

RAWLS' THEORY OF JUSTICE

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Lecture Plan

1. Liberalism
2. Social Contract Theory
3. Utilitarianism and Intuitionism
4. Justice as Fairness – general conception
5. Principles of Justice, Rules of Priority
6. Argument 1: Intuitive Equality of Opportunity
7. Argument 2: Social Contract
8. Application of the Principles of Justice

1. Liberalism

- ▣ Liberalism is a political view based around liberty or freedom.
- ▣ Coercive force can only legitimately be used in the service of freedom.
- ▣ Liberalism is also concerned with equality: freedom is something all are equally entitled to.
- ▣ There is an intersection between the values of freedom and equality in liberal philosophy.

2. Social Contract Theory

- ▣ How can political authority be seen as compatible with the fundamental value of freedom and equality?
- ▣ Any legitimate political authority must derive from the free consent of the governed, such consent is best understood as being derived from the idea of a contract or mutual agreement between free and equal contractors, whereby the governed freely surrender certain freedoms so as to gain the benefits of mutual cooperation.

3. Utilitarianism and Intuitionism

- ▣ Utilitarianism: justice is best served by taking that course of action which creates the greatest overall utility or the greatest sum of utility.
- ▣ Intuitionism: for properly constituted human beings their intuitions tell them where the moral good lies.

4. Justice as Fairness - General

- ▣ “all social primary goods – liberty and opportunity, income and wealth, and the bases of self-respect – are to be distributed equally unless an unequal distribution of any or all of these goods is to the advantage of the least favoured”.
- 1. Has the structure of an imperative.
- 2. Links justice to fair distribution of social goods.
- 3. Systematic conception of priorities.

5. Principles of Justice and rules of Priority

Principle 1: Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all.

Principle 2: Social and economic inequalities are to be arranged so that they are both –
a) to the greatest benefit of the least advantaged, and
b) attached to offices and positions open to all under conditions of fair equality of opportunity.

Priority rule 1 (The Priority of Liberty): The principles of justice are to be ranked in lexical order (that is, the first principle takes priority over the second principle) and therefore liberty can only be restricted for the sake of liberty.

Priority rule 2 (The Priority of Justice Over Efficiency and Welfare): The second principle of justice is lexically prior to the principle of efficiency and to that of maximizing the sum of advantages; and fair opportunity is prior to the difference principle.

6. Argument 1: Intuitive Equality of Opportunity

- ▣ The standard Equal Opportunity suggests that one's social circumstances are morally arbitrary and so one ought not be advantaged by them.
- ▣ Thus we need fair competition that ameliorates social advantage.
- ▣ But, natural capacities and talents are just as morally arbitrary and so we must consider the advantage that they bring in competition.
- ▣ The standard equal opportunity view does not apply to natural talents and abilities, thus it fails to consider all morally arbitrary factors.

7. Social contract Argument

- ▣ Contractors begin in the 'original position' and behind the veil of ignorance.
- ▣ Contractors are rational and self-interested agents who, while ignorant of specifics know that we will have a life plan and that this will require both liberties and social primary goods.
- ▣ Based on the maximin principle the contractors agree to principles of justice that will maximise what they would get if they found themselves in the minimum (worst) situation.
- ▣ In making this decision behind the veil of ignorance contractors must choose by considering the perspective of every other contractor, because when the veil is lifted they could end up in any position.

8. Applications

- a) The Enunciation of the principle of justice from the original position.
- b) Partial lifting of the veil: principles of justice are applied to generating a constitutional system, the basic structures of government and the rights that citizens can expect.
- c) Principles of justice and constitutional principles used to generate specific legislation.
- d) Legislation applied by judges and administrative institutions.