

Global Justice

Part II



CONTRACTUALISM

Contractualism

- The Contractualism is a term in philosophy which refers to a family of political theories in the social contract tradition. In the last decades contraction theories have broaden their scopes so that it might serve as a basis for a theory of distributive justice.
- Those who enter a contract are assumed to be rational, self-interested persons who regard their identities as existing independently of society and who hold some natural rights.
- The contractarian might argue that it is rational to restrict certain rights in some spheres in order to gain security or economic advantage or to promote justice.
- They argue that that economic and social cooperation and a system of social justice can be voluntarily accepted by all members of society.
- One of the beauty of contractualism is that although their premises are individualistic it aims to justify social-cooperation.
- In this family of political theories we can distinguish two traditions:
 - a) A tradition related to Hobbes, Hume , game theorists and Gauthier, known as “mutual advantage” theories;
 - b) A tradition related to the stoics, Kant and Rawls, known as the theories of “impartiality.

Contractualism (2)

- These two traditions share two main arguments: a) questions of justice arise when there is a conflict of interest; b) justice is that on which everyone can in principle reach rational agreements.
- These two traditions differ in their response at these three questions: **What is justice? Why be justice? How are the demand of justice determined?**
- The first tradition (mutual advantages) gives these answers to the above questions:
 1. It is a necessity and a compromise.
 2. Cooperation can produce better results than pure self-interest. ("justice is simply rational prudence pursued in contexts where the cooperation... allow us to get what we want".)
 3. The state of affair which existed before any agreement takes place is important. The gains that one can expect to obtain depends on your initial conditions. The agreements reflect differences in the strength of the original bargaining positions of the players.
- The second tradition (justice as impartiality) gives different answers to the above questions:
 1. Justice is not a question of necessity or compromise but rather an impartial attitude on the part of all the relevant persons. Justice consists of putting oneself in the other person's shoes (Moral point of view).
 2. The motive of acting justly is not self-interest but rather defending a principle without any appeal to personal advantage: one would have reason to accept it no matter who one is.
 3. Justice is unrelated to bargaining power. The agreement is one in which the relative strength of the parties is irrelevant on the just solution.

Scanlon's contractual Theory

Scanlon's contractual theory, also known as "contractualism," is a moral philosophy developed by T.M. Scanlon, particularly articulated in his book "What We Owe to Each Other" (1998). Contractualism is a deontological ethical theory that focuses on the principles that individuals can justify to one another. Here's a breakdown of the key concepts:

Core Principles:

1. Justifiability to Others:

1. The central idea of contractualism is that moral principles are those that no one could reasonably reject. This means that the rightness or wrongness of an action depends on whether the principles governing the action can be justified to others.

2. Reasonable Rejection:

1. An action or principle is morally wrong if there is at least one reasonable objection to it. The reasonableness of an objection is assessed based on whether it stems from a perspective that others can understand and accept as valid.

3. Individual vs. Collective Justification:

1. Contractualism emphasizes individual justifications rather than aggregating preferences or utilities. This means that the moral worth of an action is not determined by the overall good it produces but by whether it can be justified to each person affected.

Scanlon's contractual Theory

Key Features:

•Personal Impartiality:

- The theory requires considering each person's standpoint impartially. It seeks to ensure that the reasons for justifying actions or principles are fair and unbiased.

•Rejects Aggregation:

- Unlike utilitarianism, which aggregates individual utilities to determine the greatest overall good, contractualism focuses on individual justifications. It does not allow the sacrifices of some individuals for the greater good if those sacrifices cannot be justified to those individuals.

•Moral Motivation:

- According to Scanlon, moral motivation stems from the desire to live in a way that others cannot reasonably reject. This creates a form of mutual respect and acknowledgment among individuals.

Application:

In practical terms, contractualism requires individuals to consider whether the principles guiding their actions can be justified to everyone affected. If a principle cannot be justified to even one person in a reasonable manner, it is deemed morally wrong.

Example:

Imagine a scenario where a decision must be made to allocate limited resources in a community. A utilitarian approach might prioritize actions that maximize overall happiness, potentially sacrificing the well-being of a few for the greater good. In contrast, a contractualist approach would require justifying the allocation to each individual, ensuring that no one's objections are overlooked if they are reasonable.

