says the parties in the original position are “mutually disinterested”, in the sense that they take no interest in one another’s interest. This does not mean they


are generally self–interested or selfish persons, indifferent to the welfare of others. Most people are concerned, not just with their own happiness or welfare, but with that of others as well, and have all kinds of commitments to others, including other-regarding and beneficent purposes, that are part of their conception of good. But in the original position itself the parties are not altruistically motivated to benefit each other, in their capacity as contracting parties.¹⁸

Subsequent to A Theory of Justice, in Kantian and Political Constructivism, Rawls says that the parties to the original position have a “higher-order interest” in the exercise and development of their capacity for a sense of justice, and that fulfilling this interest is one of the main aims behind their agreement on principles of justice. The parties interest in developing these two “moral powers” is a substantive feature of Rawls’s account of the rationality of free and equal persons. Here it is important to see that Rawls is still not attributing specifically moral motives – a desire to be reasonable and do what is right and just for its own sake – to the parties in the original position. Rather, the idea behind the parties rationality in cultivating their sense of justice is that, since reasonableness is a condition of human sociability, then it is in people’s rational interest – part of their good – that they normally develop their capacities for justice under social conditions. Otherwise they will not be in a position to cooperate with others and benefit from social life.

The original position is not a bargaining situation where the parties make proposals and counterproposals and negotiate over different principles of justice.

Instead, the parties deliberations are much more constrained. They are presented with a list of conception of justice taken from the tradition of western political philosophy. These include different versions of utilitarianism, perfectionism, and intuitionism, rational egoism, justice as fairness, and a group of “mixed conceptions” that combine elements of these.¹¹ The parties’ deliberations are confined to discussing and agreeing upon the conception that each finds most rational, given their specified interests. In making their decision, the parties are motivated only by their own rational interests. They do not take moral considerations of justice into account except in so far as these considerations bear on their achieving their interests. Their interests again are defined in terms of their each acquiring an adequate share of primary social goods.

Rawls put up some agreements for the principles of justice; according to Rawls it is more rational for the parties to choose the principles of justice over any other alternative. Rawls devoted most of his attention to the comparison of justice as fairness with classical and average utilitarianism, with briefer discussion of perfectionism and intuitionism.

Describing the parties’ choice as a rational choice subject to the reasonable constraints imposed by the original position allows Rawls to invoke the theory of rational choice and decision under conditions of uncertainly. In rational choice theory there are a number of potential “strategies” or rules of choice that are more or less reliably used depending on the circumstances. One rule of choice – called “maximin” – directs that we play it as safe as possible by choosing the alternative whose worst

outcome leaves us better off than the worst outcome of all other alternatives. The aim is to “maximize” the “minimum” regret or loss to well-being. To follow this strategy, Rawls says you should choose as if your enemy were to assign your social position in whatever kind of society you end up in. By contrast another strategy leads us to focus on the most advantaged position and says we should “maximize” the “minimum” poletical gain – “maximax” – and choose the alternative whose best outcome leaves us better off than all other alternatives.²⁰

This strategy of maximin, means maximizing the minimum, or choosing the option where the worst possible outcome is better than the worst possible outcome in the other options. Rawls maintains that this demonstrates the superiority of the two principles of justice over such historically important conceptions of justice as utilitarianism.

As we have seen, the individuals in the original position know only the most general facts about society and themselves. They do not know their position in society, or their talents and abilities, or their conception of the good. The choice is then, made in conditions of considerable uncertainty. These are quite specific conditions of uncertainity. The veil of ignorance makes probability calculations essentially impossible. Now there is a principle in economic theory which states that in case we have no knowledge of probabilities we should assign an equal probability to each possibility. This is the principle of insufficient reason. But this is very problematic in the specific conditions of the original position. To assume that every

probability is the same is to risk making a grave mistake. Since it may well turn out that the odds were very heavily skewed towards ending up in the least advantaged group. Hence, it is not rational to gamble on the odds and favor principles which promote the interests of only one group.

