

ECONOMIC, POLITICAL AND SOCIAL ETHICS

Examen : written exam (QCM's)

LECTURE 1 : INTRODUCTION TO ETHICS

I. PRELIMINARY QUESTIONS

The entire world is very inequal. But which inequalities are fair, and which aren't ?

Are wage differences fair or unfair ? Football players earn much more than an average person. In 2018, the gross monthly wage of the football player Neymar was about 3,06 millions euros. The average French person earns $\frac{1}{1313}$ of Neymar's wage every month. Wage is only one aspect of inequalities. Of course, inequalities exist in every resources, such as lifetime for example.

Is it fair that some people live much longer than other ? Based on 2014 French lifetables, about 10 % of a men's cohort die before having reached the age of 60 years. Those people worked during a long part of their life, paid contributions to the social security system, but will never enjoy retirement.

→ It is easy to say that some situations are unfair. But it is much more difficult to know what should ideally prevail, what "*should be*".

II. WHAT WOULD A FAIR SOCIETY LOOK LIKE ?

The subject-matter of social justice is the manner in which benefits/burdens are distributed.

Social justice : The term « social justice » refers to the general idea of « to each person his due » (Miller 1976). But what exactly is due to each person ? There are many definitions of social justice :

- Is it **what everyone deserves** in comparison to what they give to society ?
↳ In this case, we could say that Neymar's wage is somehow fair, because he entertains a lot of people every time he plays.
- Is it **what everyone needs** ?
↳ In this case, Neymar's wage compared to a regular person could be considered unfair.
- Is it **what everyone receives according to their rights** (moral rights or legal rights) ?
↳ In this case, Neymar's wage is fair because he has a legal claim to it : he has a contract in which both parts agreed on the terms, including the wage.
- Is it **something else** ?

→ We can see that the fairness of a situation depends on the definition of social justice that we adopt.

Characterizing what a "fair society" would be requires formulating consistent arguments involving **value judgements**. A value judgement is a judgment of the rightness or wrongness of something or someone, or of the usefulness of something or someone, based on a comparison or other relativity.

DIFFERENCE BETWEEN SCIENCE AND ETHICS

Ethics is different than science because unlike science, it studies what the world *should be*. Science studies what the world *is*. Indeed, science deals with judgement of facts (positive statements, ...) and ethics deals with value judgements.

This course is an introduction to the practice of ethics in the economic, political and social spheres.

- **Economic ethics** deals with institutions and behaviours taking place in the economic sphere. (production and exchange of goods and services).
 - Many issues: fair wages, fair prices, fair taxation, etc.
- **Social and political ethics** (= political philosophy) is the part of ethics that deals with social/political institutions. Its domain focuses on how we should organize our society.

III. VALUE JUDGEMENTS AND JUDGEMENTS OF FACT

A fundamental distinction concerns judgements of fact and value judgements. (*Arnsperger and Van Parijs*, 2000).

- **Judgements of fact** are used in science. They are descriptive or positive statements that give information about what is. Some examples of purely positive statements :
 - In 2018, the net monthly wage of Neymar is about 2,35 million euros.
 - In 2015, 10 % of the world's population lives with less than 1,9 \$ a day
- **Judgements of value** are used in ethics. They are prescriptive or normative statement : they are about what should be. Some examples :
 - It is not fair that a football player earns 1000 times the median wage.
 - The Belgian State should impose higher tax rates on high incomes

The presence of the verb **should** or **ought to** often indicate the presence of a value judgement but it doesn't always mean the sentence is a value judgement. It could also be a judgement of fact so we have to be careful, sometimes purely positive statements include the verb should.

Example : *If the Belgian State wants to increase fiscal revenues, it should increase the level of corporate tax rates.* → The verb should is used but this sentence isn't a value judgement, it is a fact.

There are also value judgements that do not involve the verb should¹.

Example : *Neymar's wage is unfair in comparison to the average person's wage* → There is no "should" in the sentence, however it is still a value judgement. It's not factual.

TYPES OF IMPERATIVES

We meet here a distinction introduced by Emmanuel Kant in his *Foundations of the Metaphysics of Morals* (1785).

- **Hypothetical imperative** are about things to be done but *conditionally* on some goals, that is, these point to the most appropriate means to achieve some ends. They tell you what's the best means to achieve a given goal.
- **Categorical imperatives** are about things to be done *unconditionally*, in the sense that those imperatives are not conditional on the acceptance of some goals or ends. Ethics is about value judgements (normative statements), which include, among other things, categorical imperatives.

¹ Note that numerous statements look like judgements of fact, but are actually value judgements.

Categorical imperatives are value judgements, whereas hypothetical imperatives are not (these are only a particular type of judgements of fact). Hence the presence of a « should » or « ought to » in a sentence does not imply that this statement is a value judgement.

IV. METHODS TO JUSTIFY A VALUE JUDGEMENT

How can we justify a value judgement ? Value judgement and judgement of fact have different ways to be justified. The methods of sciences and ethics obviously aren't the same ;

- *Judgement of facts* : we can establish the truth by observing/experimenting. When someone states a fact, it's possible to check it, with the internet for example, or by testing it.
- *Value judgement* : As the value judgement is not a factual claim, it can't be established as true by experiences or observations. It's more complex to justify than a judgement of facts. Value judgements require their own method to be justified.
It is logically impossible to deduce a normative/prescriptive statement (value judgement) from purely positive/descriptive premises (David Hume, 1751). In other words, we can't deduce a "what should be" from "what is". A normative conclusion must necessarily follow from at least one value judgement².

Example : "*the French State should increase taxation on high incomes*" does not follow logically only from positive premises. Some possible positive premises are :

- The public deficit grows, and the State needs more fiscal revenues.
- The State can increase taxation on higher incomes without being subject to a too large fiscal exodus of high wages.

Those premises are not sufficient to claim that "*the French State should increase taxation on high incomes*". One needs to add value judgements such as :

- High wages/incomes are not fair.
- We should redistribute from high income people to low income people.

But if value judgements cannot be established only by means of facts, how can we justify them ? The course is all about developing our skills to think about formulating and justify value judgements about the fairness of the world, etc. Can one reduce value judgements to pure opinions, everyone developing one's own views about social justice without any foundation ? NO. Value judgements are not all equally good. Some are better than others.

PRINCIPLES OF JUSTICE

A **principles of justice** is a normative statement that has a large scope : it tells what should be done in many situations (higher generality).

The **principle of utility** states that actions or behaviours are right in so far as they promote happiness or pleasure, wrong as they tend to produce unhappiness or pain.

Normative statements can be justified by showing that these can be deduced from some principles of justice. For example : Progressive taxation of incomes can be justified on the ground of the principle of maximizing social happiness (the Principle of Utility).

² Note that a value judgement cannot, by nature, be corroborated or falsified by facts, as this can be the case for judgements of fact.

Then how can we justify principles of justice ? There are 2 methods :

1. **Reflexive equilibrium method** (Rawls, 1971) consists in :
 - Formulating general principles that we want to justify and try to deduce all possible implications in various fields.
 - Compare these implications with all basic moral intuitions.
 - If there are conflict between the principle and a basic moral judgement, we go back and try to modify the principle (iterative process)
2. **Prior principle method** (Sen, 1980): instead of deducing, we go backwards and think about whether the principal could be deduced from another, more fundamental principle (prior principle). If not, we try to modify it.
 Example : is the Principle of Utility compatible with the prior principle « to each according to one's needs »?

V. OUTLINE OF THE COURSE

The course introduces to the practice of ethics in some spheres. The course pursues several goals :

- Providing to students a general « toolbox » to think about ethical issues in the economic, social and political spheres, by introducing the main contemporary theories of social justice.
 - This course presents the main contemporary theories of justice. There are several ways to classify these in groups or families of theories.
 - Statements about how the society should be organized can be justified by showing that these can be deduced from general theories of justice (including one or more principles of justice).
- Applying those theories to various ethical questions in the economic, social and political domains, in such a way as to familiarize students with the practice of ethics in those domains.

MCQ 1 – answers : C, A, A, D, C

LECTURE 2 : UTILITARIANISM – BENTHAM & MILL

Utilitarianism is a theory of justice based on one unique principle : the **principle of utility** ; Actions or behaviours are right in so far as they promote happiness or pleasure, wrong as they tend to produce unhappiness or pain.

Figures of utilitarianism : Bentham, Mills, Singer, ...

I. INTRODUCTION

Utilitarianism was born in the 18th century, around the French revolution. It's been the main doctrine in social ethics for a long time. It's used in many domains like economics (*Mills*), but also political philosophy, etc.

↳ It's **Bentham** who states the principle of utility : “*the largest happiness for the largest number*”. Utilitarian authors propose to change the society and its institutions to conform with this unique ethical principle. All actions should be conformed to it and all agents should aim to the largest social welfare/happiness.

Utilitarians use the term « **happiness** » in the sense of *pleasure or lack of pain*. That use differs fundamentally from how the term « happiness » was used by the Ancient Greeks.

Happiness has several definitions, it can be :

- Satisfaction of one's preferences
- Pleasure
- Etc

In utilitarianism, we are far from Aristotle's definition of happiness : « *an activity of the mind conform to virtue* », « **virtue** » being a kind of « middleness ». We are also far from Epicurus. Bentham's definition is different from Epicurus' way of describing happiness. Take this example :

To Bentham, happiness means avoiding feelings of pain and getting feelings of pleasure. According to him, getting a long life of pleasure is better than getting a short one. So, pleasure depends on duration. It's **cumulative**. Epicurus however, says that a life of pleasure, whether it's long or short, provides the same amount of pleasure. As such, Epicurus' pleasure is independent from life's duration.

II. MAXIMIZING TOTAL WELFARE

Utilitarianism is a **calculus of pleasure and pain**. All things that matter to humans can be included as determinant of individual utility and enter the utilitarian calculus. The only thing that determines what is fair/good for humanity, is the set of pleasures and pains lived by humans (Governments /individuals should always choose the option that leads to the highest aggregate welfare for the society.).

Utilitarianism recommends to give up the idea of natural rights in profit to the idea of calculus of pain and happiness. If one's fundamental right must be ignored to benefit the social welfare, then it should be done so. The **aggregate welfare** matters more than the individual one.

Example : dilemmas

1. Suppose that an individual finds 10 euros on the street : - Option A: give that money to the first person in need ; - Option B: keep the money and go to the cinema.	The person in need could benefit the money, but using it in a cinema could help pay its workers, ...
2. A government faces the following dilemma : - Option A: construct an extension of the national airport ; - Option B: realize a protected natural park.	The airport could create jobs but the park could benefit the welfare of animals, ...

→ In both cases, it depends on what brings the greater benefit to social welfare. What are the solutions given by utilitarian calculus ? In each of those dilemmas, utilitarianism recommends to :

- Compute the sum of utilities or well-being levels for all individuals under options A and B
- Select the option that leads to the highest aggregate welfare level for the society as a whole.

Test of utility on a policy : does it contribute to the largest social welfare ? If not, utilitarians reject it.