Criticisms:

•Subjectivity:

- Critics argue that the concept of "reasonable rejection" is subjective and may vary significantly among individuals, making it difficult to apply consistently.

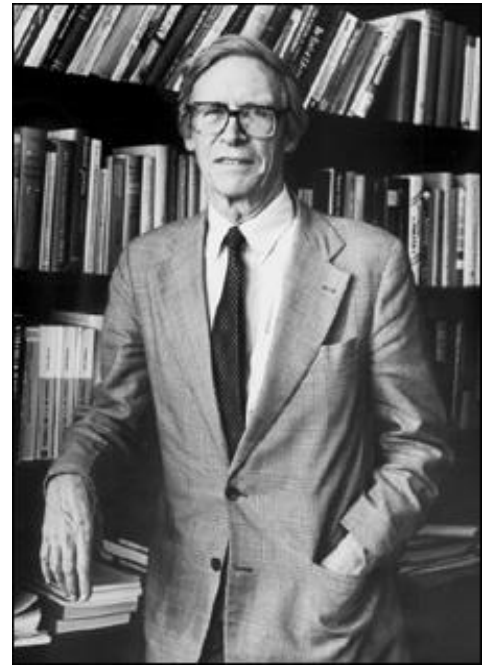
•Interpersonal Comparisons:

- Determining what constitutes a reasonable objection can be challenging, especially in cases involving complex trade-offs between competing interests.

Overall, Scanlon's contractual theory provides a framework for understanding moral principles through the lens of justifiability to others, emphasizing respect for individual perspectives and the rejection of principles that cannot be reasonably defended to everyone affected.

John Rawls (1921-2002)

- He was born in Baltimore the second of five sons. His father was a well respected lawyer and his mother was a political activist of the League for Women Voters.
- He graduated from Princeton University. During the war he served as Infantryman in the Pacific (New Guinea and Philippines). He witnessed horrific scenes and lost his Christian faith. He was promoted Sergeant but since he disobeyed an order to punish a soldier because he thought it was not right he was demoted back to simple soldier.
- He was very impressed by the atomic blast in Hiroshima. He participated at some rallies in Washington against the use of atomic bombing. In the 60s he questioned the correctness of the US participation in the Vietnam war.
- His major work is *A Theory of Justice*. Justice as fairness: “the most reasonable Principles of justice are those everyone would accept and agree to from a fair position”
- In *Political Liberalism* he points out the question of finding a political conception of justice in the context of philosophical, religious and moral disagreement among citizens regarding the human good. He also pointed out that a liberal State must commit itself to the “ideal of public reason”. Citizens in their public capacity must engage one another only using reasons whose status as reasons is shared between them.
- The *Law of Peoples* is a comprehensive theory of international politics where he takes an anti cosmopolitan stance.



Fundamental ideas of the political conception of “*justice as fairness*”

1. Society as Fair System of Cooperation

The central idea is society as **a fair system of social cooperation over time from one generation to the next**. This idea is worked in conjunction with the idea of citizen that are free and equal persons; the idea of well-ordered society, i.e., regulated by a public conception of justice. Most democratic society are viewed as system of social cooperation.

- a. Social cooperation is distinct from socially coordinate activity – activity coordinate by orders. On the contrary is based on spontaneous acceptance of publicly recognized rules.
- b. Include the idea of fair terms of cooperation which, in turn, specify an idea of reciprocity: I accept the rules and I expected the others will do same.
- c. Everybody gains from cooperation – rational advantage. Distinction between reasonable and rational in J.R

Reasonable person are those who honor the rules of social cooperation even at the expenses of their interests in given circumstances provided that others will do the same. Rational people use what ever it takes to achieve a target.

2. The idea of a Well-Ordered Society

A well-ordered society is a society regulated by a public conception of justice. It is well-ordered if:

- a. Everyone accept a public conception of justice and everyone accepts the very same political conception of justice and is mutually recognized.
- b. The basic structure (main political and social institutions) of the society are regulated according to this conception of justice
- c. Citizens have an effective sense of justice that enable them to understand and apply the recognized principle of justice.

