

# Social Choice

Session 15

Carmen Pasca and John Hey

## Session 15: Social Contract Theory

- Social Contract Theory: philosophical and economic foundations.
- Theory has its roots in the Greek philosophical tradition. Plato and Socrates stressed the importance of the relationship between the citizens and the laws of the country
- The modern idea of a Social Contract : Hobbes, Locke (1971) and Rousseau.
- The contemporary idea: Rawls, Gauthier, Nozick.

## Session 15: Social Contract Theory

- Social contract theory, nearly as old as philosophy itself, is the view that persons' moral and/or political obligations are dependent upon a contract or agreement among them to form the society in which they live.
- Socrates uses something quite like a social contract argument to explain to Crito why he must remain in prison and accept the death penalty.
- However, social contract theory is rightly associated with modern moral and political theory and is given its first full exposition and defense by Thomas Hobbes

## Session 15: Social Contract Theory

- After Hobbes, John Locke and Jean-Jacques Rousseau are the best known proponents of this enormously influential theory, which has been one of the most dominant theories within moral and political theory throughout the history of the modern West.
- In the twentieth century, moral and political theory regained philosophical momentum as a result of John Rawls' Kantian version of social contract theory, and was followed by new analyses of the subject by David Gauthier and others.
- More recently, philosophers from different perspectives have offered new criticisms of social contract theory

## Session 15: Social Contract Theory

- Socrates' Argument
- In the early Platonic dialogue, *Crito*, Socrates makes a compelling argument as to why he must stay in prison and accept the death penalty, rather than escape and go into exile in another Greek city.
- He personifies the Laws of Athens, and, speaking in their voice, explains that he has acquired an overwhelming obligation to obey the Laws because they have made his entire way of life, and even the fact of his very existence, possible.

## Session 15: Social Contract Theory

- They made it possible for his mother and father to marry, and therefore to have legitimate children, including himself.
- Having been born, the city of Athens, through its laws, then required that his father care for and educate him. Socrates' life and the way in which that life has flourished in Athens are each dependent upon the Laws.
- Importantly, however, this relationship between citizens and the Laws of the city are not coerced.
- Citizens, once they have grown up, and have seen how the city conducts itself, can choose whether to leave, taking their property with them, or stay. Staying implies an agreement to abide by the Laws and accept the punishments that they mete out.

## Session 15: Social Contract Theory

- Citizens, once they have grown up, and have seen how the city conducts itself, can choose whether to leave, taking their property with them, or stay.
- Staying implies an agreement to abide by the Laws and accept the punishments that they mete out.
- And, having made an agreement that is itself just, Socrates asserts that he must keep to this agreement that he has made and obey the Laws, in this case, by staying and accepting the death penalty. Importantly, the contract described by Socrates is an implicit one: it is implied by his choice to stay in Athens, even though he is free to leave.

## Session 15: Social Contract Theory

- In Plato's most well-known dialogue, *Republic*, social contract theory is represented again, although this time less favorably.
- In Book II, Glaucon offers a candidate for an answer to the question "what is justice?" by representing a social contract explanation for the nature of justice.
- What men would most want is to be able to commit injustices against others without the fear of reprisal, and what they most want to avoid is being treated unjustly by others without being able to do injustice in return.



## Session 15: Social Contract Theory

- Justice then, he says, is the conventional result of the laws and covenants that men make in order to avoid these extremes.
- Being unable to commit injustice with impunity (as those who wear the ring of Gyges would), and fearing becoming victims themselves, men decide that it is in their interests to submit themselves to the convention of justice. Socrates rejects this view, and most of the rest of the dialogue centers on showing that justice is worth having for its own sake, and that the just man is the happy man.
- So, from Socrates' point of view, justice has a value that greatly exceeds the prudential value that Glaucon assigns to it.

## Session 15: Social Contract Theory

- These views, in the *Crito* and the *Republic*, might seem at first glance inconsistent: in the former dialogue Socrates uses a social contract type of argument to show why it is just for him to remain in prison, whereas in the latter he rejects social contract as the source of justice.
- These two views are, however, reconcilable. From Socrates' point of view, a just man is one who will, among other things, recognize his obligation to the state by obeying its laws.

