

## Lecture Notes 2 : The Two Principles of Justice

### The veil of ignorance

The conditions of choice: people are (i) mutually disinterested, (ii) rational, (iii) free and equal, (iv) tasked with deciding on a just set of fundamental social institutions (contrast the cake example).

Since no one knows what position they will occupy, asking people to decide what is best for themselves has the same consequence as asking what is best for everyone, considered impartially... In order to decide from behind a veil of ignorance which principles will promote my good, I must put myself in the shoes of every person in society and see what promotes their good, since I may end up being any one of those people. (Kymlicka 2002, p. 65)

### The original position (OP)

Recall contractarian devices utilized by social theorists (Hobbes, Locke, Rousseau): Rawls wants to use a similar device of *hypothetical* consent.

In OP people are *free and equal*. What principles would such people choose to regulate their lives?

### The content of choice

Need set of *primary goods* (PGs), i.e. all-purpose means. These include:

- social primary goods, like income, opportunities, rights and liberties.
- natural primary goods, like health, creativity, talents.

### The First Principle of Justice (FPJ)

*FPJ*: 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.

The FPJ purportedly protects things like conscience, movement, speech, due process, the integrity of the person, and other basic liberties typically guaranteed by the rule of law.

### The Second Principle of Justice (SPJ)

*SPJ*: Social and economic inequalities are to be arranged so that they are both

- (a) to the greatest benefit of the least advantaged (the difference principle)
- (b) attached to offices and positions open to all under conditions of fair equality of opportunity

SPJ(a) is sometimes interpreted as *maximin*, i.e. as  $\max|u_{i_0}|$ , where  $i_0$  is the least well-off group. Rawls argues that the FPJ has lexicographic priority over the SPJ, and SPJ(b) over SPJ(a).

## Some problems

### The lexical priority of the FPJ

(1) Lexicality: Let  $L$  be some well-defined lexicographic priority relation. For any set of fundamental liberties  $f$ , and non-liberty social primary goods  $s$  (e.g. income or wealth), if  $fLs$ , then no amount of  $s$  suffices to make up for any lack in  $f$ .

(1) can't be right. 'Hey, you're starving to death, but at least Murdoch is free to sell his papers!'

### Poverty in the FPJ

Rawls subscribes to the following argument:

(2) The FPJ protects freedom, not the means to exercise it.

(3) To lack money is not to lack freedom, but only means to exercise it.

∴ (4) According to the FPJ the protection of freedom does not presuppose the provision of a socioeconomic minimum.

(3) is demonstrably false: poverty removes *freedom*, not just the means to exercise it. (See G.A. Cohen's 'Freedom and Money') Solution: incorporate a social minimum into the FPJ.

### SPJ(a) and (average) utility

Some economists say that the denizens of the OP should not maximize, but rather maximize (average) expected utility:

$$(5) \max p_1u_1 + p_2u_2 + \dots + p_ku_k$$

Rawls has a number of answers in *ToJ*: the probabilities ( $p_1, p_2, \dots$ ) are not available in the OP. Moreover, (average) utilitarianism undermines the free and equal form of social relationship, and gives rise to severe 'strains of commitment' once the veil of ignorance is lifted.

### Does SPJ(a) allow too much inequality?

How is  $i_0$  individuated? Rawls claims it is the lowest *ex post* share of *social* primary goods. But why don't *natural* primary goods contribute to making one worst off?

## Study questions

In what sense is Rawls' political philosophy liberal? In what sense is it egalitarian?  
Is Rawls' argument for the difference principle sound?

## Further Reading

Freeman, S. (2008), 'The Original Position', *Stanford Encyclopedia of Philosophy*.

Pogge, T. (1989), *Realizing Rawls*, Cornell UP, ch. 3-4.