Perhaps the most important reason for the maximin principle is that since the choice is for principles to regulate the basic structure of society. Which has such a crucial role for the life-chance of individuals, to take a risk is unacceptable. Even if the probability of being the most advantaged class in society is high and the probability of being in the least advantaged group is law, it is irrational to gamble. The position of the least advantaged group may be totally unacceptable. For instance, it may turn out that one’s society is a slave owing society. Even though great gains may be had by gambling in the original position and choosing principles favoring the slave owing class, it is irrational to do so because one may end up as a slave. Hence, everyone will adopt the maximin method, and choose principles of justice which guarantee an adequate minimum for everyone. Thus there will be no chance of ending up enslaved if one’s gamble goes awry.

What now is the appropriate decision rule to be used to choose principles of justice under conditions of complete uncertainty of probabilities in Rawls’s original position? Rawls argues that, given gravity of choice in the original position plus the fact that the choice is not repeatable, it is rational for the parties to follow the maximin strategy when choosing between the principles of justice and principles of average or aggregate utility. Not surprisingly, following the maximin rule of choice results in choice of the principles of justice over the principles of utility.

Why does Rawls think maximin is the rational choice rule? Rawls argues that
because of the unique importance of the choice in the original position – it is rational to follow the maximin rule and choose the principles of justice. For should the worst transpire, the principles of justice provide an adequate share of primary goods enabling one to maintain one’s conscientious convictions and sincerest affections and pursue a wide range of permissible ends by protecting equal basic liberties and fair equal opportunities and guaranteeing a social minimum of income and wealth. The principles of utility, by contrast, provide no guarantee of any of these goods.

Rawls says that in general there are three conditions that must be met in order to make it rational to follow the maximin rule.²¹ First, there should be no basis or at most a very insecure basis upon which to make estimates of probabilities. Second, the choice singled out by observing the maximin rule is an acceptable alternative we can live with so that one cares relatively little by comparison for what is to be gained above the minimum conditions secured by the maximin choice. When this condition is satisfied, then no matter what position one eventually ends up in, it is at least acceptable. The third condition for applying the maximin rule is that all the other alternatives have outcome that we could not accept and live with. Of these three conditions Rawls later says that the first plays a minor role, and that it is the second and third conditions that are crucial to the maximin argument for justice as fairness.

It is often claimed that Rawls’s parties are “risk-averse”, otherwise they would never follow the maximin rule but would take a chance on riskier but potentially more rewarding outcomes provided by the principle of utility. Rawls denies that the parties

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have a psychological disposition to risk aversion. He argues however that it is rational to choose as if one were risk averse under the highly exceptional circumstances of the original position. His point is that, while there is nothing rational about a fixed disposition to risk aversion, it is nonetheless rational in some circumstances to choose conservatively to protect certain fundamental interests against loss or compromise. It does not make one a risk overse person, but rather it is rational to purchase auto liability, health, home and life insurance against accident or calamity.²²

The idea of a well-ordered society is Rawls’s development of social contract doctrine is a society in which (1) everyone agrees to and accepts the same principles of justice! (2) these principles are generally realized in basic social institutions and are successfully enforced; and (3) all want to comply with their requirements out of their sense of justice.²³

Another Rawls’s argument for the two principles of justice is an agreement and involves certain “Strains of Commitment”.²⁴ knowing that they are required to choose Principles for a well-ordered society, the parties must choose principles that they sincerely believe they will be able to accept, endorse and obey with under

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conditions where these principles are generally enforced. For reasons to be discussed shortly, Rawls sys this conditions favors agreement on the principles of justice over utilitarianism and other alternatives in the original position.

But first, consider the frequent objection that there is no genuine agreement in the original position, for the thick veil of ignorance deprives the parties of all bases for bargaining.²⁵ In the absence of bargaining, it is said, there can be no contract. For contracts must involve something given for something received. The parties in the original position cannot bargain without knowing what they have to offer or to gain in exchange. So Rawls’s original position does not involve a real contract; rather, since the parties are all “described in the same way”, it is really the rational choice of one person. In response, the parties in fact can give something in exchange for something received: they all exchange their mutual commitment to accept and abide by the principles of justice and to uphold just institutions once they enter their well-ordered society. The parties are assumed to have a sense of justice; indeed the development and exercise of it is one of their fundamental interests. Hence they must choose principles that they can not only accept and live with, but which are responsive to their sense of justice.

