

libertarian principle, such a person should get nothing. But this, say the critics of libertarianism, is surely mistaken. If people through no fault of their own happen to be unable to care for themselves, their survival should not depend on the outside chance that others will provide them with what they need. Each person's life is of value, and consequently each person should be cared for, even if this means coercing others into distributing some of their surplus to the person.

Justice as Fairness: Rawls

These discussions have suggested several different considerations that should be taken into account in the distribution of society's benefits and burdens: political and economic equality, a minimum standard of living, needs, ability, effort, and freedom. What is needed, however, is a comprehensive theory capable of drawing these considerations together and fitting them together into a logical whole. John Rawls provides one approach to distributive justice that at least approximates this ideal of a comprehensive theory.⁹⁴

John Rawls's theory is based on the assumption that conflicts involving justice should be settled by first devising a fair method for choosing the principles by which the conflicts are resolved. Once a fair method of choosing principles is devised, the principles we choose by using that method should serve us as our own principles of distributive justice. Rawls proposes two basic principles that, he argues, we would select if we were to use a fair method of choosing principles to resolve our social conflicts.⁹⁵ The principles of distributive justice that Rawls proposes can be paraphrased by saying that the distribution of benefits and burdens in a society is just if and only if:

1. each person has an equal right to the most extensive basic liberties compatible with similar liberties for all, and
2. social and economic inequalities are arranged so that they are both
 - a. to the greatest benefit of the least advantaged persons, and
 - b. attached to offices and positions open to all under conditions of fair equality of opportunity.

Rawls tells us that Principle 1 is supposed to take priority over Principle 2 should the two of them ever come into conflict, and within Principle 2, Part *b* is supposed to take priority over Part *a*.

Principle 1 is called the **principle of equal liberty**. Essentially it says that each citizen's liberties must be protected from invasion by others and must be equal to those of others. These basic liberties include the right to vote, freedom of speech and conscience and the other civil liberties, freedom to hold personal property, and freedom from arbitrary arrest.⁹⁶ If the principle of equal liberty is correct, then it implies that it is unjust for business institutions to invade the privacy of employees, pressure managers to vote in certain ways, exert undue influence on political processes by the use of bribes, or otherwise violate the equal political liberties of society's members. According to Rawls, moreover, because our freedom to make contracts would diminish if we were afraid of being defrauded or were afraid that contracts would not be honored, the principle of equal liberty also prohibits the use of force, fraud, or deception in contractual transactions and requires that just contracts should be honored.⁹⁷ If this is true, then contractual transactions with customers (including advertising) should morally be free of fraud and employees have a moral obligation to render the services they have justly contracted to their employer.

principle of equal liberty The claim that each citizen's liberties must be protected from invasion by others and must be equal to those of others.

Part *a* of Principle 2 is called the **difference principle**. It assumes that a productive society will incorporate inequalities, but it then asserts that steps must be taken to improve the position of the most needy members of society, such as the sick and the disabled, unless such improvements would so burden society that they make everyone, including the needy, worse off than before.⁹⁸ Rawls claims that the more productive a society is, the more benefits it will be able to provide for its least advantaged members. Because the difference principle obliges us to maximize benefits for the least advantaged, this means that business institutions should be as efficient in their use of resources as possible. If we assume that a market system such as ours is most efficient when it is most competitive, then the difference principle will in effect imply that markets should be competitive and that anticompetitive practices such as price-fixing and monopolies are unjust. In addition, because pollution and other environmentally damaging external effects consume resources inefficiently, the difference principle also implies that it is wrong for firms to pollute.

Part *b* of Principle 2 is called the **principle of fair equality of opportunity**. It says that everyone should be given an equal opportunity to qualify for the more privileged positions in society's institutions.⁹⁹ This means not only that job qualifications should be related to the requirements of the job (thereby prohibiting racial and sexual discrimination) but that each person must have access to the training and education needed to qualify for the desirable jobs. A person's efforts, abilities, and contribution would then determine remuneration.

The principles that Rawls proposes are quite comprehensive and bring together the main considerations stressed by the other approaches to justice that we have examined. However, Rawls not only provides us with a set of principles of justice, he also proposes a general method for evaluating in a fair way the adequacy of any moral principles. The method he proposes consists of determining what principles a group of rational self-interested persons would choose to live by if they knew they would live in a society governed by those principles but they did not yet know what each of them would turn out to be like in that society.¹⁰⁰ We might ask, for example, whether such a group of rational self-interested persons would choose to live in a society governed by a principle that discriminates against Blacks when none of them knows whether he or she will turn out to be a Black person in that society. The answer, clearly, is that such a racist principle would be rejected and consequently, according to Rawls, the racist principle would be unjust. Thus, Rawls claims that a principle is a morally justified principle of justice if, and only if, the principle would be acceptable to a group of rational self-interested persons who know they will live in a society governed by the principles they accept but who do not know what sex, race, abilities, religion, interests, social position, income, or other particular characteristics each of them will possess in that future society.

