

Ethics // Spring 2025

Handout 12

Justice as fairness: Rawls

Remark 1. We are covering Rawls' early paper, rather than the more well-known discussion in *A Theory of Justice*. For the latter, see the 2024 Handout 5.

BASIC IDEAS. Rawls begins by focussing on two features of justice, the elimination of arbitrary distinctions, and balancing competing claims (for rewards, punishments, whatever it may be). Justice is contrasted with equality, since there may be just and justified inequalities. 165

Question 2. Give an example of a just inequality.

Justice should be based on two principles: 165

- (I) Every one should have as much liberty as is compatible with the greatest liberty of every other person.
- (II) The only inequalities allowed are those that work to every one's advantage.

The principle (I) allows deviations. In practice, there may be situations where liberties of individuals are restricted. These restrictions will be justified by an appeal to (II). But in any event, there is an initial consideration (presumption) against infringements on liberty, however well enshrined they may be in the legal code. 166

This claim must be explained further by stressing that the principle (II) is distinguished by the emphasis on 'every'. Here, we want to have a contrast with an utilitarian position where inequalities are allowed, provided that the sum of the utilities increases. The utilitarian position, but not principle (II), permits (and encourages) an action or policy whereby one person benefits extraordinarily from it, to the extent that his benefit will trump any losses incurred by the other people affected by that action or policy. 167

Question 3. Given an example illustrating the just explained difference between (II) and utilitarianism.

Another corollary on the principle (II) is that whatever privileges are attached to social positions (perhaps quite simply, to certain jobs), they must be earned based on merit. They can't, that is, be earned based on an innate quality or traditional hierarchy. 169

DERIVATION OF PRINCIPLES. To defend these principles we won't appeal to a priori intuitions or some logical trick. Instead, we will (also a priori, however) imagine a situation involving self-interested, rational agents with similar preferences. We imagine them deliberating the sort of principles they would want to adopt in order to settle their 'complaints'. These principles will, by design, be universal and enduring. Importantly, they will hold in the future circumstances covered by the 'veil of ignorance': the agents won't know what their respective positions (social rank, wealth etc.) will be. 170

Hence we have two characteristics in this conception of justice. Its issues are deliberated until a 'reflective equilibrium' is found, that is, when the agents locate the principles none of them would like to reject (roughly speaking). It also satisfies the requirement of impartiality we believe a just arrangement must satisfy: one's preferences should not be arbitrarily ignored or prioritised. 171

MOTIVATION. Rawls claims that he makes no general assumptions about human motivation. Instead, his claim is conditional: 175

(12-1) If debates about justice occur, people should be driven, in these debates, by self-interest.

If people were devoid of self-interest and were like saints, then they wouldn't engage in a justice debate.

Question 4. How would the Rawlsian saints resolve their differences, if not in a debate?

Question 5. Are there nevertheless some psychological assumptions to be made for the Rawlsian procedure to go through?

THE DUTY TO OBEY. The very participation in the debate described entails the duty to obey. The participants need not make a special announcement to the effect they undertake to obey the principles that emerged in the reflective equilibrium. Rather, the analogy is with games. By playing chess you take on yourself the ‘obligation’ to obey the rules of chess. This acceptance of the obligation is intrinsically attached to your very participation in the game. Similarly, with the justice deliberation: by their very participation in it the participants take on themselves to obey whatever principles will emerge at the end.

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