A. 3 CHARACTERISTICS OF UTILITARIANISM

1. WELFARE

☞ **The well-being of individuals is the only thing that matters when evaluating the consequences**

3 visions of utility :

- **Hedonist** (Bentham) : The purpose of a human life is to look for pleasure and avoid the pain. Bentham's vision was about feelings of pleasures or the absence of feelings of pains.

- **Broader vision** of utility (Mill): distinguishing low quality and high-quality pleasure. A pleasure is of higher quality in comparison to another pleasure if all persons who experienced the two pleasures prefer the former to the latter.
- **Modern version** of utility (Pareto) : Pareto considers utility as a numerical representation of the preferences of the person (without any reference to mental states, or to feelings of pleasure or pain). In that sense, utilitarianism recommends to satisfy the preferences of all persons as much as possible.
→ In modern versions of utilitarianism, the term « utility » is often used in a non-hedonistic sense.

When facing the criticism of a reduction of reality to « utilities », utilitarians reply that one can define « utilities » as broadly as possible, to include everything that matters. For instance, if individual freedoms matter, then these should be counted as arguments of individual utility functions $U(\dots)$.

Marx's critic : Isn't it too narrow to have utilities/well-being as a unique informational basis ?

2. CONSEQUENTIALISM

☞ **Only consequences of actions, institutions or policies matter.** Intentions do not matter at all, neither virtues revealed by some acts, ...

3. SUM-RANKING

☞ **The evaluations of actions are made by summing up the individual utilities across all the society.**

Utilitarianism is individualistic in the sense that it judges the desirability of a policy, an action or an institution on the basis of the sum of individual utilities. But in that doctrine the social/aggregate interest always dominates the individual interest.

Utilitarianism is also a universalist doctrine: it has, as a criterion for social justice, the sum of all utilities with equal weights, whatever the gender, the age, the social status, etc.

B. A TELEOLOGICAL APPROACH

A last, important feature of utilitarianism is that it is a **teleological approach** to ethics.

→ *A theory is teleological when it defines the good independently from the right, and when what is right to do is defined as what maximizes the good.*

What is fair is reduced to what is good and the good is considered independently from the right. What is right can thus be defined as what maximizes the good.

Examples:

- **Epicurian ethics** : the good is the absence of any suffering (ataraxia).
- **Utilitarian ethics** : the good is utility (pleasure or desire satisfaction).
- **Communitarian ethics** : the good is relative to each community's values

III. UTILITARIANISM AND THE MEASUREMENT OF WELL-BEING

MAIN CRITICISMS FACED BY UTILITARIANISM

1. THE PROBLEM OF THE MEASUREMENT OF WELL-BEING/INDIVIDUAL UTILITIES

It is only possible to sum up individual utilities provided these are **measurable** (on a scale) and **comparable** across individuals (same scale). Utilitarianism thus relies on the assumption of **interpersonal comparability** of individual utilities.

How to measure and compare ?

- **Happiness studies** : build satisfaction scales, and measure happiness along that scale (possibly renormalized). Then aggregate these across the entire population.
→ Some people say it's pointless to try to measure preferences/happiness with numbers
- **Concept of Pareto optimality** : "A situation A is pareto-optimal if it is not possible to find another situation B such that at least one person strictly prefers B over A, and no one prefers A over B."
In other words, a situation is Pareto optimal when there is no possible Pareto improvement³.
- Suppose that individual preferences satisfy (> is strict preference, ~ is indifference):
 - Individual 1: $A > B > C$
 - Individual 2: $A \sim B > C$
 - Individual 3: $A > C > B$
 - A is Pareto-optimal (there is no Pareto improvement).
 - B is not Pareto-optimal, since shifting from B to A makes 1 and 3 better off and does not make 2 worse-off.
 - C is not Pareto-optimal, since shifting from C to A is a Pareto improvement.

This concept of Pareto optimality is used when utilities are purely **ordinal** (only represent a ranking of alternatives). Pareto optimality is the closest « ordinal brother » of utilitarianism.

⚠ Any situation that maximizes social welfare is Pareto-optimal, but the reverse is not true : a situation can be Pareto-optimal without maximizing the sum of utilities.

- **Majority rule** : Decision rule that selects alternatives which have a majority, that is, more than half the votes ($p \geq \frac{1}{2}$). It minimizes the risks of incomparability and of contradictory recommendations.
 - Take the following case: In this situation, A, B and C are all Pareto optima. But using the majority rule, we obtain that :
 - A majority of individuals prefers A to B;
 - A majority of individuals prefers B to C;
 - A majority of individuals prefers C to A.
 - Individual 1: $A > B > C$
 - Individual 2: $B > C > A$
 - Individual 3: $C > A > B$
- It's a cycle called **Condorcet Paradox**. A case in which the majority rule cannot lead to a social ordering on options ; the options cannot be ordered because they form a cycle of preferences.

2. INEQUALITIES

Does that doctrine legitimate inequalities along income or other dimensions ? When income or any resource must be allocated, the utilitarian allocation is such that the marginal utility of the last unit of resource allocated is equal across individuals.

Marginal utility (Jevons) : measures the utility gain or loss from a small variation in the quantity of the resource enjoyed by a person⁴.

→ It is usually assumed that utility is increasing and concave in the resource.

Law of "decreasing marginal utility" : There comes a time when an additional unit of consumption of a good brings less utility or pleasure than the consumption of the previous unit.

→ If true, then utilitarianism has a tendency to allocate resources equally – or, at least, not too unequally – within the population.

³ **Pareto improvement** = shifting to a better possibility without decreasing anyone's utility

⁴ The sum of individual utilities is maximized only when there is equalization of marginal utilities across individuals.

In the special case where all individuals have the same utility function, the allocation of resources is equal. However, when utility functions differ across individuals, there is no reason to have equality in the allocation of the resource. Individuals with a higher marginal utility obtain more than others.

Hence, although utilitarianism leads to an egalitarian allocation of resources when there is homogeneity of all individuals... (+) This leads to **potentially highly unequal** allocations when individuals are heterogeneous in their capacity to transform resources into utility (-)

3. THE TREATMENT OF NEEDS AND DESERT

Does utilitarianism do justice to the idea of “to each person what they should receive/their due” (Miller) ? It depends on how one defines “their due”. Here, we consider needs and desert.

- **Needs** : Does utilitarianism give more to those who need more ? Not always. It depends on the marginal utility of their consumption. Utilitarianism is not about giving things according to needs.
- **Desert** : The same amount of resources is allocated to everyone, regardless of how much they contribute.
In more elaborated models where individual efforts react to the final allocation, a utilitarian social planner could anticipate the effects of his allocation on the amount of efforts provided by all. If the utilitarian planner takes into account those incentive effects, this will make the utilitarian optimum more sensitive to the issue of encouraging efforts

4. THE TREATMENT OF FUNDAMENTAL RIGHTS

Are fundamental rights respected ? At first glance the answer is no, they aren't taken into consideration (intrinsic ~~value~~). Utilitarianism is a calculus of pleasure and pain. If violating one person's rights may maximize the social welfare, utilitarianism will recommend it
→ Fundamental rights only have an instrumental value.

Example : covid crisis. Some fundamental rights are denied in order to protect the aggregate welfare/health.

Now it is possible to argue that, when one makes utilitarian calculus properly, rights matter, and are taken into account. But the problem remains. Fundamental rights are only considered if they lead to maximizing social welfare.

Rule utilitarianism⁵ : selects actions that, if regarded as rules, lead to maximize social welfare. But even within rule utilitarianism, a fundamental right is only justified on the basis of the consequences of that right on social welfare maximization.

MCQ 2 – answers : B, B, C, D, A

LECTURE 3 : LIBERTARIANISM - NOZICK

I. INTRODUCTION

According to **libertarianism**, individual rights should never be sacrificed for the sake of social welfare or collective interest (>< utilitarianism). The underlying ideal of social justice is here an ideal in terms of liberties and freedoms. The starting point of libertarianism is the **dignity** of each human being individually. Thus, everyone should be treated with respect and dignity, and not be used as means to an end.

⁵ >< Act utilitarianism

↳ Above everything else, libertarianism wants to minimize the dangers of **tyranny** (by an individual or by the State).

Libertarianism was defended by, among others :

- Friedrich von Hayek (1960). → *The Constitution of Liberty*.
- Robert Nozick (1974). → *Anarchy, State and Utopia*
 - He criticizes utilitarianism by means of his « **experience machine** ». This machine would inject drugs leading to the most pleasurable conscious states. We would reach the largest happiness for all ! But, Nozick argues, no one would regard a life with such a machine as valuable because such an artificial life is a wasted life⁶

Libertarians defend a **minimal State** : the only function of the state should be to organize police and justice. According to libertarianism, a fair society is a society of free markets, minimal State, and where individual rights are respected.

II. THREE PRINCIPLES

A. SELF-OWNERSHIP

This principle is about the relations between humans only, while the 2 next principles are about relations between humans and goods.

Each mentally able human being has an absolute property rights on one's person, that is, on his body and mind (including his skills, inherited or not), except if that right is used to give up one's own liberty. → This implies that each human has a veto right regarding the uses that can be made of his body (or skills). We can't force anyone to do what they don't want to do⁷.

However, there is police/justice to enforce laws, in order to protect the self-ownership of everyone. The aim is not to create a society of criminals.

Example : the libertarian state can force someone to respect a law, but not to serve in the military.

3 exceptions :

- Individuals are not allowed to sell themselves as slaves.
- Some paternalism can be accepted towards young children (who are not able yet to exert their freedoms).
- The self-ownership of individuals who threaten the selfownership of others can be violated (criminals etc.).

B. JUST CIRCULATION

One can become the legitimate owner of a thing either by acquiring that thing thanks to a voluntary transaction with the person who was the legitimate owner, or by creating that thing by means of resources acquired in that way. → The transaction is not always money. What matters is that the transaction is voluntary, or else it's a violation of the principle.

Thus libertarianism regards, by definition, any price as fair, as long as there is consent on both sides.

Note : the principle of self-ownership has priority over the principle of just circulation.

⁶ Social justice is about rights and dignity, not about pleasures.

⁷ The key idea is consent

C. JUST INITIAL ACQUISITION

The initial owner of a good is the first person who claimed to be the owner of that good, possibly provided he paid a tax whose level is fixed either by the Lockean proviso or by the Painean criterion.

→ It is about the fair acquisition of goods that were not acquired yet

- For Israel Kirzner, initial acquisition follows from a « *first arrived, first served* » logic.
- For Robert Nozick, it relies on the **Lockean proviso** (cf. John Locke). Locke argued that one can only acquire a part of nature only if one leaves to others « enough and as good » of that resource. Nozick weakens this, and requires that the first owner compensates others.
- For « left libertarians » like Thomas Paine and Henri George : all humans have an equal right to all resources of the Earth.

III. A PURELY PROCEDURAL CONCEPTION OF JUSTICE

Taken together, the three principles provide a consistent characterization of a fair society. If we abstract from the Lockean proviso (which requires to know some consequences), the libertarian view of social justice is purely **procedural**.