Note that given a reasonable pluralism, this implies that all the members of the society will accept the same political conception of justice (etc.) independently of their particular views (comprehensive doctrine (good life) : utilitarianism, perfectionism, Catholicism, etc.). Political liberalism holds that citizens having different comprehensive doctrines may agree on a political conception of justice. In particular “*justice as fairness*” is much narrower in scope than most comprehensive doctrines. Explain “the idea of goodness as rationality”. (give to people the means to pursue their ends – means= primary goods – goods for life plan)

3. The idea of the Basic Structure

The basic structure is the way in which the main political and social institutions fit together into one system of social cooperation and the way duties and rights and the division of advantages in the social cooperation are assigned.

Forms of properties, structure of the economy, markets. The background where the activities of the social cooperation takes place.

Justice as fairness takes the basic structure as the primary subject of political justice. It does not regulate institutions such as associations, firms and labor unions, churches and universities. They are constrained indirectly: churches can excommunicate heretics but cannot burn them; Universities cannot discriminate in certain ways; parents must respect the rights of their children, etc. Justice as fairness is political not a general conception of justice. Those institutions have their own rules.

4. The Idea of the Original Position

People cannot agree on any moral authority (religious or other) nor can agree about other moral values. So what better alternative than an agreement between citizens reached under conditions that are fair for all?

This agreement to be fair must be done among persons that are free and equal. We must not permit some to have unfair bargaining advantages over others. Threats of coercion , force , deception must ruled out.

Justice as fairness hope to extend the idea of fair agreement to the basic structure itself.

There is a difficulty: we must specify a point of view that a fair agreement can be achieved; but this point of view must not be distorted by the particular features and circumstances of the existing basic structure

The original position with the “veil of ignorance” specifies this point of view; In the original position the parties are not allowed to know the social positions or the particular comprehensive doctrine of the person they represent. They do not know persons’ race, ethnic group, sex, various native endowments such as strength and intelligence. The parties are behind a veil of ignorance.

4. The Idea of the Original Position (II)

The original position must abstract from the contingencies within the basic structure . In any society there are bargaining advantages due to historical developments and accidental influences. We want to reach an agreement that will be reflected in the political conception of justice that is fair. Here the name: justice as fairness.

The original position generalize the idea of the social contract. It is hypothetical , since we ask what the parties could agree to and this is not historical since we do not suppose has ever taken place.

It is a thought-experiment for the purpose of public and self-clarification.

In the original position the parties are symmetrically situated, citizens are equal in all respects. We expect that the principles of justice the parties would agree to would specify the terms of cooperation that we regard as fair and supported by the best reasons.

5. The Idea of Free and Equal Persons

Justice as fairness regards citizens as engaged in social cooperation and hence fully capable of doing so.