## Session 15: Social Contract Theory

- The state is the morally and politically most fundamental entity, and as such deserves our highest allegiance and deepest respect. Just men know this and act accordingly. Justice, however, is more than simply obeying laws in exchange for others obeying them as well. Justice is the state of a well-regulated soul, and so the just man will also necessarily be the happy man. So, justice is more than the simple reciprocal obedience to law, as Glaucon suggests, but it does nonetheless include obedience to the state and the laws that sustain it.
- So in the end, although Plato is perhaps the first philosopher to offer a representation of the argument at the heart of social contract theory, Socrates ultimately rejects the idea that social contract is the original source of justice.

# Session 15: Social Contract Theory

- Modern Social Contract Theory
  - a. Thomas Hobbes
  - 1588-1679, lived during the most crucial period of early modern England's history: the English Civil War, waged from 1642-1648. To describe this conflict in the most general of terms, it was a clash between the King and his supporters, the Monarchists, who preferred the traditional authority of a monarch, and the Parliamentarians, most notably led by Oliver Cromwell, who demanded more power for the quasi-democratic institution of Parliament.

## Session 15: Social Contract Theory

- Hobbes represents a compromise between these two factions. On the one hand he rejects the theory of the Divine Right of Kings, which is most eloquently expressed by Robert Filmer in his *Patriarcha or the Natural Power of Kings*, (although it would be left to John Locke to refute Filmer directly).
- Filmer's view held that a king's authority was invested in him (or, presumably, her) by God, that such authority was absolute, and therefore that the basis of political obligation lay in our obligation to obey God absolutely. According to this view, then, political obligation is subsumed under religious obligation. On the other hand, Hobbes also rejects the early democratic view, taken up by the Parliamentarians, that power ought to be shared between Parliament and the King. In rejecting both these views, Hobbes occupies the ground of one who is both radical and conservative. He argues, radically for his times, that political authority and obligation are based on the individual self-interests of members of society who are understood to be equal to one another, with no single individual invested with any essential authority to rule over the rest, while at the same time maintaining the conservative position that the monarch, which he called the Sovereign, must be ceded absolute authority if society is to survive.

## Session 15: Social Contract Theory

- According to this view, then, political obligation is subsumed under religious obligation. On the other hand, Hobbes also rejects the early democratic view, taken up by the Parliamentarians, that power ought to be shared between Parliament and the King. In rejecting both these views, Hobbes occupies the ground of one who is both radical and conservative. He argues, radically for his times, that political authority and obligation are based on the individual self-interests of members of society who are understood to be equal to one another, with no single individual invested with any essential authority to rule over the rest, while at the same time maintaining the conservative position that the monarch, which he called the Sovereign, must be ceded absolute authority if society is to survive.

## Session 15: Theory of collective action

- Filmer's view held that a king's authority was invested in him (or, presumably, her) by God, that such authority was absolute, and therefore that the basis of political obligation lay in our obligation to obey God absolutely. According to this view, then, political obligation is subsumed under religious obligation.
- On the other hand, Hobbes also rejects the early democratic view, taken up by the Parliamentarians, that power ought to be shared between Parliament and the King. In rejecting both these views, Hobbes occupies the ground of one is who both radical and conservative.
-

## Session 15: Social Contract Theory

- Hobbes has, first and foremost, a particular theory of human nature, which gives rise to a particular view of morality and politics, as developed in his philosophical masterpiece, *Leviathan*, published in 1651.
- The Scientific Revolution, with its important new discoveries that the universe could be both described and predicted in accordance with universal laws of nature, greatly influenced Hobbes.
- He sought to provide a theory of human nature that would parallel the discoveries being made in the sciences of the inanimate universe.