3 types of justice (Miller) :

1. **Perfect procedural justice** : definition of a criterion for a fair distribution of benefits/burden, as well as a procedure that produces that fair outcome.
2. **Imperfectly procedural justice** : definition of a criterion for a fair distribution of benefits/burden, but no procedure to produce that fair outcome.
3. **Pure procedural justice** : no criterion for a fair distribution of benefits/burden, but only a procedure to achieve social justice. → That's the type of justice that libertarianism involves.

Note that, to be sure that the procedures of justice have been respected, one needs to go back in the past⁸. This is the reason why libertarianism is sometimes regarded as a **historical or genealogical theory of justice**.

According to Libertarians, if everyone is entitled to the goods that he possesses (i.e. these were acquired in a just way), the fair distribution is the one that emerges from voluntary exchanges. Thus extreme income or wealth inequalities are not unfair if the principles are all respected.

However, free exchanges can strongly modify the distribution of resources among people. Indeed, starting from a « fair » distribution, people's free exchanges may lead to a quite different distribution.

Wilt Chamberlain's example (Nozick) :

Consider an initial distribution of resources regarded as « fair ».

- As Chamberlain is a great player, his club is willing to pay him 25 % of the revenues generated by all matches played.
- People freely go to the stadium (no coercion).
- Chamberlain becomes infinitely rich.
- The resulting distribution is very different from the initial one.

⁸ Example to check that goods were acquired in a just way.

This example reveals a major contradiction in « final » theories of justice ;

- Either those theories regard the final distribution also as fair. They then contradict themselves, since the final distribution is very far from the initial one, which is already supposed to be fair.
- Or those theories deny the right of individuals to do what they want with their own resources. Can we then still say that they are the « owner » of those resources ?

IV. CRITICISM AGAINST LIBERTARIANISM

A. SEVERE IMPLEMENTATION PROBLEMS

In history, libertarianism and its principles were often violated (by slavery, etc.). Thus a **libertarian State** should start by major expropriations.

To construct a fair society on a libertarian basis, we would need a fourth principle : the **principle of rectification**. It states how we should redistribute the resources to the descendance of the legitimate owners of those resources. Lots of things in the past were unfairly acquired. Thus, lots of rectifications would have to take place.

B. HARD TO IGNORE THE CONSEQUENCES

Another related, line of criticism points to the difficulty to neglect **consequences** in practice. Neglecting consequences could lead to contre intuitive implications.

Example : natural disaster. We could save many lives by expropriating the owners of a piece of land. However, libertarianism will not expropriate the owner of the land without their consent, even if the consequence is that many other people will die. How can we justify that ?

THE TREATMENT OF NEEDS AND DESERT

- **Desert** : one often considers that justice is about giving to each his due. In libertarianism, any price/wage is regarded as fair as long as everyone agrees to it. So if what is due is determined in terms of desert, libertarianism doesn't provides an appealing conception of justice.
- **Needs** : Poor individuals with high needs will not benefit from State help.

C. WHICH FREEDOMS AND FOR WHOM ?

A libertarian could reply to that criticism that libertarianism is about equality : equality of freedoms and liberties. But this defence is not as strong as it seems ;

The Island's Parable : Suppose an island owned by a single person.

- All inhabitants have no means to go to another place.
- The owner of the island makes all inhabitants work 16 hours a day for a subsistence wage.
- No one is forced to work (but if they don't they don't get paid).

↳ Libertarians are satisfied. There's no coercion because no one is actually forced to work, and there is free market. However, no one is really **free**. The Island's Parable shows that the three libertarian principles guarantee a purely formal freedom. This is not real freedom⁹. Self-ownership alone can't suffice to create actual freedom.

MCQ 3 – answers : B, C, B, D, D

⁹ In a positive sense of freedom, « *freedom to do things* »

LECTURE 4 : MARXISM – MARX & ROEMER

Libertarianism focused only on a negative concept of freedom. In this lecture and the next two ones, we will be concerned with theories of positive freedom ;

- **Negative freedom** = freedom from interferences of other people
- **Positive freedom** = freedom to achieve things in life

I. INTRODUCTION

This lecture is dedicated to Karl Marx's ethical theory. Why do we study him in an ethics course ? Because he made a lot of value judgements about many things, such as what is fair or not. Marx regarded utilitarianism as **metaphysics** dictated by the bourgeois : a pure piece of ideology (serving the dominant class). He was also a critic of markets :

- In *The Capital* (1867), Marx argues that the market plays like « a veil » that hides the true nature of social relations.
- All participants on the market are voluntary involved (consent).
- But inequality in power leads to alienation and exploitation.

→ The market hides a major **social injustice**.

Marx's main contribution is a theory of history : **historical materialism**. There are 3 dimensions to it :

1. History is above all a history of material living conditions.
2. History as a class struggle.
3. Circumstances determine consciousness (and not the opposite).

II. CONCEPT 1 : ALIENATION

3 distinct senses :

1. Workers produce goods that turns out to **dominate** them once these become capital (that is based on *Feuerbach's* study of religions : humans created religions and religions now dominate humans and tell them what to do).
2. Individuals should live for work, and they turn out to work for mere **survival**
3. Commodified social relations have become **deshumanized** (man is a commodity whose supply adjusts to the demand for labor).

Marx says **private property** causes alienation. Marx considers that capitalist labour leads to alienation. This is not a general feature of labour per se, but of labour within the capitalist mode of production. If you get rid of property (through **collectivisation**) then alienation in all its senses disappears.

- The capital becomes public, no longer concentrated in a few hands (end of the 1st sense)
- Public capital make wages larger so we no longer work for mere survival (end of the 2nd sense)
- Collective ownership could help rehumanize (end of the 3rd sense) because the whole society would be in control of capital.

III. CONCEPT 2 : EXPLOITATION

Let us now turn to the second major normative concept of Marx : **exploitation**. *What is exploitation ?* In Marx's sense, a worker is exploited if and only if he/she makes extra labour, that is, if and only if his/her earnings is lower than the value of the goods/services of what he/she produces (net of the costs of intermediate inputs, tools and machines).

The production process involves several inputs : **workers** and **machines/tools/raw materials**. All those inputs are purchased by the capitalist on markets.

- The total cost of labour is called the variable capital (**v**) (= the wage bill).
- The total cost of other inputs is the constant capital (**c**)

Suppose the capitalist starts with a capital $C = c + v^{10}$; After having exchanged the output on the market, he obtains a new capital C' (thanks to an extra value (**p**)) ; $C' = c + v + p > C$

The **extra value** is what allows for the accumulation of capital. We thus suppose that $p > 0$.

The rate of extra-value is $\frac{p}{v}$; That rate of extra-value is a measure of the **exploitation of workers**, since p is produced by workers but not earned by them. There is an equivalent **measure of exploitation** in terms of the **working time** :

Marx divides the working day in two parts :

1. **Necessary labour** (NL) : part of the working day during which the worker produces the value of his/her labour force.
2. **Extra labour** (EL) : part of the working day during which the worker produces what non-workers will capture.

→ The rate of extra-value can be rewritten as : $\frac{p}{v} = \frac{EL}{NL}$

We see from the previous formula that exploitation ($EL > 0$) arises if there is some extra-value ($p > 0$). Thus capital accumulation (i.e. $C' > C$) and exploitation (i.e. $EL > 0$) are inherently related to each other.

According to Marx, there are two conditions that are sufficient for the exploitation of workers

1. Workers are formally free (they own their labor force, so that they can freely supply it¹¹)
2. Workers are « free of everything » (they have no other endowment than their labor). This explains why there is a deep asymetry of power on the labor market. In order to survive, workers are forced to accept to work for very low wages.

IV. WHY IS EXPLOITATION UNFAIR

From an ethical perspective, a key question is to know why exploitation is unfair. Of course, one could claim that exploitation is unfair by definition. But we will try, in the rest of this lecture, to examine that issue further. We will consider two distinct answers ;

A. THE WORKER'S RIGHT TO THE PRODUCT OF HIS LABOUR

🔗 **People are fully entitled to owning what they produce.**

One may argue that exploitation is unfair because workers should be the owners of what they produce. Workers are the only producers, so they should obtain the entire product. → Exploitation would thus go against the ideal of « to each his desert » if one defines « desert » in terms of contribution.

The problem with that justification is that workers are not the only producers : there are other factors of production., such as material and tools. Thus it is hard to say that only workers contribute.

¹⁰ This is equal to the total fund invested in the production process.

¹¹ Unlike slaves

Following G. *Cohen*, one way to overcome this problem is to argue that the product should be entirely appropriated by those who actively participated to the production process. Workers being the only **living production factors**, it would be fair that these receive the entire output of their activity, as tools and machines don't have a consciousness. Thus exploitation would indeed be unfair.

However, that defence is not fully satisfactory : imagine 2 groups of farmers. One group on a fertile piece of land, the other group on a less fertile piece of land.

→ Based on Cohen's principle, it is fair that farmers of the first group obtain a much higher income than the other farmers (because they are the only living inputs participating actively to production). This does not look fair... The principle according to which living factors of production should be paid based on their own production is not attractive.

B. THE PRINCIPLE OF EQUAL EXCHANGE

☞ *Social justice requires equality between what one gives and what one receives from an exchange.*

From the perspective of fairness, each person should receive something that is equal to his/her contributions to the process. At first glance, this principle can be used to explain why exploitation is unfair. There is a lack of proportion between how much the workers give and how small they receive for their work. Exploitation also involves that some individuals (the capitalists) contribute little to the production process, but obtain a lot. → Thus exploitation violates the equal exchange principle.

However, the principle of equal exchange has its own **limitations** ;

- It is generally difficult to **isolate** the (separate) contributions of all workers to the total output.
- Based on that principle, a worker with a lower (inherited) ability would receive a lower wage.

V. REDFINING EXPLOITATION – ROEMER

Those difficulties to explain why exploitation is unfair have led marxist theorists to redefine the concept of exploitation. In particular, Roemer (1988) has proposed a new concept of exploitation. Roemer's concept of exploitation defines exploitation in terms of **unequal endowments**.

☞ A person is a victim of **capitalist exploitation** if her material situation would be improved (*ceteris paribus*) in case of an equal distribution of means of production among all persons.

In the case studied by Marx (1867), Roemer's definition of exploitation also holds : workers would see their material situation improved in case of an equal distribution of means of production.

Other forms of exploitation exist :

- **Feodalist exploitation** : one's material situation would be improved (*ceteris paribus*) in case of everyone would receive a full formal liberty.
- **Socialist exploitation** : one's material situation would be improved (*ceteris paribus*) in case of an equal distribution of all skills among all persons.

A. STRENGTHS AND WEAKNESSES OF ROEMER'S CONCEPT

Roemer's redefinition of exploitation in terms of unequal endowments has several strengths ;

- It is quite general, and extends far beyond the workers/capitalists class struggle.
- The concept of exploitation can be used to capture many **sources of social injustice** (e.g. unemployment).

Criticism :

- A problem of designing the **counterfactual** : what would the standards of living of the person be under the highly hypothetical distribution of means of production?
→ Pragmatic view: there is exploitation if one's endowment is below average endowment.
- Second, Roemer's exploitation does not distinguish between capital that is inherited and capital accumulated by one's savings, and between inherited skills and acquired skills. A situation of exploitation is fair when individuals are responsible for unequal endowments.
- There is no **equivalence** between Roemer's and Marx's concept of exploitation.