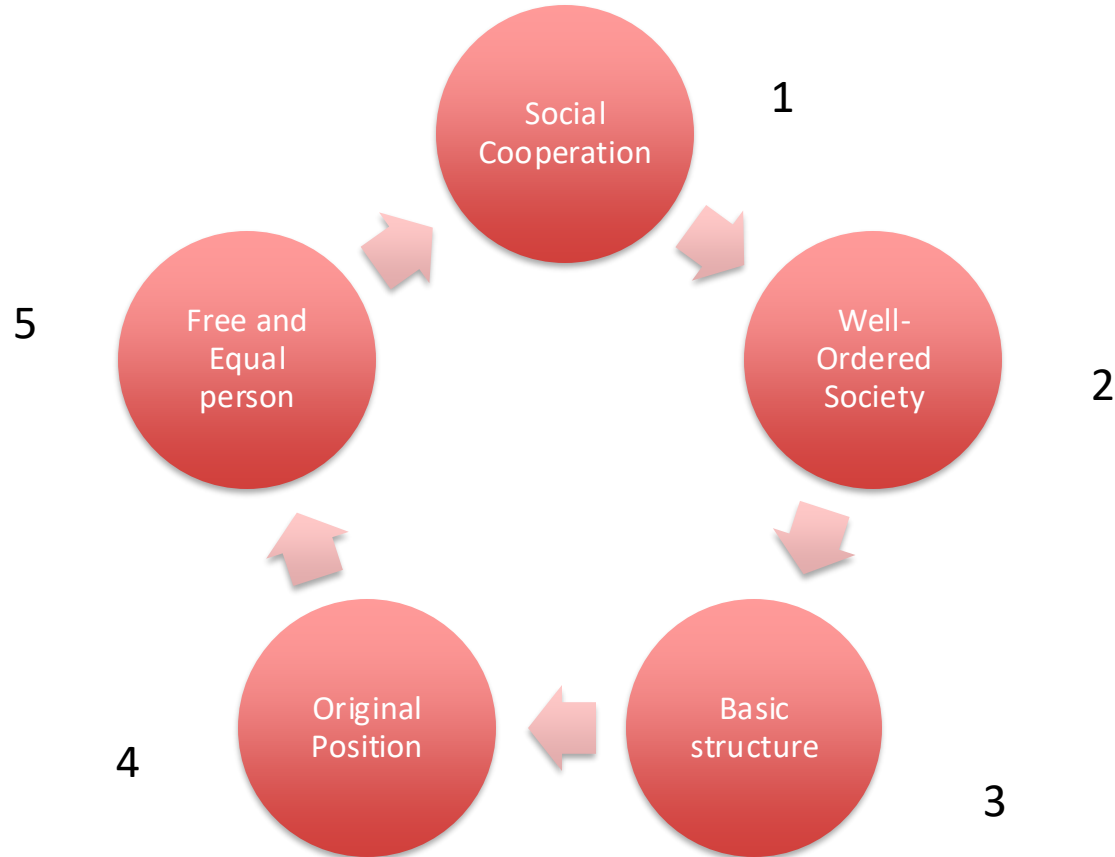
Persons have “the two moral powers:

- i. Capacity for a sense of justice: capacity to understand and apply the principle of the political justice (justice as fairness for example);
- ii. A capacity for a conception of the good; capacity to have, to revise and rationally to pursue a conception of the good; (what is of value in human life or what is regarded as a fully worthwhile life).

Persons are equal in the sense that they have all the moral power necessary to participate in the social cooperation. However, citizens have to distinguish between a political society on one hand and the associations and other communities on the other where people share ends and special values (the good). People as members of the political society do not have to share these values. A democratic society is not a community. It is instead hospitable to many communities, is pluralistic.

Persons are free in the sense that they conceive of themselves and of one another as having the moral power to have a conception of the good (parallelism with Kant’s concept of freedom). Individuals affirm both political values and non political values and ends as belonging to associations and communities.

Relation between Fundamental ideas



The Principles of Justice

- The primary subject of *Justice as fairness* is the basic structure of society . How the main and political institutions fit together into a unified system of cooperation.
- Which principles are the most appropriate for a democratic society as a fair system of cooperation between citizens regarded as free and equal?
- The main difference in citizens' life prospects are affected by the social class of origin, the native endowments, their opportunities for education, and their good or ill fortune over course of life. The question is: by what principles are difference of that kind made legitimate and consistent with the idea of free and equal citizenship in society seen as a fair system of cooperation?
- Justice as fairness are principles that are applied to the political and social institutions as distinct from other relationship (associations, familiar, personal, etc.)
- It is a relationship of persons within a basic structure, a structure we enter by birth and exit by death. Political society is closed;
- Political power is coercive by the state and its apparatus of enforcement; but in a constitutional regime political power is the power of free and equal citizens. Political power is citizens' power , which they impose on themselves as free and equal.

