

Lecture 8 Distributive Justice (Rawls)

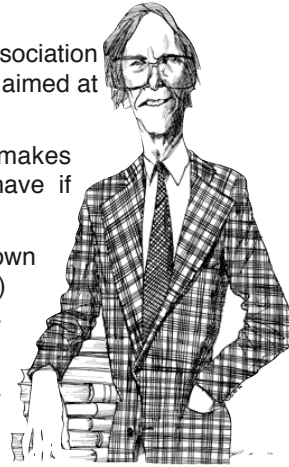
Human society: “a more or less self-sufficient association regulated by a common conception of justice and aimed at advancing the good of its members” (136)

Identity of interests: “social co-operation makes possible a better life for all than any would have if everyone were to live by his own efforts” (136)

Conflict of interests: “in order to pursue their own aims each prefers a larger to a lesser share” (136)

Conception of justice: “a set of principles for choosing between the social arrangements which determine this division and for underwriting a consensus as to the proper distributive shares” (136)

Rawls first considers utilitarianism: Since each of us reasonably pursues their own aims as far as possible, so long as others aren't harmed, why shouldn't society as a whole act in the same way?



That is, just as each person acts to pursue their own good, “so the principle of social choice [might be] to realize the greatest good (similarly defined) summed over all the members of society” (136)

Utilitarian argument for (usually) following standard principles of justice: “they [principles of justice] are those rules which experience shows must be strictly respected and departed from only under exceptional circumstances if the sum of advantages is to be maximized....

There is no reason in principle why the greater gains of some should not compensate for the lesser losses of others; or why the violation of the liberty of a few might not be made right by a greater good shared by many.

It simply happens, at least under most conditions, that the greatest good is shared by many” (137)

But (as we've seen) utilitarianism makes the philosophical notion of a principle of *justice-in-itself* irrational

Utilitarianism won't work as a principle of justice—if we hold that justice is primary, that the welfare of the many cannot trump basic rights nor an equitable share of society's goods

Founders of Social Contract Theory

Social Contract Theory is designed to explain the strictness of justice

Explanation: Principles of justice arise when originally free and equal beings rationally choose their principles of justice

Veil of ignorance: “no one knows his position in society, nor even his place in the distribution of natural talents and abilities” (137)

Viewed from the vantage of the social contract, it is clear why utilitarianism is unacceptable: “why should rational individuals who have a system of ends they wish to advance agree to a violation of their liberty for the sake of a greater balance of satisfactions enjoyed by others?” (137)

The virtue of the principle of utility is that it seems to provide a clear way to develop a complete, consistent idea of morality

Rawls's goal: “a contractarian alternative [to utilitarianism] ... that has comparable if not all the same virtues” (138)

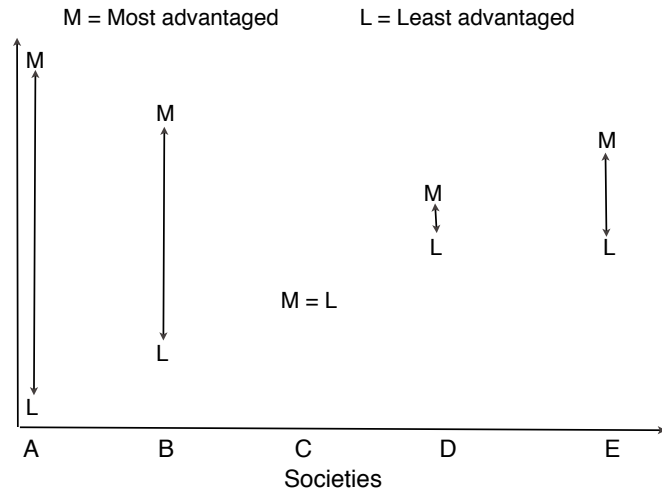
Two principles of justice Rawls believes will be chosen in the original position:

- (i) **The Principle of Equal Liberty:** “each person engaged in an institution or affected by it has an equal right to the most extensive liberty compatible with a like liberty for all” (138)
- (ii) **The Difference Principle:** “inequalities as defined by the institutional structure or fostered by it are arbitrary unless it is reasonable to expect that they will work out to everyone's advantage and provided that the positions and offices to which they attach or from which they may be gained are open to all.” (138)

The principles of justice are designed to deal with naturally occurring inequalities, such as the social class, economic and social prospects people are part of

Morally acceptable inequalities of e.g. wealth, income or social position — *if permitted*—“must be to the advantage of everyone” (139)