In sum, Roemer's definition of exploitation brings us far away from Marx's criticism of capitalism. Marx criticized the role of markets and his criticism of capitalism cannot be reduced to a criticism of unequal endowments. There exists many unfair situation in which there is no exploitation nor alienation, but Marxism would consider them as fair. This motivates us to consider alternative theories of justice.

MCQ 4 – answers : B, D, D, A, C

LECTURE 5 : : LIBERAL EGALITARIANISM – RAWLS

I. INTRODUCTION : TOWARDS LIBERAL EGALITARIANISM

Liberal egalitarianism proposes a view of social justice in terms of 2 ideals : **liberty** and **equality**.

The **Theory of Justice** is against utilitarianism and proposes an alternative view of social justice :

- which gives more weight to individual fundamental liberties.
- which gives also more weight to the interests of the disadvantaged.

To understand Rawls's theory of justice, it is useful to go back to the three main **criticisms** against utilitarianism:

1. Problem of incomparability of individual utilities ;
2. Exclusive emphasis on aggregate utility, but no weight given to the distribution of utilities ;
3. Little concern for individual fundamental rights and liberties.

Rawls gives **solutions** to those problems :

1. Utilities are given up, replaced by another metric: **primary goods** ;
2. The **Difference Principle** gives priority to the most disadvantaged ;
3. The **Principle of Equal Liberty** gives priority to equal distribution of fundamental rights.

☞ Social justice is all about providing the means to achieve one's conception of a good life. On the **liberal side**, we respect any conception of the good life (as long as it's reasonable). On the **egalitarian side**, there is the will to allow all citizens to pursue, as much as possible, their own conception.

II. PRIMARY GOODS

Primary goods are resources that are necessary to achieve one's conception of a good life, whatever that is. According to Rawls, a fair society allocates primary goods in a fair way, while taking into account that individuals do not all benefit from the same endowments in natural primary goods.

- **Natural primary good** : the distribution is not under the control of social institution (ex : health)
- **Social primary goods** : the distribution is controlled by social institution :
 - Fundamental liberties (ex : voting right, freedom of speech, freedom to possess things...)
 - Access to social positions
 - Socio-economic advantages (ex : income, wealth...)

△ Some primary goods are much more difficult to redistribute than others.

III. THREE PRINCIPLES OF JUSTICE

A. PRINCIPLE OF EQUAL LIBERTY (1)

✎ *The functioning of institutions must be such that each person has an equal right to the largest set of fundamental liberties compatible with the same set of liberties given to everyone.*

The first kind of social primary goods is **fundamental liberties** and it should be allocated equally. This principle aims at providing the largest universalizable set of fundamental liberties.

B. PRINCIPLE OF FAIR EQUALITY OF OPPORTUNITY (2B)

✎ *Potential socio-economical inequalities associated to existing institutions should be arranged such that these are attached to positions that are equally open to all (for a given skill level).*

This is a principle of **no-discrimination**. It states that individuals having the same skills level should have the same chance to obtain some position, regardless of age, sex, etc.

C. DIFFERENCE PRINCIPLE (2A)

✎ *Potential socio-economical inequalities associated to existing institutions should be arranged such that these are to the largest benefit of the most disadvantaged.*

The 3rd category of social primary goods can afford some inequalities in some cases, as long as they benefit to the most disadvantaged individuals. If they don't, it has to be corrected.

APPLYING THE PRINCIPLE

Suppose a society where the principle of equal liberties and of fair equality of opportunity are satisfied. There are three groups A, B, C, and 3 institutional arrangements :

	Option 1	Option 2	Option 3
Group A	10	11	21
Group B	13	12	11
Group C	10.2	10	31

Which institutional arrangement would be chosen under the Difference Principle ? The answer is obtained by focusing on the socio-economic advantages of the most disadvantaged group under each institutional arrangement. The Difference Principle imposes to choose the institutional arrangement 3, because the most disadvantaged group has the **largest socio-economic benefits**.

D. HIERARCHY OF THE PRINCIPLES

The principle of equal liberty has priority over the principle of fair equality and opportunity, which itself has priority over the difference principle. This **hierarchy** implies that, in case of conflicts between principles, it is always the satisfaction of the Principle of Equal Liberty that matters above anything.

IV. THE ORIGINAL POSITION

How does Rawls justify his 3 principles ? Rawls follows Kantian **moral constructivism**, and uses the device of the **original position** often referred to as the veil of ignorance (an *hypothetical situation*). Like Kant, Rawls considers that the right is independent from the good¹² (non-teleological view of justice). Rawls aims at deriving principles of justice from pure reason : justice is independent from contingencies related to human nature or psychology.

¹² In opposition to Aristotelean ethics or utilitarian ethics.

Rawls argues that his principles would be chosen by individuals in a hypothetical situation where they would be under the « **veil of ignorance** ». Under the veil of ignorance, individuals deliberately ignore or make abstraction of their actual social position (their social primary goods), of their actual natural primary goods (health, skills), of their conception of the good life. This guarantees **impartiality**.

- The veil of ignorance is an **impartiality constraint** :
 - No one can choose principles that would fit one's actual special position.
 - Really Kantian in spirit : individuals choose « universal laws » ; unfairness is being the exception. This is prohibited by the original position device.
- Under the veil of ignorance, individuals are « **free and equal** ».
 - « Free » from their own conception of the good life.
 - « Equal » since they abstract from inequalities in endowments (skills, wealth, health...)

According to Rawls, people that are under the veil of ignorance are rational. From that perspective, fair institutions are the ones that will allow all individuals to achieve their conception of the good life, whatever these are. Thus individuals under the veil of ignorance choose to extend, as much as possible, the set of fundamental liberties (this justifies the Principle of Equal Liberty). They also choose fair equality of opportunity.

A. CRITICS

- *Derivation of average utilitarianism by John **Harsanyi** (1953).*

Let us consider a rational and impartial individual ; he/she deliberately abstracts from his/her identity (all components: tastes, religion, etc.). That individual will assume that he/she could be anyone of the N persons in the society with equal chances (1/N).

He/she will choose the action that maximizes his/her expected utility (the sum of all individual utilities weighted by the probability of occurrence of those particular lives):

$$W = \sum (1 / N) U_i = (1 / N) \sum U_i$$

→ Hence, he/she will choose the action that maximizes the average of individual utilities (supposed to be comparable).

Obviously, Rawls would reject Harsanyi's derivation, since it is based on individual utilities (not the right metric for Rawls).

- *How can we justify the Difference Principle (maximin) from the original position ?*

According to Harsanyi (1975), the maximin would be chosen by individuals having **infinite risk aversion**. Rawls replied to this that the choice of institutions under the original position is not an ordinary choice based on standard individual preferences in everyday life.

V. AN INDEX OF SOCIAL PRIMARY GOODS ?

Rawls proposed to change the metric for social justice : **utilities** are replaced by **primary goods**. The idea is to free the theory of justice from individual preferences and desires (a **heteronomy of the will**). The implementation of Rawls's Difference Principle requires to build an index of social primary goods. It measures the average socio-economic achievements in a group (wealth, income...)

*How can such an index be built ? Through **Leibniz's Principle of Insufficient Reason** : in the absence of any relevant evidence, agents should distribute their credence (here, social primary goods) equally.*

VI. SUBSIDIZING MALIBU SURFERS ?

Richard Musgrave (1974) argued that Rawls's Theory does not specify any **minimal contribution requirement** to production. The Difference Principle will thus organize transfers of income and wealth towards individuals who do not work at all, because they have the lowest index of social primary goods.

Hence Rawls's theory may make the **most productive individuals** (quasi) slaves of the « lazy » ones. This is a violation of the idea of « to each according to his desert ». A solution could be to introduce **leisure** (= loisir) as a primary good.

VII. JUSTICE FOR THE HANDICAPPED ?

A criticism concerns the view of justice as « to each according to one's needs ». Consider individuals with disadvantages in **natural primary goods**, such as a handicap ;

- Principle 2b will guarantee that they have equal chances to access to all socio-economic positions for equal natural primary goods (i.e. for equal skills, equal health).
- Principle 2a will organize socio-economic inequalities to maximize the lowest index of social primary goods.

But is this treatment satisfactory ? The problem is that even under those institutional arrangements, handicapped people may still have a much **lower well-being level**. The reason is that the primary good index used for the Difference Principle is based on social primary goods only. It justifies income transfers to individuals in poverty because of their disadvantage in natural primary goods. But no compensation for that disadvantage per se ; only (**indirect**) monetary losses due to the handicap are compensated, but not the direct welfare loss due to the handicap.

MCQ 5 – answers : B, C, D, D, D

LECTURE 6 : LIBERAL EGALITARIANISM – SEN

I. INTRODUCTION : BEYOND RAWLS

Sen's liberal-egalitarian approach is an **alternative** to John Rawls's theory of justice. This brings another way to combine ideals of liberty and equality. Sen's approach proposes another **metric** for social justice. The relevant metric is neither utility (Bentham) nor primary goods (Rawls) but **capabilities**, defined as « *the real opportunity to accomplish something that one values* ».

II. EQUALITY OF WHAT ?

☞ Sen's work is a variant of Rawls's. In *Equality of What ?*, Sen compares different kinds of equality : **Utilitarian** equality and **Rawlsian** equality.

Sen tries to show that both utility and primary goods are bad metrics. To do that, he uses the **reflexive equilibrium** method, if some applications of the principle are unattractive, the principle needs to be modified. Sen uses the particular example of a society including a cripple (with with a lower utility level for any income level) :

- Utilitarian equality : If the cripple person has a lower marginal utility of income, utilitarianism will give less income to that person. He is thus penalized twice : by nature and by utilitarianism.
- Rawlsian equality : If the cripple turns out to be the most disadvantaged person in the society, the Difference principle will transfer some resources to him. However, the index only includes social primary goods (and not natural primary goods), which means the redistribution will have its limits and will not provide a compensation for all the consequences of having the handicap.

Sen argues that Rawls's approach doesn't take the **diversity of human beings** into account. In order to think about social justice, we need to take people's heterogeneity and their various capacities.

Sen makes a parallel between utilitarianism and Rawls: in both cases, it is only when individuals are basically very similar that those theories are a good way of judging advantage. Indeed :

- Utilitarianism : If all individuals are exactly the same, utilitarianism leads to equalize utility levels across all.
 - Rawlsian equality : If all individuals are exactly the same, the Difference Principle will also equalize all indexes of social primary goods
- } **Attractive**

But when people vary (health, longevity, body size, etc.) things are very different.

Sen also accuses Rawls of « fetishism » of primary goods. Rawls takes primary goods as the embodiment of advantage. For him, happiness/desire-fulfilment are irrelevant for justice.

III. FUNCTIONINGS AND CAPABILITIES

According to Sen, a source of heterogeneity among humans is their capacity to **transform goods into functionings**. Functionings are beings and doings that people value and have reason to value (that they consider to be important). According to that definition, there are a plurality of functionings¹³.