The Principles of Justice (II)

- A society can progress in a well-ordered manner when participants perceive the existing differences as legitimate and this happen when these differences arise from these principles:
 - a) Each person has the same infeasible claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all; and
 - b) Social and economic inequalities are satisfying two conditions:
 - i. first, they are to be attached to offices and positions open to all under conditions of fair equality of opportunity;
 - ii. and second, they are to be to the greatest benefit of the least-advantaged members of society (**the difference principle**).
- The first principle is prior to the second (lexical priority); and in the second principle, equality of opportunity, is prior to the difference – meaning that prior principles are fully satisfied before passing to the next.
- Fair equality of opportunity: careers open to talents – people with the same talent (native endowments) must have the same probability to get the position regardless of their social class of origin. Rawls believes certain interventions on basic structure are necessary to avoid a political domination in the society. A free market system is leading to an excessive concentration of property and wealth – tax on heredity and a real equal opportunities of education are necessary to prevent excessive concentrations of private power.

The Principles of Justice (III)

- Basic liberties and rights are not generic but are those for which people have fought to acquire them: freedom of thought and liberty of conscience; political liberties and freedom of association; liberty and integrity of person; rights and liberties covered by the rule of law
- Those basic liberties are fundamental to secure the scope required for the exercise of the two moral powers: *(i) judging the justice of basic institutions and social policies; (ii) pursuing the conception of the good;*
- The principle apply not only to the basic structure but more specifically to the constitution (written or unwritten); the second principle required specific interventions (policies) in the basic structures and the difference principle is more demanding

The problem of distributive justice

How to set up an institutional scheme fair, efficient and productive of social cooperation? This is different from the utilitarian approach to allocate a given bundle of goods among certain individuals to maximize their utility. Here we emphasize that people are cooperating for the social products given a set of rules and constraints which are the result of a fair agreement. The basic structures is arranged so that everyone follows the rule of cooperation and honors the claims the rules specify. The particular distribution of income and wealth that follows is accepted as just.

The Principles of Justice (IV)

The Primary Goods

- Primary goods are things citizens require as free and equal persons living a complete life

The primary goods

1. Basic rights and liberties: freedom of thought and liberty of conscience necessary for the full development of the two moral powers
 2. Freedom of movements and free choice of occupation against a background of diverse opportunities
 3. Powers and prerogatives of offices and positions of authority
 4. Income and wealth to achieve a wide range of ends
 5. The social bases of self-respect normally essential if citizens have a lively sense of their worth as persons
- The inequalities to which the difference principle is referring are differences in citizens' expectations of primary goods over a complete life. The expectations are their-life prospects.
 - The least advantaged are those belonging to the income class with the lowest expectations.

The Principles of Justice (V)

The Difference Principle

- The difference principle is a distributive principle in the narrow sense. It is subordinated to both the first principle and the second principle of fair equality of opportunity.
- A scheme of cooperation is given in large part by how its public rules organize the production, the incentive schemes, the division of labor etc.
- Social cooperation is always productive
- A schema of cooperation is represented as (a,b) where a is an index for the less advantaged and b an index for more advantaged
- According to the Difference Principle we choose among different social schemes (x,y) the scheme that presents the higher value of the index for the less advantaged group.