## Session 15: Social Contract Theory

- Theory of human nature: that humans are necessarily and exclusively self-interested. All men pursue only what they perceive to be in their own individually considered best interests – they respond mechanistically by being drawn to that which they desire and repelled by that to which they are averse.
- This is a universal claim: it is meant to cover all human actions under all circumstances – in society or out of it, with regard to strangers and friends alike, with regard to small ends and the most generalized of human desires, such as the desire for power and status.
- Everything we do is motivated solely by the desire to better our own situations, and satisfy as many of our own, individually considered desires as possible.

## Session 15: Social Contract Theory

- In addition to being exclusively self-interested, Hobbes also argues that human beings are reasonable.
- They have in them the rational capacity to pursue their desires as efficiently and maximally as possible.
- Rationality is purely instrumental. It can add and subtract, and compare sums one to another, and thereby endows us with the capacity to formulate the best means to whatever ends we might happen to have.
- From these premises of human nature, Hobbes goes on to construct a provocative and compelling argument for why we ought to be willing to submit ourselves to political authority. He does this by imagining persons in a situation prior to the establishment of society, the State of Nature.

## Session 15: Social Contract Theory

- According to Hobbes, the justification for political obligation is this: given that men are naturally self-interested, yet they are rational, they will choose to submit to the authority of a Sovereign in order to be able to live in a civil society, which is conducive to their own interests. Hobbes argues for this by imagining men in their natural state, or in other words, the State of Nature.
- In the State of Nature, which is purely hypothetical according to Hobbes, men are naturally and exclusively self-interested, they are more or less equal to one another, (even the strongest man can be killed in his sleep), there are limited resources, and yet there is no power able to force men to cooperate.

## Session 15: Social Contract Theory

- Given these conditions in the State of Nature, Hobbes concludes that the State of Nature would be unbearably brutal. In the State of Nature, every person is always in fear of losing his life to another.
- They have no capacity to ensure the long-term satisfaction of their needs or desires. No long-term or complex cooperation is possible because the State of Nature can be aptly described as a state of utter distrust.
- Given Hobbes' reasonable assumption that most people want first and foremost to avoid their own deaths, he concludes that the State of Nature is the worst possible situation in which men can find themselves. It is the state of perpetual and unavoidable war.

## Session 15: Social Contract Theory

- Following Hobbes, being reasonable, and recognizing the rationality of this basic precept of reason, men can be expected to construct a Social Contract that will afford them a life other than that available to them in the State of Nature.
- This contract is constituted by two distinguishable contracts. First, they must agree to establish society by collectively and reciprocally renouncing the rights they had against one another in the State of Nature.
- Second, they must imbue some one person or assembly of persons with the authority and power to enforce the initial contract.
- In other words, to ensure their escape from the State of Nature, they must both agree to live together under common laws, and create an *enforcement mechanism* for the social contract and the laws that constitute it.

## Session 15: Social Contract Theory

- Since the sovereign is invested with the authority and power to mete out punishments for breaches of the contract which are worse than not being able to act as one pleases, men have good, albeit self-interested, reason to adjust themselves to the artifice of morality in general, and justice in particular.
- Society becomes possible because, whereas in the State of Nature there was no power able to “overawe them all”, now there is an artificially and conventionally superior and more powerful person who can force men to cooperate.

## Session 15: Social Contract Theory

- While living under the authority of a Sovereign can be harsh (Hobbes argues that because men's passions can be expected to overwhelm their reason, the Sovereign must have absolute authority in order for the contract to be successful) it is at least better than living in the State of Nature. And, no matter how much we may object to how poorly a Sovereign manages the affairs of the state and regulates our own lives, we are never justified in resisting his power because it is the only thing which stands between us and what we most want to avoid, the State of Nature.
- And, no matter how much we may object to how poorly a Sovereign manages the affairs of the state and regulates our own lives, we are never justified in resisting his power because it is the only thing which stands between us and what we most want to avoid, the State of Nature.

