

Rawls's "Theory of Justice" and its practical Application

Introduction

John Rawls was born in Baltimore, Maryland. He was an American political philosopher in the liberal tradition. His theory of *justice as fairness* describes a society of free citizens holding equal basic rights and cooperating within an egalitarian economic system. His theory of *political liberalism* explores the legitimate use of political power in a democracy, and envisions how civic unity might endure despite the diversity of world views that free institutions allow. His writings on *the law of peoples* set out a liberal foreign policy that aims to create a permanently peaceful and tolerant international order. He received both the Schock Prize for Logic and Philosophy and the National Humanities Medal in 1999, the latter presented by President Bill Clinton, in recognition of how Rawls' work "helped a whole generation of learned Americans revive their faith in democracy itself."

Rawls has often been described as one of the most influential political philosophers of the 20th century. He has the unusual distinction among contemporary political philosophers of being frequently cited by the courts of law in the United States and Canada^[9] and referred to by practising politicians in the United States and the United Kingdom.

Rawls's theory of "justice as fairness" recommends equal basic rights, equality of opportunity and promoting the interests of the least

advantaged members of society. Rawls's argument for these principles of social justice uses a thought experiment called the "original position," in which people select what kind of society they would choose to live in if they did not know which social position they would personally occupy. In his later work *Political Liberalism* (1993), Rawls turned to the question of how political power could be made legitimate given reasonable disagreement about the nature of the good life.

Main principles of justice by Rawls

In *A Theory of Justice*, Rawls argues for a principled reconciliation of liberty and equality that is meant to apply to the basic structure of a well-ordered society. He modifies and develops the principles of justice throughout his book. In chapter forty-six, Rawls makes his final clarification on the two principles of justice:

1. "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"
2. "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 savings principle, and
 - B. attached to offices and positions open to all under conditions of fair equality of opportunity."

Philosophical thought

Rawls published three main books. The first, *A Theory of Justice*, focused on distributive justice and attempted to reconcile the competing claims of the values of freedom and equality. The second, *Political Liberalism*, addressed the question of how citizens divided by intractable religious and philosophical disagreements could come to endorse a constitutional democratic regime. The third, *The Law of Peoples*, focused on the issue of global justice.

A Theory of Justice

The Rawls's *magnum opus* titled *A Theory of Justice*, published in 1971, aimed to resolve the seemingly competing claims of freedom and equality. The shape Rawls's resolution took, however, was not that of a balancing act that compromised or weakened the moral claim of one value compared with the other. Rather, his intent was to show that notions of freedom and equality could be integrated into a seamless unity he called *justice as fairness*. By attempting to enhance the perspective which his readers should take when thinking about justice, Rawls hoped to show the supposed conflict between freedom and equality to be illusory.

Rawls's *A Theory of Justice* (1971) includes a thought experiment he called the "original position." The intuition motivating its employment is this: the enterprise of political philosophy will be greatly benefited by a specification of the correct standpoint a person should take in his or her thinking about justice. When we think about what it would mean for a just state of affairs to

obtain between persons, we eliminate certain features (such as hair or eye color, height, race, etc.) and fixate upon others. Rawls's original position is meant to encode all of our intuitions about which features are relevant, and which irrelevant, for the purposes of deliberating well about justice.

Rawls posits two basic capacities that the individuals would know themselves to possess. First, individuals know that they have the capacity to form, pursue and revise a conception of the good, or life plan. Exactly what sort of conception of the good this is, however, the individual does not yet know. It may be, for example, religious or secular, but at the start, the individual in the original position does not know which. Second, each individual understands him or herself to have the capacity to develop a sense of justice and a generally effective desire to abide by it. Knowing only these two features of themselves, the group will deliberate in order to design a social structure, during which each person will seek his or her maximal advantage. The idea is that proposals that we would ordinarily think of as unjust – such as that black people or women should not be allowed to hold public office – will not be proposed, in this, Rawls' original position, because it would be *irrational* to propose them. The reason is simple: one does not know whether he himself would be a woman or a black person. This position is expressed in the difference principle, according to which, in a system of

ignorance about one's status, one would strive to improve the position of the worst off, because he might find himself in that position.

Rawls develops his original position by modelling it, in certain respects at least, after the "initial situations" of various social contract thinkers who came before him, including Thomas Hobbes, John Locke and Jean-Jacques Rousseau. Each social contractarian constructs his/her initial situation somewhat differently, having in mind a unique political morality s/he intends the thought experiment to generate. Iain King has suggested the original position draws on Rawls' experiences in post-war Japan, where the US Army was challenged with designing new social and political authorities for the country, while "imagining away all that had gone before."

In social justice processes, each person early on makes decisions about which features of persons to consider and which to ignore. Rawls's aspiration is to have created a thought experiment whereby a version of that process is carried to its completion, illuminating the correct standpoint a person should take in his or her thinking about justice. If he has succeeded, then the original position thought experiment may function as a full specification of the moral standpoint we should attempt to achieve when deliberating about social justice.