As such, functionings include elementary achievements and complex achievements.

- Being well nourished, being literate, being safe, ...
- Being in a political campaign, ...
- Some achievements may be of intrinsic importance.

A **capability** refers to « *the real opportunity that we have to accomplish what we value* ». So it is a list of functioning a person can achieve. The set/list of one's capabilities is a measure of their **positive freedom**. The larger your set is, the freest you are.

↳ Social justice should prioritize people with the smallest set of capabilities, because having a small set of capabilities means you are disadvantaged (and inversely).

IV. FAIRNESS AS EQUAL BASIC CAPABILITIES

Does that mean social justice relies on the equalization of all capability sets for everyone ? NO. Full equality would be too hard to set up. Sen's approach is not about equalizing functionings, because that would be nearly impossible. The approach really focuses on capability.

Equalizing capabilities sets among citizens is too hard. However, it is possible to make sure everyone has some **basic capabilities** within their sets. Social justice is about equalizing basic capabilities among the society. Such as, for example, being well nourished.

Like Rawls, Sen's approach is liberal egalitarian:

- **Liberal** since it does not assume a particular conception of the good life (functionings include all beings and doings that people reasonably value);
- **Egalitarian** since it promotes equality as far as basic capabilities are concerned.

¹³ If one considers something important, that something is a functioning (it is thus subjective)

Exemple : the cripple. The capability approach would lead governments to dedicate much more resources to the handicapped in order to guarantee that the cripple gets the same set of basic capabilities as everyone else. A lower « endowment in natural primary goods » is no longer left uncompensated.

V. A LIST OF BASIC CAPABILITIES ?

Which capability is regarded as basic ? And who decides that ?

The determination of a list of basic capabilities raises a complex dilemma for the capability approach :

- Either no list of basic capabilities is provided but then this makes the picture of social justice incomplete.
- Or a list is indeed provided but then one can question that this relies on some conception of the good life, against the liberal ideal. Because in a liberal perspective, everyone is free to decide what they think the good life is supposed to be. Creating a list of basic capabilities would mean forcing everyone to accept the conception of the good life that the list implies¹⁴.

M. Nussbaum provided a list to try to solve this dilemma :

1. To live a complete life (no premature death); access to euthanasia;
2. To have a good health, adequate food and housing, sexual opportunities, freedom of movement;
3. To avoid the experience of pain, and to experience pleasure;
4. To be able to use our 5 senses, to imagine, to think;
5. To be able to love other persons;
6. To be able to define our « good life » and to plan our life;
7. To live in interactions with other humans;
8. To live in relationship with animals, plants and nature;
9. To laugh and play;
10. To live our own life, the one that we have chosen.

→ Such a list can always be criticized for **missing elements** : What about mental/external space ? Having a good job without alienation ?

There are also implementation problems due to **defining terms**. What is a “complete life” ? “Adequate housing” ?

VI. WEIGHTING CAPABILITIES ?

Sen provides no exhaustive list of basic capabilities ; he wants to defend the liberal feature of his theory of social justice.

Now, suppose that a government faces different demands of justice. Which demand should receive a priority ? To answer that question, the capability approach must develop an index¹⁵ including various capabilities, weighted by various **weights**. In various pieces of work, Sen defended a mixed approach to the weighting of capabilities and functionings. Each individual, on his side, think about appropriate weights according to what they value or not. But at the time of social evaluation, there must be some form of reasoned « consensus » on weights (or at least a range of weights) emerging from **public debate**¹⁶.

VII. CAPABILITIES, NEEDS AND DESERT ?

To conclude, let us turn back to the general idea of social justice as « to each his due ».

- “To each according to his **needs**” : the capability approach does justice to that idea. It was precisely developed to incorporate heterogeneity in needs into the analysis. However, this only applies to basic needs (associated with the functionings that are considered relevant).

¹⁴ A problem that Rawls did not face, since primary goods are goods necessary to achieve a good life, whatever a « good life » is.

¹⁵ A capability that is not included in the index has a weight of 0

¹⁶ Only public debate can allow a society to reach a consensus on a list of relevant capabilities or weights.

- “To each according to his **desert**” : Sen argues that his principle also does justice to this idea. Indeed, considering the set of capabilities (i.e. real freedoms) rather than the actual achievements (functionings) leaves some room for individual responsibility.

→ In this case, Sen’s approach faces the same problem as Rawls’s : no **minimal contribution** is required. Take the case of an extremely lazy person. Very soon the set of capabilities of that person will be extremely narrow. Should the State intervene to maintain a set of basic capabilities for that person? (adequate housing and food etc.).

MCQ 6 – answers : B, D, C, A, D

LECTURE 7 : COMMUNITARIANISM - SANDEL & WALZER

I. INTRODUCTION

Liberal-egalitarian approaches to social justice (Rawls, Sen) promote a « neutral State ».

In the recent decades, the possibility to separate the « just society » from the « good society » has been questioned. The desirability of a neutral State has also been questioned ; Those criticisms of liberal theories of justice are due to the **communitarian approach**.

According to communitarians like Sandel and Walzer, social justice cannot be defined independently from the values/the culture of the community¹⁷. Social justice is **relative** to the values of the community. Hence the State cannot be neutral. A just allocation of resources (« social goods ») can only be determined relatively to how the members of a community understand and value those resources.

Community = set of people sharing the same values, culture and history

Communitarians defend a teleological view of justice : behaving in the right way is reduced to maximizing the good (based on the community’s values).

II. 3 CRITICISM OF LIBERAL THEORIES OF JUSTICE (RAWLS, SEN, NOZICK...)

A. LIBERAL THEORIES HAVE A MISLEADING THEORY OF THE SELF

Liberal theories of justice assign a high value to self-determination (individuals decide what to do with their own lives). For Rawls, only a neutral State can respect individuals’ autonomy. Individuals are autonomous and thus the State should not decide what the good life is. However, communitarianism believe that this liberal conception of the self is mistaken. Humans are embedded or situated in existing social practices. Thus, their autonomy and their capacity to “determinate themselves” are limited. Since individuals are not autonomous, the State should not be neutral. It should intervene in the determination of what the good life is.

B. LIBERAL THEORIES NEGLECT THE SOCIAL CONDITIONS REQUIRED TO ACHIEVE THE FULFILLMENT OF INDIVIDUAL’S INTEREST

Communitarians claim that if one wants to promote self-determination, the neutral State is not adequate. It does not provide the social conditions and environment required for self-determination.

The neutral State is unable to protect cultural diversity, and thus to let all options of life opened. The viability of cultural diversity requires a politics of the « common good ».

¹⁷ What is right cannot be defined independently from what is good.

C. LIBERAL THEORY CONTRIBUTE TO PROMOTE INDIVIDUALISM AGAINST THE SOCIETY

Sandel criticizes liberal theories of justice on the ground of their adherence to moral individualism.

Moral individualism¹⁸ = *the thesis that individuals have no moral obligations beyond universal duties and beyond duties to which they have consented through a contract.*

Both Sandel and Walzer criticize the Rawlsian original position and want to redefine the « social contract ». By construction, Rawls's veil of ignorance reduces persons to *individuals without any belonging or culture or history*. By abstracting from culture and history, Rawl's position leads to some form of **moral minimalism**. This, associate with the minimalistic State have favored the rise of individualism in modern societies.

III. DOMINANCE

According to Walzer, inequality per se does not necessarily lead to social injustice. Inequality is unjust only if it leads to dominance and **subordination**.

Some social goods are called **predominant goods** : the ownership of those goods leads to more power and ownership of all other goods (through conversion). For example, money is a kind of predominant good, which leads to political power, etc.

According to Walzer, there are 3 ways to avoid dominance (and, hence, social injustice) :

1. Redistributing the predominant good equally (leading to the end of the monopoly)
→ *This is useless because another good will turn into a predominant good.*
2. Changing the predominant good.
→ *This is useless because dominance remains*
3. Making the distribution of all goods autonomous (leading to the end of dominance)
→ *This is achieved with **separate spheres of distribution***

IV. AUTONOMOUS SPHERES OF DISTRIBUTION

Separate spheres of distribution means that each social good is distributed on the basis of a criterion that is specific to that good. For example, being rich should not necessarily give access to more of other social goods (health care, education, etc.).

So, each social good must have its own criterion for a just distribution. That criterion is determined by the shared understanding and valuation of the social good in question within the community. It is the signification that a culture gives to a good that should determine how that good is distributed.

Walzer defines social justice as complex equality. **Complex equality** arises when all goods are allocated based on their own criterion for a just allocation. This differs from **simple equality**, which would consist of equalizing endowments in the predominant good (money).

How is the **criterion** for justice defined for the allocation of each social good ? There are 2 stages :

1. One needs to identify how the community understands the social good, its goal, its meaning and value for the community
2. Then, once this common understanding and valuation of the social good is clear, the relevant criterion is the one that favors the common good of the community

¹⁸ Under moral individualism, there is no such a thing as moral obligations due to belonging to the community

Examples of autonomous spheres of distribution :

- Health care : to be allocated based on needs.
- Basic education : to be allocated based on needs.
- Higher education : to be allocated based on merits/interests.
- Citizenship : to be allocated based on shared values, culture.

V. CORRUPTION AND DEGRADATION

According to Walzer, making spheres of distribution **autonomous** brings social justice, by preserving the society from dominance and tyranny. Sandel shares that argument supporting separate spheres of distribution (the « non-equity » argument).

But Sandel also justifies separate spheres to avoid other problems such as **corruption**, and the **degradation**/misvaluation of social goods (avilissement).

A. CORRUPTION

Corruption happens *when an object that should not be purchased or sold has been purchased or sold*.

Sandel argues that a community should decide what can be sold or not. Then separating spheres of distribution from the **market** will lead to avoid corruption for those goods.

B. DEGRADATION

Degradation arises *when a good is subject to a valuation scale that is inappropriate¹⁹*.

Communitarianism believes that imposing such a **common scale** leads quite often to the degradation of some goods/resources. The market is not neutral but it can affect how people value the exchanged good. There is potential conflict between social values and market values.

→ Separate spheres of distribution also allow to avoid degradation.

VI. WHAT ABOUT SHARED VALUES ?

A first, major criticism against communitarianism concerns **relativism**. Across History, there are lots of examples of communities sharing values that are undefendable (like slavery, racism, ...). Knowing that, **does it make sense to make principles of justice relative to a community ?**

Communitarians like Walzer reply to that criticism that obviously slavery, racism and sexism would not be regarded as just from a communitarian perspective. They argue that there was no **shared understanding** and valuation in those cases : no matter the time period, many people opposed to slavery, racism, etc. Therefore, they could never be regarded as being the object of shared valuation.

VII. WHAT ABOUT (GLOBAL) JUSTICE ?

Another criticism is that communitarians, by making social justice relative to a single community, can't deal with **global justice** issues. **When several communities are present, how can one define justice ?**

Walzer replies to this criticism that « social justice » requires the existence of a « society ». So, without a **global society**, there can be no global justice. Thus, Walzer believes that, as a consciousness of world citizen grows, a **world society** will emerge, and political debates will make emerge a shared concept of global justice.