## Session 15: Social Contract Theory

- And, no matter how much we may object to how poorly a Sovereign manages the affairs of the state and regulates our own lives, we are never justified in resisting his power because it is the only thing which stands between us and what we most want to avoid, the State of Nature.
- According to this argument, morality, politics, society, and everything that comes along with it, all of which Hobbes calls 'commodious living' are purely conventional. Prior to the establishment of the basic social contract, according to which men agree to live together and the contract to embody a Sovereign with absolute authority, nothing is immoral or unjust – anything goes.



## Session 15: Social Contract Theory

- After these contracts are established, however, then society becomes possible, and people can be expected to keep their promises, cooperate with one another, and so on.
- The Social Contract is the most fundamental source of all that is good and that which we depend upon to live well. Our choice is either to abide by the terms of the contract, or return to the State of Nature, which Hobbes argues no reasonable person could possibly prefer.

## Session 15: Social Contract Theory

- Given his rather severe view of human nature, Hobbes nonetheless manages to create an argument that makes civil society, along with all its advantages, possible.
- Within the context of the political events of his England, he also managed to argue for a continuation of the traditional form of authority that his society had long since enjoyed, while nonetheless placing it on what he saw as a far more acceptable foundation.

## Session 15: Social Contract Theory

- For Hobbes, the necessity of an absolute authority, in the form of a Sovereign, followed from the utter brutality of the State of Nature. The State of Nature was completely intolerable, and so rational men would be willing to submit themselves even to absolute authority in order to escape it.
- For John Locke, 1632-1704, the State of Nature is a very different type of place, and so his argument concerning the social contract and the nature of men's relationship to authority are consequently quite different.

## Session 15: Social Contract Theory

- While Locke uses Hobbes' methodological device of the State of Nature, as do virtually all social contract theorists, he uses it to a quite different end.
- Locke's arguments for the social contract, and for the right of citizens to revolt against their king were enormously influential on the democratic revolutions that followed, especially on Thomas Jefferson, and the founders of the United States.

## Session 15: Social Contract Theory

- Locke's most important and influential political writings are contained in his *Two Treatises on Government*.
- The first treatise: is concerned almost exclusively with refuting the argument of Robert Filmer's *Patriarcha*, that political authority was derived from religious authority, also known by the description of the Divine Right of Kings, which was a very dominant theory in seventeenth-century England.
- The second treatise contains Locke's own constructive view of the aims and justification for civil government, and is titled "An Essay Concerning the True Original Extent and End of Civil Government".

## Session 15: Social Contract Theory

- According to Locke, the State of Nature, the natural condition of mankind, is a state of perfect and complete liberty to conduct one's life as one best sees fit, free from the interference of others.
- This does not mean, however, that it is a state of license: one is not free to do anything at all one pleases, or even anything that one judges to be in one's interest.
- The State of Nature, although a state wherein there is no civil authority or government to punish people for transgressions against laws, is not a state without morality. The State of Nature is pre-political, but it is not pre-moral.

## Session 15: Social Contract Theory

- The State of Nature is a state of liberty where persons are free to pursue their own interests and plans, free from interference, and, because of the Law of Nature and the restrictions that it imposes upon persons, it is relatively peaceful.
- Since in the State of Nature there is no civil power to whom men can appeal, and since the Law of Nature allows them to defend their own lives, they may then kill those who would bring force against them. Since the State of Nature lacks civil authority, once war begins it is likely to continue. And this is one of the strongest reasons that men have to abandon the State of Nature by contracting together to form civil government.

## Session 15: Social Contract Theory

- Property plays an essential role in Locke's argument for civil government and the contract that establishes it.
- According to Locke, private property is created when a person mixes his labor with the raw materials of nature
- Property is the linchpin of Locke's argument for the social contract and civil government because it is the protection of their property, including their property in their own bodies, that men seek when they decide to abandon the State of Nature.
- Political society comes into being when individual men, representing their families, come together in the State of Nature and agree to each give up the executive power to punish those who transgress the Law of Nature, and hand over that power to the public power of a government



## Session 15: Social Contract Theory

- In other words, by making a compact to leave the State of Nature and form society, they make “one body politic under one government” (par. 97) and submit themselves to the will of that body.
- One joins such a body, either from its beginnings, or after it has already been established by others, only by explicit consent. Having created a political society and government through their consent, men then gain three things which they lacked in the State of Nature: laws, judges to adjudicate laws, and the executive power necessary to enforce these laws. Each man therefore gives over the power to protect himself and punish transgressors of the Law of Nature to the government that he has created through the compact.

