**A contemporary philosopher, John Rawls (1921-2002), is noted for his contributions to political and moral philosophy.  In particular, Rawls' discussion about justice introduced five important concepts into discourse, including: the two principles of justice, the “original position” and “veil of ignorance,” reflective equilibrium, overlapping consensus, and public reason.  What is interesting about these five contributions is how Rawls’ speculative thought has been used by scholars across disciplinary lines, influencing such diverse academic disciplines as economics, law, political science, sociology, and theology.**

***A theory of justice*...**

**Rawls’ most famous work, *A Theory of Justice* (1971), provides an introduction to this body of thought as well as some of its implications for ethics.  Like many philosophers before him, Rawls focused upon justice because of its substantive importance for organizing and governing society.**

**The problem, however, involves defining what that term means theoretically (i.e., speculatively about organizing and governing society) and practically (i.e., the consequences for people and their lives).**

**Generally, speaking, justice can be defined in one of two ways.  One definition emphasizes an individual’s merit or lack of it.  According to this definition, each individual must be treated exactly as one deserves.  This "*merit theory"* of justice, reflecting utilitarian ethics, uses merit to determine just how individual members of society will be rewarded or punished based solely upon whether one's conduct is useful or harmful to society.  The *"need theory"* of justice, which assumes that individual members of society should help those other members who are most in need so as to redress their disadvantages, reflects the influence of natural law theory and Kant's categorical imperative.  In this view, “doing good” dictates that every member of society recognize that need entitles the most disadvantaged to some sort of special consideration and that the more advantaged must compensate the disadvantaged with the goal of bringing them up to an acceptable level of advantage.**

**Attempting to balance the demands posed by these rival theories, Rawls maintained that inequalities in society can only be justified if they produce increased benefits for the entire society and only if those previously the most disadvantaged members of society are no worse off as a result of any inequality.  An inequality, then, is justified if it contributes to social utility, as the merit theory asserts.  But, at the same time, Rawls argued, priority must be given to the needs of the least advantaged, as the needs theory asserts.  Thus, differential rewards are allowed to the advantaged members of society but not because of any merit on their part.  No, these rewards are tolerated because they provide an incentive for the advantaged which ultimately will prove beneficial to society (e.g., taxing the advantaged with the goal of redistributing the wealth to provide for the least advantaged).**

***The original position*...**

**Using a thought experiment Rawls called “*the original position*” from which agents behind a “*veil of ignorance*” select principles of justice to govern society, Rawls argued that two principles serve to organize society, the "*liberty principle"* and the "*difference principle*."  He rooted the original position in and extended the concept of “social contract” previously espoused by Hobbes, Rousseau, and Locke which made the principles of justice the object of the contract binding members of society together.  In addition, Rawls’ advocacy of treating people only as ends and never as means rooted his philosophical speculations in and extended Kant’s categorical imperative.**

**According to Rawls, a society is a cooperative venture between free and equal persons for the purpose of mutual advantage.  Cooperation among members makes life better because cooperation increases the stock of what it is rational for members of society to desire irrespective of whatever else its members may want.  Rawls calls these desires “primary goods” which include among others: health, rights, income, and the social bases of self-respect.**

**The problem every society must confront, Rawls noted, is that the members will oftentimes disagree about what constitutes the good and how the benefits and burdens within society will be distributed among its members.  Some believe, for example, that the good consists in virtuous conduct which perfects the commonweal while others believe that the good is discovered in the pursuit of individual happiness, at least in so far as the members of society define these terms.  Some members believe that an individual’s merit should determine how one will participate in society’s benefits while others believe that society must provide the least advantaged extra assistance so that they will be able to share equally in society’s benefits.  If society is to exist and to endure despite these and other such differences, its members must derive a consensus regarding what minimally constitutes the good.**

**What consensus requires in actual practice is that the members of society agree upon the rules which will govern them as a society and that these rules will be applied consistently.  But, Rawls asked, just how would a society and its members know what constitutes a “fair” principle?  And, how would it be possible to determine what is “reasonable” for every member to agree with?  Thompson cites the example of welfare to make this point:**

**The growth of the welfare state has often been explained and defended as a progressive recognition that government should provide certain benefits (positive rights) in order to prevent certain harms to citizens (negative rights).  Yet its opponents claim that the welfare state violates the negative rights of other citizens (property owners, for example).  (1987, p. 104)**

**Rawls responded to this challenge by invoking the original position, in which representative members of a society would determine the answers to these difficult questions.  That is, absent any government, the representatives would rationally discuss what sort of government will be supported by a social contract which will achieve justice among all members of society.  The purpose for this discourse would not be to justify governmental authority but to identify the basic principles that would govern society when government is established.  The chief task of these representatives would not be to protect individual rights but to promote the welfare of society (1971, p. 199).**

**To this end, the representatives do not know—are "veiled" from—which place in society they will occupy.  In addition, every factor which might bias a decision (e.g., one’s tastes, preferences, talents, handicaps, conception of the good) is kept from the representatives.  They do, however, possess knowledge of those factors which will not bias one’s decision (e.g., social knowledge, scientific knowledge, knowledge identifying what human beings need to live).  From this original position and shrouded by a veil of ignorance about their place in society, Rawls argued the representatives ultimately would select the principle of justice rather than other principles (e.g., axiological virtues, natural law, utilitarian principles) to organize and govern society.**