Principles of justice

Rawls derives two principles of justice from the original position. The first of these is the Liberty Principle, which establishes equal basic liberties for all citizens. 'Basic' liberty entails the (familiar in the liberal tradition) freedoms of conscience, association and expression as well as democratic rights; Rawls also includes a *personal property* right, but this is defended in terms of moral capacities and self-respect,^[36] rather than an appeal to a natural right of self-ownership (this distinguishes Rawls's account from the classical liberalism of John Locke and the libertarianism of Robert Nozick). Rawls argues that a second principle of equality would be agreed upon to guarantee liberties that represent meaningful options for all in society and ensure distributive justice.

Political Liberalism

In *Political Liberalism* (1993), Rawls turned towards the question of political legitimacy in the context of intractable philosophical, religious, and moral disagreement amongst citizens regarding the human good. Such disagreement, he insisted, was reasonable – the result of the free exercise of human rationality under the conditions of open enquiry and free conscience that the liberal state is designed to safeguard. The question of legitimacy in the face of reasonable disagreement was urgent for Rawls because his own justification of Justice as Fairness relied upon a Kantian conception of the human good that can be reasonably rejected. If the political conception offered in *A Theory of Justice* can only be shown to be good by invoking a controversial conception of human flourishing, it is unclear how a liberal

state ordered according to it could possibly be legitimate. Rawls also modified the principles of justice as follows (with the first principle having priority over the second, and the first half of the second having priority over the latter half):

1. Each person has an equal claim to a fully adequate scheme of basic rights and liberties, which scheme is compatible with the same scheme for all; and in this scheme the equal political liberties, and only those liberties, are to be guaranteed their fair value.
2. Social and economic inequalities are to satisfy two conditions: first, they are to be attached to positions and offices open to all under conditions of fair equality of opportunity; and second, they are to be to the greatest benefit of the least advantaged members of society.

These principles are subtly modified from the principles in *Theory*. The first principle now reads "equal claim" instead of "equal right," and he also replaces the phrase "system of basic liberties" with "a fully adequate scheme of equal basic rights and liberties." The two parts of the second principle are also switched, so that the difference principle becomes the latter of the three.

The Law of Peoples

He claimed there that "well-ordered" peoples could be either "liberal" or "decent." Rawls's basic distinction in international politics is that his preferred emphasis on a society of peoples is separate from the more

conventional and historical discussion of international politics as based on relationships between states.

Rawls argued that the legitimacy of a liberal international order is contingent on tolerating *decent peoples*, which differ from *liberal peoples*, among other ways, in that they might have state religions and deny adherents of minority faiths the right to hold positions of power within the state, and might organize political participation via consultation hierarchies rather than elections. However, no well-ordered peoples may violate human rights or behave in an externally aggressive manner. Peoples that fail to meet the criteria of "liberal" or "decent" peoples are referred to as 'outlaw states,' 'societies burdened by unfavourable conditions' or "benevolent absolutisms' depending on their particular failings. Such peoples do not have the right to mutual respect and toleration possessed by liberal and decent peoples.

Rawls's discussion of "non-ideal" theory, on the other hand, included a condemnation of bombing civilians and of the American bombing of German and Japanese cities in World War II, as well as discussions of immigration and nuclear proliferation. He also detailed here the ideal of the statesman, a political leader who looks to the next generation and promotes international harmony, even in the face of significant domestic pressure to act otherwise. Rawls also controversially claimed that violations of human rights can legitimize military intervention in the violating states, though he also

expressed the hope that such societies could be induced to reform peacefully by the good example of liberal and decent peoples.

The International Basic Structure and the Principles of the Law of Peoples

Much of Rawls's presentation of the law of peoples parallels the presentations of political liberalism and justice as fairness. As a liberal society has a basic structure of institutions so, Rawls says, there is an international basic structure. While Rawls does not say that the international basic structure has a pervasive impact on the life chances of individuals, the rules of this basic structure are coercively enforced (for example, Iraq's invasion of Kuwait in 1990 was coercively reversed by a coalition of other countries). The principles that should regulate this international basic structure thus require justification. The justification of these principles must accommodate the fact that there is even more pluralism in world views among contemporary societies than there is within a single liberal society. Rawls puts forward eight principles for ordering the international basic structure:

1. Peoples are free and independent, and their freedom and independence are to be respected by other peoples.
2. Peoples are to observe treaties and undertakings.
3. Peoples are equal and are parties to the agreements that bind them.
4. Peoples are to observe the duty of nonintervention (except to address grave violations of human rights).

5. Peoples have a right of self-defence, but no right to instigate war for reasons other than self-defence.
6. Peoples are to honour human rights.
7. Peoples are to observe certain specified restrictions in the conduct of war.
8. Peoples have a duty to assist other peoples living under unfavourable conditions that prevent their having a just or decent political and social regime.

All of these principles, with the exception of the last one, are familiar from contemporary international law (though Rawls's list of human rights for principles 4 and 6 is shorter than the list in international law). Rawls also leaves room for his law of peoples to accommodate various organisations that may help societies to increase their political and economic coordination, such as idealised versions of a United Nations, a World Trade Organization, and a World Bank.

