

Some Rawlsian ideas, chapters 1 & 2

1. Rawls versus utilitarianism. Page 3, “Each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override. For this reason justice denies that the loss of freedom for some is made right by a greater good shared by others. . . . Therefore in a just society the liberties of equal citizenship are taken for granted.”

2. Page 6, “For us the primary subject of justice is the **basic structure of society**, or more exactly, the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation.” The principles of justice are to regulate the basic structure. The basic structure brings it about that from birth people have different life prospects. These are deep inequalities, which could not be justified by individual merit or desert.

3. Rawls aims to present a conception of justice “which generalizes and carries to a higher level of abstraction the familiar theory of the **social contract** as found, say, in Locke, Rousseau, and Kant.” On this view, the principles of justice are what free and equal rational persons, each concerned to advance her own interests, would agree to under conditions that are fair, as terms to regulate social cooperation. This is the idea of **justice as fairness**. Rawls calls the philosophically favored characterization of the fair conditions for choice of principles of justice “**the original position**.”

4. Rawls aims to present a conception of justice that is a genuine theory that can supplant **utilitarianism**, which Rawls sees as the theory to beat. You can’t beat a theory except with a better theory, he thinks. There is a fall-back position if the search for theory fails—this he calls “**intuitionism**” or the no-theory theory. This is the idea that we can affirm some moral rules but there is no principled way of determining what should be done when these moral rules come into conflict. We simply weigh the conflicting values on a case by case basis. Better to find a theory (a set of principles that tells us what information we need for choice, so that with this information, what policy or act should be chosen is determined by derivation from statement of principles plus premises stating the relevant facts).

5. Utilitarianism “does not take seriously the distinction between persons” (this is also called the separateness of persons objection). Utilitarianism according to Rawls also fails to affirm our common-sense conviction that people have inviolable rights not to be enslaved, to speak freely on matters of public concern, etc. Utilitarianism is an example of a **teleological** moral view. On such a view, (1) the good is defined or specified independently of the right, and (2) the right is identified with maximizing the good. Justice as fairness is not a teleological view. Instead it affirms “the priority of the right over the good.”

6. How might we justify our moral opinions? Rawls supposes our moral opinions right now are in a state of disequilibrium—latent conflict. If I try to defend my particular judgments by general principles, I find I affirm general principles that imply particular judgments I don’t accept; or I affirm a set of particular judgments that cannot be justified by any general principles I find plausible. By reflection we seek a position of articulate consistency or **reflective equilibrium**. In reflective equilibrium, I affirm a set of general principles that strike me as acceptable, and from these general principles I can derive a set of particular judgments I accept. My general and particular moral judgments are in equilibrium. But further arguments or objections can unbalance any such equilibrium. I then work again to get back to equilibrium. We might define moral truth (Rawls doesn’t do this) as the ideal limit of this ethical inquiry—what’s true in ethics is what we would believe in ideal reflective equilibrium--a reflective equilibrium reached after canvassing

and assessing all relevant arguments and considerations that might bear on choice of what to do and what to value.

6. In chapter 2 Rawls presents two principles of justice. Their justification is supposed to come in chapter 3. There Rawls argues that his favored principles would be chosen by parties in the original position, and that's why we should accept them. Chapter 2 works through candidate versions of the principles and selects the versions Rawls finds most plausible. So chapter 2 provides some intuitive rationales for the principles Rawls affirms as the principles to regulate the basic structure. Recall, we seek principles for a single society closed off from others, a society assumed to be well-ordered (page 4). We are simplifying the problem of figuring out what is just, considering just one part of the problem, in order to make progress.

7. In a just society the distribution of benefits and burdens is fair. So we need some way of comparing people's condition. How do we do this? It might seem there is no way, given the way Rawls conceives of the problem. Liberalism starts with religious toleration as it developed in the wars of religion in Europe after the Protestant Reformation. The first idea is that the state should be neutral between competing religious faiths. Then we generalize this idea—people disagree about what makes for a good and worthwhile life, just as they disagree about religion. So the state ought to be neutral (in some sense) in treating different conceptions of the good. But then we lack a standard of good quality of life for assessing people's condition for a theory of justice. What to do?

Rawls's solution is that we use as a measure of people's condition their holdings of **primary social goods**—things any rational person will want more rather than less of, whatever else she wants. (He later revises this idea, see p. xiii, preface to revised edition.) The principles of justice regulate the distribution of primary social goods. Rawls, p. 79 "The primary social goods, to give them in broad categories, are rights; liberties, and opportunities, and income and wealth"—also the social bases of self-respect. Why not look behind primary goods shares to see what quality of life individuals get by means of their resource and liberty shares? Rawls has an idea of personal responsibility here—if the distribution of primary social goods is fair, then it is up to each of us, not society, to decide how to live and to fashion a good life for ourselves.

8. The two principles:

1. The equal liberty 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" (p. 220). Note the principle refers to **basic liberties**. Not liberties in general. The basic liberties are given by a list (p. 53): "political liberty (the right to vote and to hold public office), and freedom of speech and assembly; liberty of conscience and freedom of thought, freedom of the person, which includes freedom from psychological oppression and physical assault and dismemberment (integrity of the person); the right to hold personal property and personal freedom from arbitrary arrest and seizure as defined by the concept of the rule of law." The basic liberties are roughly constitutional or civil liberties, liberties apt for protection by a written constitution.

2. "Social and economic inequalities are to be arranged so that they are both (a) to the greatest expected benefit of the least advantaged and (b) attached to offices and positions open to all under conditions of **fair equality of opportunity**" (p. 72). Part a is called the **difference principle**.

9. The principles are **lexically ordered**: The equal liberty principle trumps the second principle, and within the second principle fair equality of opportunity trumps the difference principle. This means we must do everything we can to satisfy the lexically higher ranked norm and accept no

tradeoffs (eg a tradeoff of less basic liberty for greater fulfillment of the difference principle.)