**While individual members of society oftentimes do act in their self-interest, this does not mean that they cannot be rational about their self-interests.  Rawls argued that this is precisely what would occur in the original position when the representatives operated from behind the veil of ignorance.  Freed from focusing upon one’s self-interest to the exclusion of others’ self-interests, the society which the representatives would design determines what will happen to its members and how important social matters like education, health care, welfare, and job opportunities will be distributed throughout society.  The idea is that the representatives operating from behind the veil of ignorance would design a society that is fair for all of its members because no individual member would be willing to risk ending up in an intolerable position that one had created for others but had no intention of being in oneself.**

**Why is this so?**

**Rawls claimed that the representatives to the original position would invoke the principle of rational choice, the so-called “*maximin decision rule*.”  This rule states that an agent, when confronted with a choice between alternative states of the world with each state containing a range of possible outcomes, would choose the state of affairs where the worst outcome is that state of affairs which is better than the worst outcome presented by any other alternative.**

**Rawls' example of two persons sharing a piece of cake demonstrates how the maximin decision rule works in actual practice.**

**Suppose there is one piece of cake that two persons want to eat.  They equally desire to eat the cake and each wants the biggest piece possible.  To deal with this dilemma, both agree that one will cut the cake while the other will choose one of the two pieces.  The consensus derived guarantees that the cake will be shared fairly, equating "justice" with "fairness."**

***The two principles of justice*...**

**By equating the principle of justice with fairness, the representatives in the original position and operating from behind the veil of ignorance would elect to organize society around the liberty principle and the difference principle.**

**The *liberty principle* requires dictates that each member of society has an equal right to the most extensive scheme of equal basic liberties compatible with a similar system of equal liberty for all.  Accordingly, each member of society should receive an equal guarantee to as many different liberties―and as much of those liberties―as can be guaranteed to every member of society.  The liberties Rawls discussed include: political liberty (the right to vote and to be eligible for public office); freedom of speech and assembly; liberty of conscience and freedom of thought; freedom of the person along with the right to hold personal property; and, freedom from arbitrary arrest and seizure.  In contrast to some libertarian interpretations of utilitarianism, Rawls did not advocate absolute or complete liberty which would allow members of society to have or to keep absolutely anything.**

**The *difference principle* requires that all economic inequalities be arranged so that they are both: a) to the benefit of the least advantaged and b) attached to offices and positions open to all members under conditions of fair equality of opportunity.  If this is to occur, Rawls argued,**

**…each generation should “preserve the gains of culture and civilization, and maintain intact those just institutions that have been established” in addition to putting aside “in each period of time a suitable amount of real capital accumulation.” (1971, p. 285)**

**Rawls is willing to tolerate inequalities in society but only if they are arranged so that any inequality actually assists the least advantaged members of society and that the inequalities are connected to positions, offices, or jobs that each member has an equal opportunity to attain.  In the United States, this scheme is oftentimes called “equal opportunity.”  The inequalities Rawls discussed include: inequalities in the distribution of income and wealth as well as inequalities imposed by institutions that use differences in authority and responsibility or chains of command.**

**The reason the representatives in the original position and operating from behind the veil of ignorance would agree upon the difference principle is not due to the existence of a social contract but to ethics.  That is, members of society do not deserve either their natural abilities or their place in a social hierarchy.  Where and when one was born and the privileges and assets afforded by one’s birth is a matter of sheer luck.  It would be unfair, Rawls contended, were those born into the least advantaged of society to remain in that place if all members of society could do better by abandoning (or redistributing) initial differences.  According to Rawls, this is what ethics―according to the standard of justice―demands and, in the United States, this is the basis of what is oftentimes called "affirmative action."**

**The representatives would agree.  The liberty principle must always take precedence to the difference principle so that every member of society is assured of equal basic liberties.  Similarly, the second part of the difference principle cited above (b) must take priority to the first part (a) so that the conditions of fair equality of opportunity are also guaranteed for everyone (1971, p. 162).  Thus, the two principles of justice, the liberty principle and the difference principle, are ordered because society cannot justify a decrease in liberty by increasing any member's social and economic advantage.**

**Reflecting Rawls' interest in political philosophy, the liberty and principle and the difference principle apply to the basic structure of society (what might be called a "macro view")―society's fundamental political and economic arrangements―rather than to particular conduct by governmental officials or individual laws (what might be called a "micro view").  The liberty principle requires society to provide each citizen with a fully adequate scheme of basic liberties (e.g., freedom of conscience, freedom of expression, and due process of law).  The difference principle requires that inequalities in wealth and social position be arranged so as to benefit society’s most disadvantaged group.  In cases where the two principles conflict, Rawls argues the liberty principle must always take precedence over the difference principle.**

**One example that applies Rawls’ theory of justice involves how one would become a lawyer in the society designed by the representatives in the original position and operating from behind the veil of ignorance.  This example also indicates how and why inequalities would exist in that society.**