¹⁹ Example : putting everything on the money scale leads to degradation

However, the problem is more severe, and not restricted to global justice, but applies to justice in general. Within each country, there exist lots of disagreements on the understanding and valuation of social goods : a **country** is not the same thing as a **community** (as defined by communitarians).

But then, is any communitarian social justice possible ? Communitarians believe that political debates will lead to the emergence of **common values**. But what if not ? What if no consensus ever emerges ? In practice, in politics, a majority often tries to impose its values on a minority. Is this social justice? Thus, we better understand Rawls's defence of a neutral State, to avoid that a majority imposes his view of the good on a minority.

MCQ 7 – answers : C, A, C, A, B

LECTURE 8 : FEMINIST ETHICS

I. INTRODUCTION : FEMINIST ETHICS

There exist several feminist approaches to justice. They do have some common features :

- A first, common feature is to « de-naturalize » social relations between men and women.
« Denaturalization » is a first step towards more justice. An important task was thus to **deconstruct** standard arguments supporting **separate spheres for men and women**. The (fallacious) argument is : « *Men and women are different, and thus they should occupy different spheres in the society.* »
That “separate spheres” argument is fallacious. One cannot deduce a normative proposition from purely positive premises. This means that the fact that men and women are biologically different does not imply anything regarding the spheres they should occupy.
- As Mill (1861) emphasized, any domination always appears natural to those who possess it.
Another common feature of feminist approaches to ethics was to emphasize that **standard theories** of justice are somewhat **male-biased**, and often unable to describe gender-based injustices. Those standard ethical theories are not capable of properly recognizing the unfairness of situations faced by women.

→Hence feminism had, as a first task, to « denaturalize » the domination relationships.

II. THE ETHICS OF CARE

This lecture focuses on the ethics of care (Tronto). Whereas (male-biased) capitalism regards having a need as weakness, and undervalues care activities, the ethics of care proposes a change of perspective.

However, the ethics of care is not a complete theory of justice. It is more of a practice of social transformation. Instead of reaching social justice by using principles that should be satisfied by social institutions, the ethics of care proposes to develop **human dispositions** and aptitudes.

Tronto argues that before the Industrial Revolution, ethics was about developing moral dispositions from human nature. But with the Industrial Revolution and the rise of **individualism**, morals changed. **Kantian morality**²⁰ emerged as a form of moral individualism independent from human nature.

Kant thought that making morals independent from psychology or human nature would make it stronger. Tronto did not agree. The ideal of autonomy and independence does not do justice to what humans are : **interdependent beings**.

²⁰ Morals based on pure reason, independent from sentiments

III. CARE : A DEFINITION

Care refers to *all generic activities that humans do to maintain, perpetuate and repair their « world »* (which includes their own bodies and soul, and their environment). The ethics of care is an ethics that is all about satisfying needs. It doesn't *care* 😊 about interests, unlike utilitarianism.

Thus « care » refers to a broad concept :

- Not limited to two-person relations
- Not limited to humans
- Culturally dependent (just like all other practices are)
- It excludes : looking for pleasure, destruction, creation, playing, satisfying a desire, etc.

According to the ethics of care, a person is **morally good** when they responds to the demands of care from other people in their life. Following that idea, **good institutions** are institutions that provide care to all citizens and to the territory.

IV. THE 4 PHASES OF CARE (AND 4 ELEMENTS)

1. **Caring about** : identifying needs.
→ *Attention*
2. **Taking care of** : organizing/planning the response to those needs (resources, time, persons)
→ *Responsability*
3. **Care giving** : satisfying the needs.
→ *Competence*
4. **Care receiving** : noticing that needs were properly satisfied (the consequences of care).
→ *Capacity to response*

☞ Care is only **appropriate** when those 4 phases have been done correctly²¹. That is how social justice is achieved : people need to care for each other. However, good intentions are not enough. The only thing that matters is that the needs are properly satisfied.

The 4 elements of care listed above (corresponding to the 4 phases) are dispositions that should be developed.

V. CARE AS A PRACTICE FOR SOCIAL TRANSFORMATION

Tronto emphasizes that the ethics of care is **incomplete** and needs to be completed by a theory of justice. But she also believes that a theory of justice without « care » is incomplete.

Tronto regards the ethics of care as a political **instrument for social transformation**. Under modern capitalism, the ideology of the « self-made man » dominates. Under that ideology, having a need is regarded as having a weakness. Sectors of care²² in modern capitalism are thus undervalued and sometimes underpaid.

Tronto proposes a change of paradigm. All humans have needs, and it is not a sign of weakness at all. In fact, needs can be used **to rethink our society** and its institutions by changing what the society values the most. However, even if building a society based on needs rather than interests is necessary, it is not sufficient to achieve social justice.

²¹ The ethics of care is a **consequentialist ethics**

²² Such as nursing home, care for kids or for handicapped, etc.

VI. SOME CRITICISMS

- It is an **incomplete** theory.
- It lacks **cultural relativism** : the activities counted as « care » vary across cultures
- What about justice outside needs ? Care is a narrow theory ; it only considers needs and does not regard desires, satisfaction, ...
- A non-liberal approach to social justice ? All conceptions of the good life are not equally respected.

MCQ 8 – answers : C, C, B, A, D

LECTURE 9 : A SOCIAL HEALTH INSURANCE ?

I. INTRODUCTION – FROM THEORY TO PRACTICE

The first part of this course has presented several contemporary theories of social justice. The second part of this course aims at studying the implications of principles of justice. This means we are now going to use theory in order to examine some practical issues. The first one is whether or not there should be an health insurance according to each theory of justice.

II. SHOULD THERE BE A SOCIAL HEALTH INSURANCE ?

So... should there be an health insurance ?

Health insurance is a device providing insurance benefits in case of health damage against the payment of insurance premium in all periods. This can be organized in markets (private health insurance) or by the State (public health insurance).

Our question is not about the social desirability of a health insurance in general. It's about having an health insurance granted by the State : a public insurance funded by taxes and compulsory contributions (like we possess in Belgium).

A social health insurance may have some **redistributive effects**. For instance, if we assume that poorer populations are more vulnerable, these will receive more health care and pay less premium on average.

The question is whether or not a State should provide such a social health insurance. In other words, is it fair that the entire population pays compulsory social insurance premia, which will then be used to fund health care for persons in need of it ? Is it fair that I pay taxes directed towards health insurance even though I am never sick ?

III. THE UTILITARIAN VIEW

It's tempting to say that social health insurance system is not happening in an utilitarian view. If individuals want to be insured against health damages, they can go to the health insurance market, and purchase that insurance **privately**. If the insurance market is competitive, we reach a Pareto-optimal outcome: all mutually advantageous transactions took place. Then why would we need public health insurance ?

A Pareto-optimal outcome is not necessarily maximizing social welfare. It could be the case, for instance, that poor individuals cannot purchase private health insurance on the market, and, thus, cannot be cured in case of disease. If a larger part of the population is in poverty, a pure market solution may lead to a low proportion of insured persons. This doesn't benefit the largest set of people, which goes against utilitarian's beliefs that the aggregate welfare matters above all.

2 solutions :

1. First-best (all instruments available): the State **redistributes** incomes through taxes and then leaves health insurance to markets. By protecting everyone against diseases, we can hope to maximize social welfare !

2. Second best (limited fiscal instruments available): the State can hardly redistribute incomes, and so subsidizing health insurance is an indirect way to redistribute to the poor.

→ In this case we have an argument either for a subsidized private health insurance, or a public one.

Beyond that distributive argument, we have the argument of **behavioural bias** (myopia, excess optimism, irrationality, etc.) : under those biases, individuals on free markets make decisions that are not optimal for them. Indeed, lots of individuals would, if biased, purchase no health insurance, and would thus receive no care, which is not optimal from a utilitarian perspective.

Finally, a 3rd argument is the presence of **externalities** : externalities arise when individuals do not, in their decisions, internalize all social consequences of these. There is the idea that people affect others when they make decisions. **Positive health externalities** are associated to health. For example, vaccination improves the situation of other persons, by protecting them against the virus. It's thus important to have State intervention in health insurance to make sure each citizen has enough means to be protected from diseases, and thus protect others.

Finally : **asymetric information** on the health insurance market. High-risk people usually are the ones purchasing health insurance contracts when it is not compulsory. Companies know that so they increase their prices to get some balance between what they pay and what they receive. It intensifies the fact that only high-risk people purchase contracts, because low-risk people feel that the insurance is too pricy for the use they will make of it. This creates a loop. That's another reason why the insurance should be compulsory and ruled by the State, to make sure everyone gets access it.

The optimal subsidy on private health insurance or the optimal public health insurance depends on the outcome of the **utilitarian calculus**. Social insurance should only exist if it benefits to the largest social welfare. The answer depends also on the capacity of the State to redistribute resources with other fiscal instruments.

Finally, note that this discussion assumed that subsidized private health insurance and public health insurance were substitutes. However, in some cases public insurance dominates. For instance, when considering highly uncertain risks like long term care (old-age dependency), the State insurance may dominate private insurance, because of a higher flexibility.

IV. THE LIBERTARIAN VIEW

Libertarianism is based on the principle of **self-ownership** : absence of interferences from the State or from others. Thus there should be no compulsory health insurance (private or public). Only a minimal State (justice and police) is justified.

Libertarianism is clearly against a social health insurance. Only a minimal State providing police and justice is justified, so it should not provide health insurance. It sees no advantage in redistribution, no advantage to internalizing externalities, nor to protect individuals against myopia or self-selection. Forcing everyone to pay taxes to pay health insurances would be equivalent to forced labour !

Individuals will decide whether or not they want to purchase private health insurance on the market. And the outcome of that decision process is necessarily just from a libertarian perspective. True, the pure market solution will, under poverty, have the implication that few people will be insured. But this

is not a problem from a libertarian perspective. Note that nothing prevents idealist doctors to form an association and supply their health care services **freely** to the persons in need.

→ The resulting situation may thus be quite catastrophic (a large majority of uninsured individuals). The libertarian approach focuses on negative freedom (formal rights for everyone), but think of the covid pandemic. If you don't force anyone to do anything (vaccines, ...) the consequences could grow to be terrific.

V. THE MARXIST VIEW

At first glance, the market is, for Marx, a **falsely neutral instrument** allowing for capital accumulation of capitalists. Marx is a critic of markets : they are at the origin of exploitation/exploitation. So, from Marx's perspective, for sure a public health insurance system is more desirable than a private insurance system, just to avoid the existence of a market that would favour exploitation.

However, things are more complex once one regards the consequences of health insurance in terms of exploitation on the **labour market**. Each capitalist firm taken **individually** is against a public insurance system (because paying taxes for insurance would reduce their profits). Firms just want to exploit, and once the worker would become too unhealthy, the capitalist firm would simply replace him. No need for a health insurance. But if all the firms do that, all workers become unhealthy and there can be no extra labour anymore, so no extra-value is produced. To make money, firms need healthy workers. This leads to a **paradox**. Social health insurance reduces the firms profit, but no social health insurance also reduces profit.