The Choice of the Principles of Justice In the Original Position

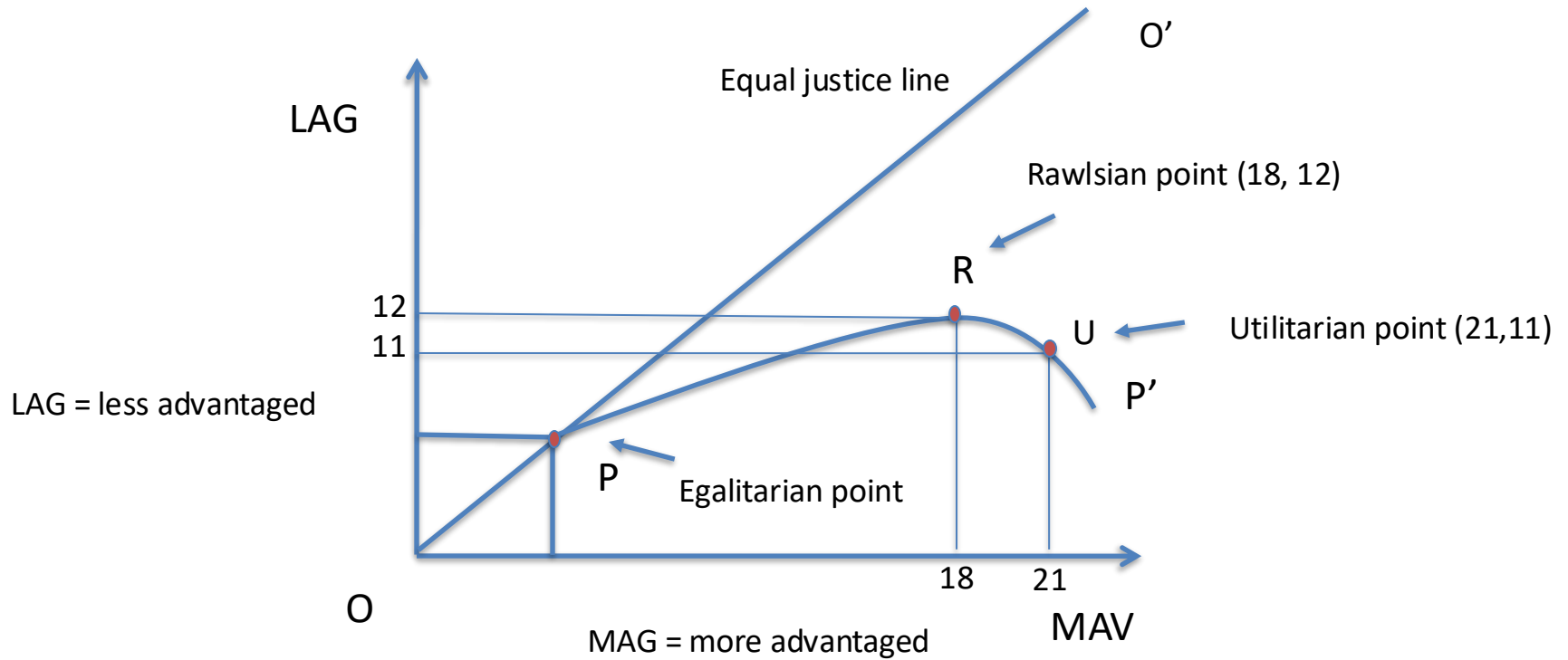
- The Original Position represents for Rawls an expedient to make Kant's categorical Imperative operative: free and equal persons are involved in a deliberative procedure to create the rules that will guide the functioning of a good society
 - The question is: why should people select those principles and no others (for example maximizing the expected average utility as utilitarians suggest) when are in the original position?
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- The persons involved in the deliberative procedure under the *veil of ignorance* are the representatives of the people. They are rational, have a sense of justice and are risk-adverse.
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- They do not want betray the expectations and the aspirations of the subjects that they represent. The *priority of basic liberties* over economic goods is paramount for pursuing everyone life project according her/his comprehensive doctrine.
 - For example, if they trade-off freedom of conscience and freedom of movements for economic benefits they could compromise irremediably someone's life project (especially minorities, etc.)
 - The basic liberties are prerequisite to guarantee everyone the possibility to pursue what she/he consider important in life

The Choice of the Principles of Justice In the Original Position (II)

- Rawls must show that in the original position the representatives follow a *maxmin* strategy in accordance with the difference principle. He makes three assumptions:
1. Representative can not infer on the probabilities of being poor or rich
 2. The level of the index of the best scheme for the poor is more than adequate for conducting a decent life
 3. The schemes which are more attractive for the rich class present inadequate index numbers for the poor

Maxmin	scheme of cooperation	pay-off	Average $P(0,6;0,4)$	Highest expected value
	Scheme A	(8 - 15)	$E(10,8)$	
	Scheme B	(12 - 18)	$E(14,4)$	
	Scheme C	(10 - 26)	$E(16,4)$	





- OO' – Equal justice line
- $P : (2, 2)$
- $R : (18, 12)$ Rawlsian point
- $U : (11, 21)$ Utilitarian point

Four rival systems of distribution

- The distribution in the first three societies are based on factors that are **arbitrary from a moral point of view** - accident by birth, or social and economic advantage and natural talent and abilities

Feudal	Fixed hierarchy based on birth		
Libertarian	Free market	Formal equality of opportunity	
Meritocratic	Free market	Fair equality of opportunity	
Prioritarian	Free market	Fair equality of opportunity	Difference principle