## Session 15: Social Contract Theory

- The executive power of a government: the justification of the authority of the executive component of government is the protection of the people's property and well-being, so when such protection is no longer present, or when the king becomes a tyrant and acts against the interests of the people, they have a right, if not an outright obligation, to resist his authority.
- The social compact can be dissolved and the process to create political society begun anew.
- Because Locke did not envision the State of Nature as grimly as did Hobbes, he can imagine conditions under which one would be better off rejecting a particular civil government and returning to the State of Nature, with the aim of constructing a better civil government in its place. It is therefore both the view of human nature, and the nature of morality itself, which account for the differences between Hobbes' and Locke's views of the social contract.

## Session 15: Social Contract Theory

- J.J. Rousseau 1712-1778, lived and wrote during what was arguably the headiest period in the intellectual history of modern France—the Enlightenment. He was one of the bright lights of that intellectual movement, contributing articles to the *Encyclopdie* of Diderot, and participating in the salons in Paris, where the great intellectual questions of his day were pursued.
- Rousseau has two distinct social contract theories. The first is found in his essay, *Discourse on the Origin and Foundations of Inequality Among Men*, commonly referred to as the Second Discourse, and is an account of the moral and political evolution of human beings over time, from a State of Nature to modern society.

## Session 15: Social Contract Theory

- As such it contains his *naturalized* account of the social contract, which he sees as very problematic. The second is his *normative*, or idealized theory of the social contract, and is meant to provide the means by which to alleviate the problems that modern society has created for us, as laid out in the *Second Discourse*.
- According to Rousseau, the State of Nature was a peaceful and quixotic time. People lived solitary, uncomplicated lives. Their few needs were easily satisfied by nature. Because of the abundance of nature and the small size of the population, competition was non-existent, and persons rarely even saw one another, much less had reason for conflict or fear. Moreover, these simple, morally pure persons were naturally endowed with the capacity for pity, and therefore were not inclined to bring harm to one another.

## Session 15: Social Contract Theory

- Divisions of labor were introduced, both within and between families, and discoveries and inventions made life easier, giving rise to leisure time.
- Such leisure time inevitably led people to make comparisons between themselves and others, resulting in public values, leading to shame and envy, pride and contempt.
- Most importantly however, according to Rousseau, was the invention of private property, which constituted the pivotal moment in humanity's evolution out of a simple, pure state into one characterized by greed, competition, vanity, inequality, and vice. For Rousseau the invention of property constitutes humanity's 'fall from grace' out of the State of Nature.

## Session 15: Social Contract Theory

- Having introduced private property, initial conditions of inequality became more pronounced. Some have property and others are forced to work for them, and the development of social classes begins. Eventually, those who have property notice that it would be in their interests to create a government that would protect private property from those who do not have it but can see that they might be able to acquire it by force.
- So, government gets established, through a contract, which purports to guarantee equality and protection for all, even though its true purpose is to fossilize the very inequalities that private property has produced.

## Session 15: Social Contract Theory

- In other words, the contract, which claims to be in the interests of everyone equally, is really in the interests of the few who have become stronger and richer as a result of the developments of private property.
- This is the naturalized social contract, which Rousseau views as responsible for the conflict and competition from which modern society suffers.
- The normative social contract, argued for by Rousseau in *The Social Contract* (1762), is meant to respond to this sorry state of affairs and to remedy the social and moral ills that have been produced by the development of society

## Session 15: Social Contract Theory

- Like Hobbes and Locke before him, and in contrast to the ancient philosophers, all men are made by nature to be equals, therefore no one has a natural right to govern others, and therefore the only justified authority is the authority that is generated out of agreements or covenants.
- The most basic covenant, the social pact, is the agreement to come together and form a people, a collectivity, which by definition is more than and different from a mere aggregation of individual interests and wills.