Prisoner dilemma (or coordination failure) : in the absence of the social insurance system, each firm would exploit workers and deteriorate their health, so they wouldn't be able to create extra-value (less profit). But with the social insurance, firms would have to pay taxes (also less profit).

Hence one can interpret the social health insurance system as a device that solves that coordination failure among capitalist firms. Public health insurance system forces capitalist firms to behave in a sustainable way. **It makes exploitation sustainable** because if workers are healthy, they can work even more ! This is why developing a social health insurance system is not enough to reach social justice. From a Marxist perspective, social justice would also require nationalizing means of production, to avoid sustainable exploitation of labour and thus avoid exploitation itself.

Let us now adopt Roemer's concept of exploitation as inequality in endowments. If one considers inequalities in health endowments, we are in presence of **exploitation in terms of needs**. Some individuals (with the largest health needs) would see their material situation improved provided there was a hypothetical equal redistribution of health endowments (*ceteris paribus*²³). Some people have bad/good health, and those with bad health are exploited in some way, because their situation is always worst. Introducing social insurance can help, because it's a way to indirectly redistribute health endowment amongst the people. It contributes to reduce the exploitation in terms of needs.

If one regards the **laissez-faire** as a situation of needs exploitations, then for sure a public health insurance contributes to reduce that exploitation in Roemer's sense. Thanks to the social insurance, individuals with lower health endowments receive more care, mostly funded by healthy individuals (through insurance premia). Hence Roemer's marxism justifies a public health insurance.

A **market for private health insurance** will not allow all people to be insured (example : unhealthy people can't work enough to afford insurances even though they are the ones needing it). Needs exploitation and social injustice will remain. That's a reason why State insurance is needed.

²³ Everything else remaining unchanged

Obviously, some exploitation remains even in a social insurance system, nothing can ever be perfectly equal in all kinds of endowments. However, the material living conditions of people with lower health endowment is improved and social injustice is reduced.

⚠ Roemer's sense is about equality of endowments while Marx's sense is strictly about exploitation of labour.

VI. THE LIBERAL-EGALITARIAN VIEW (RAWLS)

Let's use the **original position**. Put ourselves under a veil of ignorance ; we ignore our identity to be impartial. If we do so, we will likely choose social insurance system. True, this system has a cost (insurance premia²⁴), but it allows to get good health. Hence if individuals under the veil of ignorance are sufficiently risk-averse, they will adopt a social health insurance system. This is a way to neutralize inequalities in the **health primary good**.

Why not let private (market) insurance do the job ? In case of externalities related to health and of asymmetric information (risk of adverse selection), private health insurance would have to be compulsory and subsidized. How can we be sure the poor will be insured ? It's likely that they won't be. The Rawlsian theory thus legitimates a social insurance or a highly regulated subsidized compulsory private health insurance market.

VII. THE COMMUNITARIAN VIEW

Let's look at the **spheres of justice** (Walzer). Social justice requires autonomous spheres of distribution. It is a complex equality : it's achieved when each resource is distributed on the basis of a specific criterion based on the value that the society gives to each good. You cannot use one single principle to allocate all resources. According to Walzer (1983), the provision of health care to all members of the community is a central dimension of « **communal provision** ».

Health care should be distributed based on needs : the more you need care, the more you get it. Indeed, health care is about "reparing" the body, which is why it should be based on need (and not money). Communitarianism thus obviously recommends a social health insurance system.

The provision of the social good « health care » should not be left to markets for health care or health insurance. Such a lack of autonomy of spheres would lead to the **tyranny of money**, and it would be unfair (against « complex equality »).

VIII. THE FEMINIST VIEW (TRONTO)

Tronto gives a major criticism of capitalism : on the grounds that care activities are undervalued in our market economies. He proposes a **reorientation** of the society's values : acknowledging that humans are interdependent, and that having needs is NOT being weak. Extending the social health insurance system could go in that direction: more recognition and better treatment of needs. The ethics of care is an ethics of needs, so it obviously promotes social health insurance.

In other words, building/extending a social health insurance system is a way to put **needs** at the centre of the economy. A reorientation of our current economies, where interests, desires and pleasures (but not needs) are at the center of the society.

✎ Creating an institution for social health insurance system is not sufficient to bring social justice : the skills of care are fundamental in achieving social justice: diffusing attention, responsibility, competence and reactivity among the population. People also need to care about each other.

²⁴ Which you pay every month to keep the insurance

IV. SUM-UP

Should there be an health insurance ?

•	Utilitarianism	YES
•	Libertarianism	NO
•	Marxism	Dilemma
•	Liberal egalitarianism	YES
•	Communitarianism	YES
•	Feminism	YES

MCQ 9 – answers : C, C, B, B, C

LECTURE 10 : MIGRATION - SHOULD WE OPEN BORDERS ?

I. SHOULD WE OPEN BORDERS ?

It is a matter of luck to be born in a poor or a rich country. Large differences in living conditions across countries motivated individuals to migrate towards countries with better standards of living for them and their family. Would it thus be fair to open borders, and let anyone freely join any country ? Should we abolish the use of passports ?

The degree of « **openness** » varies strongly across countries and time periods. Some countries, like the U.S., Canada, Australia or the U.K., have a long tradition of welcoming large numbers of migrants. – In continental Europe, there is no such a tradition: this is more cyclical, migration waves being encouraged or not depending on circumstances.

II. THE UTILITARIAN VIEW

The answer fully relies on the **principle of utility** : would opening borders increase social happiness/welfare ? The answer is difficult because we have to take every single effect into account. The utilitarian calculus requires to quantify all implications of migrations on individual welfare :

- **Migrant's welfare** : from a migrant's perspective, the welfare is increased. Indeed, if individuals who decide to migrate are rational, they regard migration as a way to increase their well-being.
→ Positive gain
- **Host country's welfare** : In the country that welcome migrants, there are, on average, large income gains due to welcoming migrants :
 - Complementarities in production, thanks to the migrants bringing other techniques, knowledge, etc., leading to aggregate productivity gains.
 - A rise in innovation and entrepreneurship: migrants selected themselves and are usually much more innovant than non-migrating populations.

Thus there is a rise, on average, of incomes for the local population. However, there may be some losses for local low-skilled workers (due to downward wage pressures). But these can be compensated through redistribution.

Of course, if some negative externalities due to migrations arise, this will mitigate that effect (ex : costs for public finance of social insurance). But those negative externalities can be dealt with through appropriate policies and are thus unlikely to overcome the positive effects.

→ Positive gain

- **Home country's welfare** : In the country that « exports » migrants, the consequences of migrations are negative. Those countries lose the most innovative, educated and skilled populations, which move to the rich countries (**brain drain**). They become even poorer.

Whether opening borders or not increases the world's welfare depends on the size of all those effects. The utilitarian calculus will lead to optimal (more or less restrictive) **migration quotas**, below or above those existing in real world economies. Whether this is optimal or not depends on the possibility to carry out appropriate transfer policies (within the host country, and from host to initial country).

III. THE LIBERTARIAN VIEW

There should be no coercion thanks to the **principle of self-ownership**. This means that libertarians are not against abolishing borders : all individuals should be free to go where they want to go. However, remember libertarianism promotes a minimal States. Migrants are free to go to any country, but they will not receive any social insurance or help.

Also, there is a limitation to free movement : property must be respected. This means migrants are only allowed to go in the **public space**, or where landowners allow them to go.

In sum, the self-ownership principle makes libertarians reject existing restrictive migration policies. There would be a kind of abolishment of borders. But in the libertarian world, migrants would face markets, without any help from the State (without public education or health, ...). This would make migrations quite difficult in real terms.

IV. THE MARXIST VIEW

There is no clear answer to be given in this perspective ;

At the scale of the **host country**, migration is good news for the capitalist firms : migrations would contribute to increase exploitation of labour :

- These can hire workers at lower wages ;
- The rise in heterogeneity among workers may weaken the social movement of emancipation of workers (more difficult to coordinate).

In the home country the standard marxist approach would be against opening borders. By leaving their poor countries, migrants reduce the labour supply in their native country, which increases the bargaining power of non-migrant workers who remain in the country. Hence, in the poor countries, migrations may reduce the scope of exploitation, by offering an « outside option » to workers.

Thus if migration increases exploitation of labour in host countries (rich), it has the opposite effect in home countries (poor). What is then the net effect at **the world level** ? This is hard to say, since Marxist theory provides no way to weight the degrees of labour exploitation of all individuals.

ROEMER'S VISION

Being born in a rich country can be regarded as a kind of endowment, an asset (called national or birth asset). From Roemer's perspective, individuals from poor countries are victims of « **national exploitation** ». A person is victim of national exploitation if their material conditions would be improved in case of a redistribution of the national/birth asset.

Opening borders would be a way to abolish national exploitation. Indeed, this would give equal endowments of the « national assets » or « birth assets » to all individuals, by abolishing the privilege of being born in a rich country. Notice that, to really abolish those privileges of birth, merely opening

borders does not suffice. It must also be the case that migrants benefit from the same rights and advantages than local individuals in terms of access to health, education, social security, etc.

V. THE LIBERAL-EGALITARIAN VIEW

Here, the answer is not clear. Let's consider 2 different visions, which are quite opposite.

RAWLS'S ANSWER

In sum, in *"The Law of Peoples"*, Rawls defends a world of **restricted migrations**, on the ground of the respect of each people's own conception of a fair society.

Rawls proposes to extend his theory to the global world. He starts from an **original position**. We need to be impartial when making decision. Rawls wants to extend the original position settings : these settings should not include all citizens of the world but only representative. For 195 countries in the world, we should consider an original position with 195 representatives only.

This is still about imposing a **veil of ignorance**. The idea is to make impartial choices. When choosing institutions at the world's level, the representatives should abstract from the culture, size, geography, wealth, ... of their own country to make the decision.

What would be the outcome of this ? According to Rawls, they would adopt a few principles :

- Non-aggression against other nations (respect the borders)
- Respect of international treaties
- A duty of assistance of other peoples, living in bad situations, in particular a duty of mutual assistance in case of famines, wars, natural disaster, etc.

Those principles of global justice can be regarded as improvements with respect to the existing world. But these remain lower than what could have been achieved under a « true » global original position. These settings do not acknowledge fundamental liberties to move, to cross borders, ...

A GLOBAL ORIGINAL POSITION

Let's consider the **global original position**, which is not adopted by Rawls. Under a global original position, all citizens of the world would be present under the veil of ignorance, not only representatives.

Here the impartiality constraint concerns all aspects of individual lives. Impartiality will thus require to abstract from all privileges of births, etc. That global original position leads, without surprise, to a global **principle of equal liberty** : *"Institutions should be such that each citizen of the world benefit from the largest set of equal fundamental liberties that can be generalized to the entire world."*

Also, a **principle of fair equality and opportunity** : *"At the world level, socio-economic inequalities should be arranged so as to be attached to positions to which everyone has equal access, for a given skill level."* This legitimates opening borders. If 2 people have the same skills, they chose have the same opportunities regardless of the country they are born in ; they should be able to move.