Rawls contends that these “strains of commitment” created by the parties’ agreement strongly favor the principles of justice over the principles of utility and other teleological views. For everyone’s freedom and basic needs are met by the principles of justice because of their egalitarian nature. Given the lack of these

guarantees under the principle of utility, it is much more difficult for those who end up worse off in a utilitarian society to willingly accept their situation and commit themselves to the utility principle. The person is rare who can freely and without resentment sacrifice his or her life prospects so that those who are better off can have even greater comforts, privileges, and powers. This is too much to demand of our capacities for human benevolence. It requires a kind of commitment that people cannot make in good faith, for who can willingly support laws that are so detrimental to oneself and the people one cares about most that they require sacrifice of one’s fundamental aims and interests for the sake of others more advantaged? Besides, why should we encourage such subservient dispositions and the accompanying lack of self-respect? The principles of justice, by contrast, conform better with everyone’s interests, their desire for self-respect and their natural moral capabilities to reciprocally recognize and respect others’ legitimate interests while freely promoting their own good. The strains of commitment incurred by agreement in the original position provide strong reasons for the parties to choose the principles of justice and reject the risks involved in choosing the principles of average or aggregate utility.

Rawls says, “The reason for invoking the concept of a contract in the original position lies in its correspondence with the features of a well-ordered society [which] require…that everyone accepts, and knows that the others accept, the same principles of justice” In order for the hypothetical parties in the original position to agree or principles of justice, there must be a high likelihood that real persons, given human nature and general facts about social and economic cooperation, can also agree and act on the same principles, and that a society structured by these principles is feasible and can endure, this is the stability requirement.
Rawls makes two arguments from the original position that invoke the stability requirement, the arguments (1) from publicity and (2) from self-respect.²⁶

(1) The argument from publicity: Rawls contends that utilitarianism, perfectionism, and other “teleological” conceptions are not likely to be freely acceptable to sizable number of citizens when made fully public under the conditions of a well-ordered society. A feature of a well-ordered society is that its regulative principles of justice are publicity known and appealed to as a basis for deciding laws and justifying basic institutions. A conception of justice that cannot satisfy this condition is to be rejected by the parties. Rawls contends that under the publicity condition justice as fairness generally engages citizens’ sense of justice and remains more stable than utilitarianism.²⁷ For public knowledge that reasons of maximum average utility determine the distribution of benefits and burdens would lead those worse-off to object to and resent their situation. After all, their well-being and interests, perhaps even their basic liberties, are being sacrificed for the greater good of those who are already more fortunate and have a greater share of primary social goods. It is unreasonable to expect or demand that people should freely acquiesce in and embrace such terms of cooperation. By contrast, the principles of justice are designed to advance reciprocally everyone’s position; those who are better off do not achieve their gains at the expense of the less advantaged. “Since everyone's good is affirmed, all acquire inclinations to uphold the scheme”.²⁸ It is a feature of our moral psychology

that we normally come to form attachments to people and institutions that are concerned with our good; moreover we tend to resent those persons and institutions that act contrary to our good. (2) The argument from self-respect: The publicity condition is also crucial to Rawls' forth argument for the principles of justice, from the social bases of self-respect. These Principles, when publicly known, give greater support to citizen’s sense of self-respect than do utilitarian and perfectionist principles. Rawls says self-respect is “perhaps the most important primary good”

The parties in the original position will then aim to choose principles that best secure their sense of self-respect. Now justice as fairness, by protecting the priority of equal basic liberties and fair equal opportunities, secured the status of each as free and equal citizens. Moreover, the second principle secures adequate powers and resources for all to make everyone’s equal basic liberties worthwhile. It has the effect of making citizens socially and economically independent, so that no one need be subservient to the will of another. Citizens then can regard and respect one another as equals, and not see others as masters or subordinates. Equal basic liberties, fair equal opportunities, and political and economic independence are primary among the bases of self-respect in a democratic society. The parties in the original position should then choose the principles of justice over utilitarianism and other teleological views both to secure their sense of self-respect, and to procure the same for others, thereby guaranteeing greater overall stability.