Rawls refers to the situation of such an imaginary group of rational persons as the **original position**, and he refers to their ignorance of any particulars about themselves as the **veil of ignorance**.¹⁰¹ The purpose and effect of decreeing that the parties to the original position do not know what particular characteristics each of them will possess is to ensure that none of them can protect his or her own special interests. Because they are ignorant of their particular qualities, the parties to the original position are forced to be fair and impartial and to show no favoritism toward any special group: They must look after the good of all.

According to Rawls, the principles that the imaginary parties to the original position accept will *ipso facto* turn out to be morally justified.¹⁰² They will be morally justified because the original position incorporates the Kantian moral ideas of **reversibility** (the parties choose principles that will apply to themselves), **universalizability** (the principles must apply equally to everyone), and treating people as ends (each party has an equal say in the choice of principles). The principles are

difference principle The claim that a productive society will incorporate inequalities, but takes steps to improve the position of the most needy members of society.

principle of fair equality of opportunity

The claim that everyone should be given an equal opportunity to qualify for the more privileged positions in society's institutions.

original position An imaginary meeting of rational self-interested persons who must choose the principles of justice by which their society will be governed.

veil of ignorance The requirement that persons in the original position must not know particulars about themselves which might bias their choices such as their sex, race, religion, income, social status, etc.

reversibility Capable of being applied to oneself.

universalizability Capable of being applied equally to everyone.

further justified, according to Rawls, because they are consistent with our deepest considered intuitions about justice. The principles chosen by the parties to the original position match most of the moral convictions we already have; where they do not, according to Rawls, we would be willing to change them to fit Rawls's principles once we reflect on his arguments.

Rawls goes on to claim that the parties to the original position would in fact choose his (Rawls's) principles of justice—that is, the principle of equal liberty, the difference principle, and the principle of fair equality of opportunity.¹⁰³ The principle of equal liberty would be chosen because the parties will want to be free to pursue their major special interests whatever these might be. In the original position, each person is ignorant of what special interests he or she will have, thus everyone will want to secure a maximum amount of freedom so that they can pursue whatever interests they have on entering society. The difference principle will be chosen because all parties will want to protect themselves against the possibility of ending in the worst position in society. By adopting the difference principle, the parties will ensure that even the position of the most needy is cared for. The principle of fair equality of opportunity will be chosen, according to Rawls, because all parties to the original position will want to protect their interests should they turn out to be among the talented. The principle of fair equality of opportunity ensures that all have an equal opportunity to advance through the use of their own abilities, efforts, and contributions.

If Rawls is correct in claiming that the principles chosen by the parties to the original position are morally justified, and if he is correct in arguing that his own principles would be chosen by the parties to the original position, then it follows that his principles are in fact morally justified to serve as our own principles of justice. These principles would then constitute the proper principles of distributive justice.

Critics, however, have objected to various parts of Rawls's theory.¹⁰⁴ Some have argued that the original position is not an adequate method for choosing moral principles. According to these critics, the mere fact that a set of principles is chosen by the hypothetical parties to the original position tells us nothing about whether the principles are morally justified. Other critics have argued that the parties to the original position would not choose Rawls's principles at all. Utilitarians, for example, have argued that the hypothetical parties to the original position would choose utilitarianism and not Rawls's principles. Still other critics have claimed that Rawls's principles are mistaken. According to these critics, Rawls's principles are opposed to our basic convictions concerning what justice is.

Despite the many objections that have been raised against Rawls's theory, his defenders still claim that the advantages of the theory outweigh its defects. For one thing, they claim, the theory preserves the basic values that have become embedded in our moral beliefs: freedom, equality of opportunity, and concern for the disadvantaged. Second, the theory fits easily into the basic economic institutions of Western societies: It does not reject the market system, work incentives, nor the inequalities consequent on a division of labor. Instead, by requiring that inequalities work for the benefit of the least advantaged and by requiring equality of opportunity, the theory shows how the inequalities that attend the division of labor and free markets can be compensated for and thereby made just. Third, the theory incorporates both the communitarian and individualistic strains that are intertwined in Western culture. The difference principle encourages the more talented to use their skills in ways that will rebound to the benefit of fellow citizens who are less well off, thereby encouraging a type of communitarian or fraternal concern.¹⁰⁵ The principle of equal liberty leaves the individual free to pursue whatever special interests the individual may have. Fourth, Rawls's theory takes into account the criteria of need, ability, effort, and contribution. The difference principle distributes benefits in accordance with need,

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Principles of Distributive Justice

- Fundamental: distribute benefits and burdens equally to equals and unequally to unequals
- Egalitarian: distribute equally to everyone
- Capitalist: distribute by contribution
- Socialist: distribute by need and ability
- Libertarian: distribute by free choices
- Rawls: distribute by equal liberty, equal opportunity, and needs of disadvantaged

whereas the principle of fair equality of opportunity in effect distributes benefits and burdens according to ability and contribution.¹⁰⁶ Fifth, the defenders of Rawls argue that there is the moral justification that the original position provides. The original position is defined so that its parties choose impartial principles that take into account the equal interests of everyone, and this, they claim, is the essence of morality.

Retributive Justice