Practical Application of Rawls's Theory

Some people are multi-billionaires; others die because they are too poor to afford food or medications. In many countries, people are denied rights to free speech, to participate in political life, or to pursue a career, because of their gender, religion, race or other factors, while their fellow citizens enjoy these rights. In many societies, what best predicts your future income, or whether you will attend college, is your parents' income.

To many, these facts seem *unjust*. Others disagree: even if these facts are regrettable, they are not issues of justice. A successful theory of justice must explain why clear injustices are unjust and help us resolve current disputes. John Rawls was a Harvard philosopher best known for his *A Theory of Justice*, which attempted to define a just society. Nearly every contemporary scholarly discussion of justice. This essay reviews its main themes.

Rawls Difference Principle in comparison to other rival theories

According to Rawls, the distribution of income and wealth should not be based upon arbitrary factors which are not in control of an individual. Rather, it should be based upon factors which their own credit. For this Rawls criticised some rival theories. We will consider a common example of a race to understand the difference between all the systems.

1. Federalise to cracy : By this Rawls means that the people's life events are determined by their birth. This may include their place and environment of birth. Birth is a factor which people have no control and hence determining principle on the basis of birth would be arbitrary from a moral point of view. Hence, the result of the race cannot be based upon this system.
2. Libertarian system: Libertarians believe that every body should be given equal opportunities to show their talents regardless of their birth. There shall be equality of opportunities in every aspect and all should have the equal right to strive for work of their choice. But Rawls could

not agree to this system as well. He opined that if the race you give equal opportunities to everyone then, those who have started from a lower point would never be able to reach equal to others. Therefore, in the race, when people start from different starting points then their endpoint should also be different.

3. Meritocratic system: In the meritocratic system all are brought on the same starting point i.e. everybody is given equal facilities and privileges to move towards their end goal. For example, providing similar education to all. Then, the race would be fair. But Rawls is not satisfied with this system also, he argued that even if we all start from the same starting point, with the same facilities and towards the same goal then also, there would be some people with extraordinary talents and learning capacities which will help them to do better than the rest of the people.

For example, in a race, the best athlete would win. Therefore, the meritocratic system fights against social barriers but can not overcome the biological barriers that come in between. So, Rawls thinks that for removing the moral arbitrariness, we would require a system which goes beyond this. Many answered that the only way to remove this would be to handicap the best runner. But Rawls says that even this can't be done since this would dissolve the very purpose of the competition.

Criticism

John Rawls gives account of a system which benefits all sections of the society, equally. He, through his theory, proposed a system where laws and principles of justice are made by the conscious effort of the people who would be governed by those laws and principles. His idea of the veil of ignorance points out to the idea of equality, a system where each individual has equal participation in the making and where there are no biases involved. Further, through his difference principle, he had taken care of those who need special attention after the system is made. His idea is one such ideal which can be chosen to protect the rights of minorities and the least well off.

A Theory of Justice received criticism from several philosophers. Robert Nozick criticized Rawls' account of distributive justice in his defense of libertarianism, *Anarchy, State, and Utopia* (1974).

Allan Bloom, writing in *American Political Science Review* in 1975, noted that *A Theory of Justice* had "attracted more attention in the Anglo-Saxon world than any work of its kind in a generation", attributing its popularity to its being "the most ambitious political project undertaken by a member of the school currently dominant in academic philosophy" and to Rawls' "radical egalitarian interpretation of liberal democracy." Bloom criticised Rawls for failing to account for the existence of natural right in his theory of justice and wrote that Rawls absolutises social union as the ultimate goal which would conventionalise everything into artifice.

Michael Sandel criticized Rawls in *Liberalism and the Limits of Justice* (1982), arguing that Rawls encourages people to think about justice while divorced from the values and aspirations that define who they are as persons and that allow people to determine what justice is.

Conclusion

Rawls derives two **principles of Justice**: the liberty principle and the difference principle. In his concept of the liberty principle, **Rawls** explains that each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others.

Although Rawls' argument for the Difference Principle based on the Original Position and veil of ignorance provide some useful insights into how to form principles of social justice, particularly his concept of liberty, the Difference Principle itself has some flaws. It allows for the existence of the free-rider problem where it is easier to contribute less and gain more than it is to contribute more, thus blocking productive incentives. Rawls doesn't provide an adequate guarantee that those who were unwilling to work would not exploit the labour gain of those who work harder. In a free and rational society, the Difference Principle shouldn't be needed if other institutions are upheld and constantly working to fix inherent inequalities in societies, such as by reducing class barriers. Any existing wish for the least advantaged to want to gain more would be motivated by envy, which is not a fair basis for a

theory of justice. A possible solution to this problem would be to include the concept of desert, which focuses on actual action and willingness to perform.

His theories are not focused on helping individuals cope with ethical dilemmas; rather they address general concepts that consider how the criminal justice system ought to behave and function in a liberal democracy.

However, It's been nearly 50 years since the political philosopher John Rawls published his groundbreaking "Theory of Justice," articulating the connection between justice and equal rights still stands as a defining work of modern political philosophy.

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