Rawls’s second principle of justice says: Social and economic inequalities are

to be arranged so that they are both: (a) to the greatest benefit of the least advantaged…and (b) attached to offices and positions open to all under conditions of fair equality of opportunity.\(^{31}\) The difference principle addresses differences or inequalities in the distribution of the primary goods of income and wealth, the powers and prerogatives of office and positions of responsibility. It basically requires that a society is to institute the economic system that would make the least advantaged class better off than they would be in any other feasible economic system, compatible with maintaining citizens equal basic liberties and fair equality of opportunity. Rawls defines ‘least advantaged’ as the class of those persons with the least share of the primary goods of income and wealth, and powers and prerogatives of office. He assumes the least advantaged are engaged in productive activity of some kind. Rawls then regards distributive justice as the benefits that accrue to persons for doing their part in socially productive cooperation. The class of unskilled workers receiving minimum income satisfies his definition of ‘least advantaged’. Disability payments for citizens who are handicapped and permanently unable to work are not then a matter of distributive justice, as Rawls construes it, but are instead covered by principles of assistance, which he leaves unspecified. As a principle for structuring basic economic institutions on grounds of reciprocity, the difference principle itself is not an appropriate principle for Compensating handicaps and other disabilities.\(^{32}\)


Rawls relies on the maximin rule of choice to argue against the principle of utility. Since the maximin rule and the difference principle both require maximizing the position of the least advantaged, it is easy to assume that the maximin choice rule leads directly to choice of the difference principle in the original position. But in fact the maximin rule alone cannot be used to justify the difference principle. For when the difference principle is compared with those “mixed conceptions” of economic justice that provide a social minimum and some degree of equal opportunities, then the third condition for applying maximin is not satisfied. The third condition implies that there can only be one acceptable alternative for choice. If there is a second alternative whose least advantaged position is one that rational persons can live with and accept if they end up in the least advantaged position, then the maximin rule is not a rational rule of decision. For then there is no likelihood of grave risks to one’s basic liberties and future prospects.

Rawls makes one main argument in favor of the difference principle and several more specific arguments against the principle of restricted utility. The main argument in favor of the difference principle depends on a strong idea of reciprocity among free and equal citizens: in a democratic society structured by the difference principle further gains to those more advantaged are not made at the expense of those less advantaged; instead, further gains to the more advantaged always benefit the least advantaged, and do so more than any other alternative distribution. All increments to society’s wealth are then marked by strict reciprocity in its distribution; this accords with free and equal persons sense of justice, that cooperation is to be grounded in terms of reciprocity and mutual respect. By contrast restricted utility, even if it provides a social minimum, still permits disadvantages and losses to the worst off so
that those better off may prosper; any degree of inequality is allowed in the name of maximizing utility so long as it does not violate the social minimum. Such a situation, Rawls contends, would be morally unacceptable to free and equal persons in a well-ordered society, and rationally unacceptable to the parties in the original position.

Another argument of Rawls is the moral or intuitive argument for justice, this argument concentrates on the difference principle. The most important part of the moral argument concerns natural endowments and moral desert. How a common sense view of justice equates it with desert. Justice is done when people get what they deserve on a social level, this means rewarding people based on their contributions to the common good, or a similar criterion. Rawls rejects this, since the thinks contributions to society system from a combination of natural endowments and one’s starting place in society both of which are undeserved. He writes: “No one deserves his greater natural capacity nor merits a more favorable starting place in society. But it does not follow that one should eliminate these distinctions. There is another way to deal with them. The basic structure can be arranged so that there contingencies work for the good of the least fortunate. Thus we are led to the difference principle if we wish to set up the social system so that no one gains or losses from his arbitrary place in the distribution of natural assets or his initial position in society without giving or receiving compensating advantages in return”.

Rawls is making quite a radical claim: we are effected by our starting place in society and the natural abilities to a very significant degree. That starting place and

these abilities are undeserved, therefore whatever we gain by using those abilities is also undeserved. Essentially this amounts to saying that no one deserves the fruits of his labor. It is important not to be unduly alarmed at this, since though Rawls rejects desert, he has a conception of legitimate entitlement. This means that when a certain set of social rules of cooperation has been set up, those who have done more within these rules are entitled to more advantages. The crucial difference with desert is that desert is seen to define the rules, whereas legitimate entitlement does not. For Rawls, unlike for Locke, there is no pre-social desert when it comes to property. Legitimate entitlements to property do arise, but only once the social system is set up! they have nothing to do with choosing the basic principles of that system.