**In the original position and operating from behind the veil of ignorance, representatives organize society to be governed according to the liberty principle and the difference principle.  In that society, any member of society can become a lawyer if one possesses the talent.**

**So, a young woman discovers that she possesses the talent and interest to become a lawyer and decides that this is what she wants to do in her life.  But, to get the education she actually needs to become a lawyer requires an inequality.  That is, less fortunate people must help pay for her education at the public university's law school with their taxes.  In return, however, this young woman will perform some very important functions for other people―including the less fortunate―once she becomes a lawyer.  At the same time, however, the lawyer will make a lot of money.  But, she is free to keep it because she has earned it.  At the same time, she will also pay taxes to the government which, in turn, will be used to provide needed programs for the least advantaged members of society.**

**The issue of equitable pay also provides a practical example that clarifies how Rawls’ theory of justice can be applied (Maclagan, 1998, pp. 96-97).**

**Noting that the principle “equal pay for equal work” is eminently fair in concept, Maclagan notes that not all work is equal.  What is really needed in society is some rational basis to compare what sometimes are very different occupations and jobs, especially when this involves comparing “men’s work” and “women’s work.”  Typically, the criteria used to compare dissimilar jobs quantifies work requirements as well as the investment individuals must make to attain these positions.  In addition, the amount of skill and training required, the potential for danger and threat to one's life, the disagreeableness involved in the work, as well as the degree of responsibility associated with a job all figure prominently when making such calculations.  In actual practice, however, making comparisons between dissimilar jobs is an immensely difficult undertaking, as Maclagan notes, citing as an example the difficulties management and labor both confront in the process of collective bargaining.**

**Collective bargaining involves ethics because each party declares what the other *ought* to do.  When these differences are resolved through a consensus, a "contract" provides the basic structure by which the members of that society (called the "corporation") will organize and govern themselves for a specific period of time.  Coming to agreement upon a contract—like Rawls’ concept of *reflective equilibrium*—requires both parties to the collective bargaining process to align their principles and intuitions through the process of considered dialogue and mutual judgment.  Furthermore, the contract―like Rawls’ difference principle―tolerates inequalities in pay but only as long as the least advantaged enjoy equal opportunity and their situation is protected if not improved.**

**What is noteworthy about Maclagan's example is that the parties are not in the original position nor do they operate from behind a veil of ignorance.  Instead, they have to move toward those positions if they are to adjudicate their differences amicably and for the benefit of both.**

***The critics*...**

**Since its first publication in 1971, Rawls’ work has received some begrudging if not respectful criticism.**

**Some have asked which members of society constitute the “least advantaged”?  For his part, Rawls identified these people generally as unskilled workers and those whose average income is less than the median income.  What Rawls failed to address, however, is the plight of those who may be the *truly* least advantaged members of society, namely, those citizens of some permanently unemployed underclass, who depend entirely upon government largesse to subsist (e.g., welfare), or whose racial or ethnic origins condemn them to permanent disadvantage.  The critics ask: Should not their plight be considered *more important* than those who possess more of society’s benefits?**

**Furthermore, in so far as Rawls states the difference principle, it appears that inequalities are permissible *but only if they better the lot of the least advantaged members of society*.  However, critics note, that position is inconsistent with Rawls’ claim that the representatives to the original position must *not* take an interest in anyone’s particular interests.  The logic fails if preference must be given by those in the original position to the least advantaged.**

**Lastly, Rawls’ critique of utilitarianism, his embrace of egalitarianism, and the actual effects of the difference principle combine in such a way that his philosophy can be construed to advocate political agenda with Marxist overtones.  That is, in actual practice Rawls' theory would redistribute society’s benefits away from the “haves” to the “have nots” with little or no concomitant bearing of society’s burdens.  Economists, for example, note that Rawls has neglected to consider the market forces unleashed in a capitalist society where seeking one’s self-interest is arguably the primary motivating principle.  These critics argue that even the least advantaged, if they so choose, can take advantage of the minimal benefits society offers them by virtue of citizenship.  Through education, persistence, and hard work, the least advantaged (or, their children in the next generation) will be able to participate more fully in enjoying the benefits as well as in bearing the burdens of membership in society.  The critics ask: "Is this not what has happened to waves of immigrants to the United States during the past two hundred years?"**

**In light of these criticisms, Rawls modified the principles of liberty and difference.  Pondering the question of social stability, Rawls considered how a society ordered by the two principles of liberty and difference might endure.  In *Political Liberalism* (1996), Rawls introduced the idea that stability can be found in an overlapping consensus between citizens who hold diverse religious and philosophical views or conceptions about what constitutes the good to be sought.  As with Maclagan's (1998) collective bargaining example, this “*overlapping consensus*” is found in their agreement that justice is best defined as fairness.  In *Justice as Fairness* (2001), Rawls introduced the idea of public reason, that is, the reason possessed by all citizens which contributes to social stability, a notion he first detailed in *The Law of Peoples with “The Idea of Public Reason” Revisited* (1999).**

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