This means, Rawls argues, is that a system is just if and only if “*when a decrease in [the most fortunate person's] advantages would make the least fortunate even worse off than they are*” (139)



Even if two people were equal in talent, etc. but were born into families of different wealth, their prospects will not equal

Still, it might be argued that by permitting such inequality, the labouring class will do better than otherwise

This *may* be true, but it has to be *proved* to *justify* the inequality

Even natural talent is viewed by Rawls as a gift *from nature*, just as social position is a gift *from one's family's position*

“Those who have been favoured by nature, whoever they are, may gain from their good fortune only on terms that improve the well-being of those who have lost out” (140)

Rawls argues that those in the original position will choose this principle, because, not knowing their own position in society, will want to minimize their potential losses

Efficiency principle: the system is optimal if there is “no way to make anyone better off without making someone worse off” (140)

Rawls argues that his two principles of justice can be met in a properly regulated market economy:

“if law and government act effectively to keep markets competitive, resources fully employed, property and wealth widely distributed over time, and to maintain the appropriate social minimum, then if there is equality of opportunity underwritten by education for all, the resulting distribution will be just” (141)

Assumptions of a just society

1. Society is governed by a “just constitution” which guarantees “liberty of conscience and freedom of thought” (equal liberty)
2. Social benefits and burdens are properly distributed (distributive justice)
3. Justice requires equality of opportunity in education, “in commercial ventures and in the free choice of occupation” (141)
4. To do this requires regulation and the policing of “business behaviour and by preventing the establishment of barriers and restriction to the desirable positions and markets.” (141)
5. “There is a guarantee of a social minimum which the government meets by family allowances and special payments in times of unemployment, or by a negative income tax.” (141)

Maintenance

Four government branches needed to maintaining above conditions

— 1. allocation, 2. stabilization; 3. transfer; 4. distribution

"A market economy ignores the claims of need altogether" because the mechanisms of the market (even when regulated) are designed only for "the efficient allocation of labour and resources and set a weight to the conventional precepts associated with wages and earnings (the precepts of each according to his work and experience, or responsibility and the hazards of the job, and so on)" (141)

The market on its own ignores the "claims of need and of a decent standard of life"

Argument for interfering with the market: Rational people in the original position would want to guarantee themselves at least a decent standard of living

Rawls believes that regulation of prices to guarantee a minimum wage is less efficient than having a separate branch of government transfer funds so that "wages plus transfers, is such as to maximize their long-term expectations consistent with the demands of liberty" (142)

The guiding principle in all laws is always the principle of equal liberty and the difference principle

Rawls argues that justice is necessarily *procedural*: A distribution of goods and burdens is just only if it is arrived at by a just method

Justice and Games: "[Rawls's] account of distributive shares is simply an elaboration of the familiar idea that economic rewards will be just once a perfectly competitive price system is organized as a fair game" (144)

A fair game will always need institutions to make sure that it continues to produce proper outcomes

This is because "even a perfectly efficient price system has no tendency to determine just distributive shares when left to itself"

We must also save resources for future generations

Summary: Justice only exists within a fair system played by fair rules

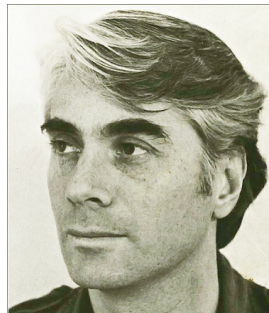
A system of rules is fair only if chosen by rational people who didn't know how they would fare in such a system

The Entitlement Theory

Robert Nozick

Thesis: "The minimal state is the most extensive state that can be justified. Any state more extensive violates people's rights." (145)

Nozick will attempt to refute Rawls's "claim that a more extensive state is justified, because necessary (or the best instrument) to achieve distributive justice" (145)



Nozick rejects the picture of distributive justice as a mechanism for correcting an initially poor distribution of resources

This is because, he says, there "is no central distribution, no person or group **entitled** to control all the resources, jointly deciding how they are to be doled out.

[Instead what] each person gets, [they] gets from others who give to [them] in exchange for something, or as a gift" (145)

That is, people begin with their "holdings" and (in a free society) they individually decide how they will exchange these holdings with others

Nozick believes his approach is neutral concerning justice

That is, he believes it is basic to speak only of people's holdings and about "what justice tells us (requires) about holdings" (146)

Justice about holdings involves:

1. "*original acquisition of holdings*, the appropriation of unheld things" (146)

"If the world were wholly just, the following inductive definition would exhaustively cover the subject of justice in holdings.