Since desert does not apply, everyone is equal. It seems that the wealth of a society must be distributed equally. But there is another possibility. For various reasons, the worst off in society might be better off in a scheme where there are some inequalities. This is basic economics. Inequalities create greater incentives for economic activity, and they also give greater access to resources to those who can utilize them better. Hence, there is greater overall wealth, and more can be redistributed to the worst off are better off in absolute terms when there are some inequalities. It is important here that Rawls explicitly rules out the importance of envy.

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The other intuitive argument for the difference principle is that it enables us to make sense of the place of fraternity in liberalism.³⁷ As we well know, the liberty and equality have received extensive attention in the liberal tradition, fraternity has been neglected. Rawls proposes that the difference principles can fill this vacuum. This difference principle corresponds to not wanting goods for oneself unless others benefit as well. This is the principle of fraternity, which in contemporary society is best expressed in the institution of the family, family members; at least ideally, do not want to gain at each other’s expense. Furthermore, a family as a whole does not seek the maximization of its assets regardless of distribution. Rather, the members of a family seek to advance their individual interests in a manner which is to the benefit of all members. The difference principle expresses this on the lives of a whole society.³⁸

But criticism of Rawls’s claims about the reasonableness of the conditions imposed in the original position have been especially sharp among moral and political philosophers. Though the details of the criticism take many forms, the central objection to Rawls’s construction is that the design of the original position presupposes a particular conception of the good. It does not, contrary to Rawls’s claims, provide a reasonable device for addressing controversies about justice among people with different conceptions of the good, because it will only be found attractive by people drawn to a liberal philosophy of life – one that holds that individual


independence, choice, and self-mastery are the fundamental values that ought to govern our lives.\textsuperscript{39}

Critics have localized the offending bias in different places. Thomas Nagel criticized Rawls’s assumption that all the parties in the original position want “primary goods” – in particular, income and wealth – as unfairly biased in favor of individualistic conceptions of the good. \textsuperscript{40} Brian Barry objected to the individualism implicit in Rawls’s contractual method of justification, which proceeds from individual judgments about what is best for me, all else equal, to judgments about how society ought to be arranged.\textsuperscript{41} According to Michael Sandel, Rawls assumed a liberal philosophy of life when he required that we place our conceptions of the good behind a veil of ignorance. \textsuperscript{42} Many criticisms have been leveled against Rawls’s veil of ignorance also. Among the most frequent is that the parties are deprived of so much information about themselves that they are incapable of making a rational choice. How can we make any rational choice without knowing our fundamental values?


\textsuperscript{40} Ibid, PP. 196 – 200.


Though the parties do not know their particular values and final ends, they do know that they require an adequate share of primary social goods to effectively pursue these values; they also know they have a higher-order interest in developing their moral powers, which are conditions of responsible agency and social cooperation. Rawls contends that knowledge of these “basic needs” is sufficient for a rational choice in the original position. 43

A related criticism of Rawls’s “thick” veil of ignorance, voiced by many consequentialists, is that even if the parties can come to a decision without knowledge of their final ends, still the decision does not have any bearing on justice. For justice is said by consequentialists to consist of the measures that most effectively promote ultimately good consequences. Without knowledge of the ultimate good, however it is to be defined; the parties cannot discover the principles of justice the best promote it. From the above discussion it is clear that the aim of Rawls is not to construct a theory which could explain the origin of society, rather to elucidate a natural situation in which all would agree to a set of principles of justice which would make the life of all, peaceful and advantageous. The aim is to depict a social structure which can uphold the basic rights and liberties of all in equal manner for the benefit of one and all, specially for the well-being of the least advantaged group of the society. His aim is not to provide a juristic or moral standard referring to which actions and social institutions can be adjudged.

Rawls wishes to construct a theory of justice which is not based on historicity of situations. The putatively historical situation which he describes is purely

hypothetical. It is not that people ever agreed to a contract to guide their life, right, liberties, and social institutions like property, power, and position etc., in an initial situation that was fair. But Rawls intention is to show what would be their primary goods and the principle of justice provided people had agreed in an initial situation of equality. His theory rests on many assumptions. Though his hypothetical explanation is a deductive one, the conception of justice is an intuitive product of the nature of initial rational human beings.