Finally, a **global difference principle** : *"At the world level, socio-economic inequalities should be arranged in such a way as to benefit the most disadvantaged individuals."*

This alternative perspective is just a global version of the principle Rawls proposed in his initial theory of justice (1971) ! The only difference is the globality, because it concerns all citizens of the world.

→ According to Rawls, this means imposing a single conception of justice to the entire world. (It goes against liberal-egalitarianism).

It should be stressed, however, that there is one fundamental consideration to be taken into account. This is the **fiscal competition** among countries. If rich people can migrate towards countries with lower income or wealth taxes, this may prevent States from redistributing. This fiscal competition may hence reduce the capacity of States to provide large-scale education etc., so as to ensure fair equal opportunities for a given skill level. Of course, such a limitation would become inadequate in a hypothetical world with a Global State guaranteeing fiscal coordination across all nation States. Otherwise, this constraint may limit the justification for opening borders.

VI. THE COMMUNITARIAN VIEW

Walzer (1983) dedicated an entire chapter of *Spheres of Justice* to migration, and argues that « belonging to a community » is the major social good to be allocated. According to Walzer, migration policies should be selected on basis of the values that the host country shares with the home one. This is **selective migration**. The survival of the community would be threatened if we allowed people with different values than ours.

Communitarianism defines the community as a set of people sharing values, sharing some culture and some history. This implies that migration is desirable, but only selective migration, based on shared values, culture and history.

The **social good** « belonging to a community » should not be allocated based on money. You cannot buy citizenship. Becker says anyone who is willing to pay a certain amount for a citizenship should be granted it. However, a market for migration permits leads to a degradation of what **citizenship** is. Money should remain in its own sphere, and not pollute the allocation of the good « belonging to a community ».

↳ That good consists on sharing values, so it should be allocated on based on **cultural links** (shared values with the host and home communities).

According to Walzer, completely unregulated migrations could lead to the **disappearance of the community** (as a set of individuals sharing values and culture). Thus regulating migrations is necessary for the survival of the community.

VII. THE FEMINIST VIEW

As we have seen, the **ethics of care** is not a complete theory : it is more about a practice of social transformation. But it still can answer to this question. What matters above all is to take care of the others and their needs, including individuals living in other countries. The goal is to make social justice emerge from the diffusion of certain skills : attention, responsibility, reactivity, ...

We pay attention to other's needs. Once their needs are acknowledged, it may or may not be the case that opening borders contributes to best satisfy their needs. Here the opening of borders would not depend on calculus of pleasure/pain, or on fundamental rights, but on its effects on needs satisfaction. Maybe we would pay more attention to migrants once they come in our country and thus become visible, because we would see their needs.

From this perspective, opening borders may lead to more satisfaction of needs but it is not enough to achieve social justice. If local people don't care about migrant's needs, their situation will not be improved.

It's likely that people would care, but in the case they don't, it's useless to open borders because it doesn't lead to more satisfaction of needs. People need to care for it to work.

VIII. SUM UP

The answer to “should we open borders” is **conditional** in most of the theories.

•	Utilitarianism	YES
•	Libertarianism	YES
•	Marxism	YES but uncertain
•	Liberal egalitarianism	Uncertain
•	Communitarianism	NO
•	Feminism	YES but uncertain

MCQ 10 – answers : B,B, B, C, D

LECTURE 11 : POSITIVE DISCRIMINATION AT UNIVERSITY ?

I. SHOULD THERE BE POSITIVE DISCRIMINATION AT UNIVERSITY ?

Positive discrimination favors the entrance of students who would not have reached the university otherwise (instead of just looking at the grades). It can be based on many criteria's : background, location, gender, ... For example if the school is trying to promote diversity ; they will try to grant access to many ethnicities, etc.

Positive discrimination has the merit of opening the university, so that all segments of society benefit from its services. It's a tool for **diversity**. More diversity at the university itself, and more diversity in better-paid jobs in the society. Positive discrimination has also the effect of opening new horizons, new careers for individuals who belong to less advantaged social backgrounds. It's also a tool for **redistribution**.

However, positive discrimination also has cons :

- If individuals with lower school marks enter university, this may reduce the average level of students at university.
- Positive discrimination interferes with the usual standard of « school performance » as an admission criterion
→ For an equal level of school marks, two individuals may be treated differently, depending on whether they benefit from positive discrimination or not.

This lesson will focus on positive discrimination only at the level of the **admission** of students. It is assumed that it is possible to measure the skills of students at school (positive discrimination involves thus admitting less-skilled students in comparison to no positive discrimination).

II. THE UTILITARIAN VIEW

Suppose a State that imposes a positive discrimination policy on all universities in the country. As usual, utilitarianism recommends to quantify all effects of the policy on social welfare, and to compute the net effect with respect to the absence of policy.

Let us first consider students benefiting from positive discrimination and entering university (whereas they would not have entered university otherwise). Along their life, those students will benefit from better social positions in comparison to the absence of policy (better paid jobs, ...).

→ Positive welfare effect

Let us now consider other students admitted at university. Positive discrimination reduces the overall level of students. This could worsen learning conditions. At the same time, increasing diversity at

university may also improve student life on many other dimensions. Thus for those other students, the net effect in terms of welfare is relatively small and of unknown sign (a second-order effect).

→ Neutral welfare effect

But there is another group to be taken into account among students: those who did not enter university, but would have entered in the absence of positive discrimination. They will end up having less paid jobs, etc. → Negative welfare effect

↳ Does that negative welfare effect compensate the positive effect for students benefiting from positive discrimination? Since the group benefiting from positive discrimination is disadvantaged, its (lifetime) standards of living are lower. By **concavity of utility** (more sensitive to consumption at low consumption levels than at higher consumption levels), the welfare gain for the first group exceeds the welfare loss for the second group.

Hence, if we focus on the population of students, the positive discrimination seems to have a **positive net effect**. All in all, the utilitarian calculus suggests that some positive discrimination is socially desirable, thanks to a positive net effect on students, and thanks to positive externalities for the society. Thus positive discrimination at university may not be sufficient to reach social justice: it should be better accompanied with **antidiscrimination policies** on labour market.

III. THE LIBERTARIAN VIEW

There is no support for positive discrimination. What matters is to respect property rights. So, if some people are unlucky and they cannot join university, it's not a problem for libertarians. There is nothing unfair about some people not being able to enter university.

Note that if some particular higher education associations want to recruit while using positive discrimination, libertarianism has nothing against that behavior (same as for charities). Only positive discriminations policies imposed by the State are problematic, but not spontaneous positive discrimination.

But **rectification** policies could be justified when considering past arbitrary banishments of some groups at university. In the past, libertarians principle have often been violated. As such, positive discrimination could be a way to rectify that. It would be difficult to set up because it would mean finding the descendants of the people whose rights had been violated in the past.

IV. THE MARXIST VIEW

Let us take Marx's perspective. A key issue is how Marx regards universities, and higher education in general. Assume that **higher education is regarded as spreading an ideology** (a false discourse serving the interests of the dominant class – the capitalists). Then positive discrimination at university would reinforce the power of the dominant class, and, hence, exploitation.

Alternatively, if one assumes that higher education does not transmit ideology, but skills that can empower students, then... Positive discrimination would empower the working class. This empowerment will increase the bargaining power of the working class in the society. In that case, positive discrimination would reduce exploitation, and thus be socially desirable.

Let us now adopt Roemer's definition of exploitation in terms of unequal endowments causing lower (material) standards of living. A person is victim of **capitalist exploitation** if her material situation would be improved under a hypothetical equal redistribution of means of production (*ceteris paribus*).

In that case, positive discrimination, by allowing more students from low social classes to enter university, will contribute to reduce Roemer's capitalist exploitation. Positive discrimination helps to

redistribute capital more equally by allowing every class to access higher education and thus better income.

Alternatively, one could assume that initial inequality concerns endowment in skills (**socialist exploitation**). Positive discriminations could make the final distribution of skills less unequal, and improve the material living conditions of people of lower social segments. As such, this could also reduce socialist exploitation.

V. THE LIBERAL-EGALITARIAN VIEW

Rawls's Principle of Fair Equality of Opportunity recommends that each person – at **equal skill level** – has equal chances to achieve socio-economic positions. Thus if the level of skills was equal across groups, then differences in the wealth of parents would not justify a group to be accepted at university, and the other not. In that case, programs of scholarships would be desirable to admit all students with high skills. Wealth should not determine who enters university : skills should. Positive discrimination is not getting along with that...

✎ Positive discrimination is not justified from a Rawlsian perspective : access to positions should depend on skills only. This does not mean that Rawls would not legitimate other education policies. For example, a free, efficient and public (or highly subsidized) education system is implied the Principle of Fair Equality of Opportunity.

Education is not a fundamental right :

VI. THE COMMUNITARIAN VIEW

Walzer distinguishes between basic education and higher education. There is thus a distinct criterion because these 2 things have different purposes, and the community does not value them the same way.

- **Basic education** is about forming good citizens.
 - Part of « communal provision ».
 - Thus allocated based on **needs** of children, to reach some achievements for all.
- **Higher education** is close to taking a specialized job/position.
 - Not part of « communal provision ».
 - This is to be allocated based on **interests** and skills.

The allocation of the social good « higher education » should thus not be based on money. Money should remain in its own sphere, outside the sphere of education. Communitarians thus reject the idea of a market for education, where richer people would get more/better education.

However, access to higher education depends on merit/interests, so positive discrimination is not really supported there either.

Sandel argues that, in order to examine whether positive discrimination at university is justified, it is first necessary to identify the **goal** (*telos*) of the activity of a university. If the goal of a university is to promote excellence in knowledge, then only the « best » students should be admitted. If the goal of a university is to promote citizenship (like for basic education), then other criteria should be taken into account, and diversity is one of these.

According to Sandel (2009), there are two major justifications for positive discrimination: diversity and reparation :

- **Diversity** in high social positions : The society as a whole will benefit from having former students from diverse groups occupying high social positions.
- **Reparation of past injustices** : Moral individualism rejects any form of collective responsibility. Thus 21st century students are not responsible for past injustices or violated rights²⁵. But communitarianism rejects moral individualism : there is a collective responsibility of the community to repair past injustices. As members of a community, we have a duty to rectify past mistakes committed by the same community.

In sum, communitarianism generally considers that access to higher education should be based mainly on skills and interests. But some concerns, such as diversity and reparation, could justify positive discrimination.

VII. THE FEMINIST VIEW

From the perspective of the ethics of care, a key issue is whether studying at university belongs to the realm of needs. If studying at university is more about interests or desires, then the issue of positive discrimination at university can only have an **instrumental role** in the satisfaction of needs.

If, and only if, positive discrimination at university contributes to develop the skills of care (attention, competence, etc.), then this is good from the perspective of the ethics of care. In that case, positive discrimination can be justified. But the support is not direct : going to university is not a need so the ethics of care does not directly support that. It supports the development of skills of care through university.

VIII. SUM UP

•	Utilitarianism	YES
•	Libertarianism	NO
•	Marxism	YES but uncertain
•	Liberal egalitarianism	NO
•	Communitarianism	Uncertain
•	Feminism	YES

MCQ 11 – answers :

²⁵ We are not responsible for slavery, etc.