1. A person who acquires a holding in accordance with the principle of justice in acquisition is entitled to that holding.
2. A person who acquires a holding in accordance with the principle of justice in transfer, from someone else entitled to the holding, is entitled to the holding.
3. No one is entitled to a holding except by (repeated) applications of 1 and 2." (146)

Just as valid (truth-preserving) inference preserves truth, so too justice-preserving transitions preserve justice.

If something was acquired unjustly, even though it is later transferred according to the rules is still not held justly

Rectification of injustice in holdings:

Issues:

1. What should be done to rectify past injustice?
2. What duties do unjust people have to those whose position they made worse by their injustice?
3. How is compensation to be made for those who are indirectly affected by past injustice, e.g. by descendants?
4. How far back do we go to correct these past injustices?
5. How far can victims go to get redress?

Nozick says he doesn't "know of a thorough or theoretically sophisticated treatment of such issues. [But he continues] Idealizing greatly, let us suppose theoretical investigation will produce a principle of rectification" (147)

And if this hypothetical principle reveals that contemporary holdings are not just, and reveals a truly just distribution, this properly just distribution "must be realized" (147)

Aside: Is such a principle even conceivable?

What does it presuppose about initial states, etc.? Suppose no earlier acquisition meets Nozick's proper acquisition principle?

Nozick's entitlement theory of justice is based on how a distribution of goods came about, and so is *historical*.

"Current time-slice principles of justice" (such as Rawls's) determine justice according to "some structural principle(s) of just distribution"

Utilitarianism: Ignores how holdings were acquired and seeks only maximal happiness

Welfare Economics: is also a "theory of current time-slice principles of justice"

To compute proper distribution we only need to know how goods are now distributed—the past is irrelevant

But most of us believe that distribution includes information about how the distribution historically happened—did the people *deserve* what they got?

On one, traditional socialist view, workers **deserve** the products of their labour, and so "a distribution is unjust if it does not give the workers what they are entitled to" (148)

Nozick believes such socialists correctly hold that "earning, producing, entitlement, desert, and so forth" matter in issues of justice

He says that such socialists are only wrong about how entitlements are produced

Nozick calls ahistorical, present "time-slice" theories of justice *end-result* or *end-state* principles"

HOW LIBERTY UPSETS PATTERNS

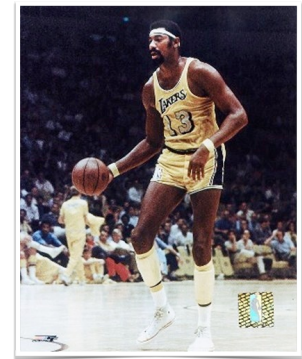
The Wilt Chamberlain argument: Suppose people happily agree to pay an extra 25¢ to be able to watch Chamberlain play with the Lakers

Suppose we start out with distribution state, D₁, where every player starts with \$50,000 and each then gets \$100,000 for playing

Because of WC's bonus clause, at the end of the season, he gets an extra \$250,000 and so now has much more than the other players, who originally started out with the same amount

Is this new distribution, D₂, unjust?

Since the fans presumably justly owned their 25¢, and they willingly transferred them to WC, *doesn't he justly hold the \$250,000?*



Nozick continues: Even in a socialist society, where everybody's basic needs are met, people may still desire extras, and be willing to do more to get them

In such a society, someone might work overtime even though their needs are satisfied because they care about things other than needs

A person might exchange services or personal goods, in an after work fashion

They might even set up their own factories in this way

Some might even leave their socialist industry jobs to work full-time in the private sector

If people were permitted to use their own resources as granted them by the socialist distribution, we have the creation of a capitalist society

To prevent it, the "socialist society would have to forbid capitalist acts between consenting adults" (150)

The general point: "no end-state principle or distributional patterned principle of justice can be continuously realized without continuous interference with people's lives" (150)

Whatever the initial distribution, so long as people are allowed to trade what they justly hold, any "favoured pattern would be transformed into one unfavoured by the principle" (150)

Like Rawls, Nozick pictures social relations using the language of game theory

But where Rawls believes the market invariably deteriorates into an unjust society, Nozick believes a society that is made "just" in the face of the market is actually unjust

Discussion questions

1. Rawls argues that no rational person (behind the veil) would choose to live in a society having an unregulated market. Explain his argument. You should do this along with an account of his Principles of Equal Liberty and of Difference.
2. Nozick argues that the only justice regarding possession of goods is about how those goods were originally acquired or later traded. Explain his model. Do the problems with determining original acquisition completely undermine his argument? (Explain)
3. Which model (Rawls's or Nozick's) would make a society function better? (You should first explain and justify a definition of "functioning better.")