## Session 15: Social Contract Theory

- This act, where individual persons become a people is “the real foundation of society” (59).
- Through the collective renunciation of the individual rights and freedom that one has in the State of Nature, and the transfer of these rights to the collective body, a new ‘person’, as it were, is formed.
- The sovereign is thus formed when free and equal persons come together and agree to create themselves anew as a single body, directed to the good of all considered together.

## Session 15: Social Contract Theory

- *The Social Contract* begins with the most oft-quoted line from Rousseau: “Man was born free, and he is everywhere in chains”.
- Humans are essentially free, and were free in the State of Nature, but the ‘progress’ of civilization has substituted subservience to others for that freedom, through dependence, economic and social inequalities, and the extent to which we judge ourselves through comparisons with others. Since a return to the State of Nature is neither feasible nor desirable, the purpose of politics is to restore freedom to us, thereby reconciling who we truly and essentially are with how we live together. So, this is the fundamental philosophical problem that *The Social Contract* seeks to address: how can we be free and live together?

## Session 15: Social Contract Theory

- The most basic covenant, the social pact, is the agreement to come together and form a people, a collectivity, which by definition is more than and different from a mere aggregation of individual interests and wills.
- This act, where individual persons become a people is “the real foundation of society” (59).
- Through the collective renunciation of the individual rights and freedom that one has in the State of Nature, and the transfer of these rights to the collective body, a new ‘person’, as it were, is formed.

## Session 15: Social Contract Theory

- So, just as individual wills are directed towards individual interests, the general will, once formed, is directed towards the common good, understood and agreed to collectively.
- Included in this version of the social contract is the idea of reciprocated duties: the sovereign is committed to the good of the individuals who constitute it, and each individual is likewise committed to the good of the whole.
- Given this, individuals cannot be given liberty to decide whether it is in their own interests to fulfill their duties to the Sovereign, while at the same time being allowed to reap the benefits of citizenship. They must be made to conform themselves to the general will, they must be “forced to be free” (64).

## Session 15: Social Contract Theory

- For Rousseau, this implies an extremely strong and direct form of democracy. One cannot transfer one's will to another, to do with as he or she sees fit, as one does in representative democracies.
- Rather, the general will depends on the coming together periodically of the entire democratic body, each and every citizen, to decide collectively, and with at least near unanimity, how to live together, i.e., what laws to enact.
- As it is constituted only by individual wills, these private, individual wills must assemble themselves regularly if the general will is to continue

## Session 15: Social Contract Theory

- One implication of this is that the strong form of democracy which is consistent with the general will is also only possible in relatively small states. The people must be able to identify with one another, and at least know who each other are. They cannot live in a large area, too spread out to come together regularly, and they cannot live in such different geographic circumstances as to be unable to be united under common laws. (Could the present-day U.S. satisfy Rousseau's conception of democracy? It could not. )
- Although the conditions for true democracy are stringent, they are also the only means by which we can, according to Rousseau, save ourselves, and regain the freedom to which we are naturally entitled.

## Session 15: Social Contract Theory

- Rousseau's social contract theories together form a single, consistent view of our moral and political situation.
- We are endowed with freedom and equality by nature, but our nature has been corrupted by our contingent social history.
- We can overcome this corruption, however, by invoking our free will to reconstitute ourselves politically, along strongly democratic principles, which is good for us, both individually and collectively.

## Session 15: Social Contract Theory

- More Recent Social Contract Theories
- John Rawls' *A Theory of Justice*
- In *A Theory of Justice*, Rawls argues that the moral and political point of view is discovered via impartiality. (It is important to note that this view, delineated in *A Theory of Justice*, has undergone substantial revisions by Rawls, and that he described his later view as “political liberalism”.)
- He invokes this point of view (the general view that Thomas Nagel describes as “the view from nowhere”) by imagining persons in a hypothetical situation, the Original Position, which is characterized by the epistemological limitation of the Veil of Ignorance.



## Session 15: Social Contract Theory

- Rawls' original position is his highly abstracted version of the State of Nature. It is the position from which we can discover the nature of justice and what it requires of us as individual persons and of the social institutions through which we will live together cooperatively.
- In the original position, behind the veil of ignorance, one is denied any particular knowledge of one's circumstances, such as one's gender, race, particular talents or disabilities, one's age, social status, one's particular conception of what makes for a good life, or the particular state of the society in which one lives. Persons are also assumed to be rational and disinterested in one another's well-being.

## Session 15: Social Contract Theory

- These are the conditions under which, Rawls argues, one can choose principles for a just society which are themselves chosen from initial conditions that are inherently fair.
- Because no one has any of the particular knowledge he or she could use to develop principles that favor his or her own particular circumstances, in other words the knowledge that makes for and sustains prejudices, the principles chosen from such a perspective are necessarily fair.
- For example, if one does not know whether one is female or male in the society for which one must choose basic principles of justice, it makes no sense, from the point of view of self-interested rationality, to endorse a principle that favors one sex at the expense of another, since, once the veil of ignorance is lifted, one might find oneself on the losing end of such a principle

# Session 15: Social Contract Theory

- Because the conditions under which the principles of justice are discovered are basically fair, justice proceeds out of fairness.
- In such a position, behind such a veil, everyone is in the same situation, and everyone is presumed to be equally rational. Since everyone adopts the same method for choosing the basic principles for society, everyone will occupy the same standpoint: that of the disembodied, rational, universal human.
- Therefore all who consider justice from the point of view of the original position would agree upon the same principles of justice generated out of such a thought experiment.

# Session 15: Social Contract Theory

- Any one person would reach the same conclusion as any other person concerning the most basic principles that must regulate a just society.
- The principles that persons in the Original Position, behind the Veil of Ignorance, would choose to regulate a society at the most basic level (that is, prior even to a Constitution) are called by Rawls, aptly enough, the Two Principles of Justice.
- These two principles determine the distribution of both civil liberties and social and economic goods.

## Session 15: Social Contract Theory

- The first principle states that each person in a society is to have as much basic liberty as possible, as long as everyone is granted the same liberties. That is, there is to be as much civil liberty as possible as long as these goods are distributed equally. (This would, for example, preclude a scenario under which there was a greater aggregate of civil liberties than under an alternative scenario, but under which such liberties were not distributed equally amongst citizens.)
- The second principle states that while social and economic inequalities can be just, they must be available to everyone equally (that is, no one is to be on principle denied access to greater economic advantage) and such inequalities must be to the advantage of everyone.

## Session 15: Social Contract Theory

- This means that economic inequalities are only justified when the least advantaged member of society is nonetheless better off than she would be under alternative arrangements.
- So, only if a rising tide truly does carry all boats upward, can economic inequalities be allowed for in a just society.
- The method of the original position supports this second principle, referred to as the Difference Principle, because when we are behind the veil of ignorance, and therefore do not know what our situation in society will be once the veil of ignorance is lifted, we will only accept principles that will be to our advantage even if we end up in the least advantaged position in society.

## Session 15: Social Contract Theory

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

## Session 15: Social Contract Theory

- Having argued that any rational person inhabiting the original position and placing him or herself behind the veil of ignorance can discover the two principles of justice, Rawls has constructed what is perhaps the most abstract version of a social contract theory. It is highly abstract because rather than demonstrating that we would or even have signed to a contract to establish society, it instead shows us what we must be willing to accept as rational persons in order to be constrained by justice and therefore capable of living in a well ordered society.



## Session 15: Social Contract Theory

- The principles of justice are more fundamental than the social contract as it has traditionally been conceived. Rather, the principles of justice constrain that contract, and set out the limits of how we can construct society in the first place.
- If we consider, for example, a constitution as the concrete expression of the social contract, Rawls' two principles of justice delineate what such a constitution can and cannot require of us.
- Rawls' theory of justice constitutes, then, the Kantian limits upon the forms of political and social organization that are permissible within a just society.