Rawls on Talents & (moral) Desert

- Distribution take place in accordance with the rules of the scheme of the social cooperation
 - A meritocratic society is unjust because its outcomes depend on an initial distribution of native endowments (talents) that is **morally arbitrary**
 - **We do not deserve our place in the distribution of native endowments.** Do people think they deserved to be more gifted than other? Do they think to deserve to be born a man rather than a woman or vice versa? Do they think that they deserve to be born into a wealthier rather than into a poorer family? No
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- A basic structure satisfying the difference principle reward people not for their place in their distribution but for *training and educating* their endowments and for putting them to work as to contribute to other's good as well as their own.
 - The difference principle represent an agreement to regard the distribution of native endowments as a **common asset and to share in the benefits of this distribution whatever it turn out to be**. Common asset is the distribution of native endowments and not our native endowments per se. This variety can be regarded as common asset because make possible numerous complementarities between talents when organize in appropriate ways.

Objections to the Difference Principle

OBJECTION 1	OBJECTION 2
<p>What about incentives? If talent people can benefit from their talents only on terms that help the least well off, what if they decide to work less? If we tax them a lot can they decide to do something else? Society will lose</p>	<p>What about effort? People devote a lot of efforts to cultivate their talent? Steve Job spent a lot of efforts to develops and refine his ideas. Sport champions dedicate their entire life to improve their performances. Notwithstanding their talent do not deserve the rewards of their efforts?</p>
<p>The difference principle permit income differential for the sake of incentive and so to stimulate people as far as some of the gains go to the least well off. Income inequality are justified insofar they call efforts that ultimately help the disadvantaged and not because CEO or sport champions deserve to make more money than unskilled workers</p>	<p>Even effort can be the product of contingences for which we claim no credit. It can depend on family situation or social circumstances. And effort with no talent or natural skills has no particular value. Would you pay more the work of someone who put a lot of effort to obtain a given result than someone that can achieve the same result with much less effort?</p>

Rejecting moral desert

- If distributive justice is not rewarding moral desert does this mean that people do not have claim on the reward they get from their efforts? Not exactly.
- People are entitled to “legitimate expectations” once we have set the rules of game. (Potential conflict from what people perceive moral desert and entitlement. See admission in school)
- Winning to the lottery is different than winning a championship. Games of skills reward certain virtues unlike games of chance.
- **Rawls argues that distributive justice is not about rewarding virtue or moral desert. Instead, it is about meeting the legitimate expectations that arise once the rules of the game are in place.**
- The principles of justice set the terms of the social cooperation. People are entitled to the benefits that they can get under these rules. If the tax system deprives them of some of the rewards to help the disadvantaged they cannot complain that this will deprive them of something that they morally deserve
- **Rawls rejects moral desert as the basis for distributive justice on two grounds. First, having talents that enable me to compete more is not my own doing. Second, the quality that a society is happens to value at any given time is morally arbitrary.**

The *Regents of the University of California v. Bakke* (1978) was a landmark U.S. Supreme Court case that addressed affirmative action in college admissions. The case centered on Allan Bakke, a white applicant who was denied admission to the University of California, Davis School of Medicine twice, despite having higher scores than some minority applicants admitted through a special program.

Key Issues:

- 1. Affirmative Action & Racial Quotas** – The medical school reserved 16 out of 100 seats for disadvantaged minority students as part of its affirmative action program.
- 2. Equal Protection Clause (14th Amendment)** – Bakke argued that the racial quota discriminated against him as a white applicant.
- 3. Civil Rights Act of 1964 (Title VI)** – This law prohibits racial discrimination in federally funded programs.

Supreme Court Decision:

The Court issued a **split decision (5-4 ruling)**:

- **Racial quotas were unconstitutional** – The Court struck down UC Davis's quota system, saying it violated the Equal Protection Clause.
- **Affirmative action was allowed** – The Court upheld the use of race as one factor in admissions to promote diversity, as long as no rigid quota system was used.

Impact:

- The case **affirmed affirmative action** but ruled out strict racial quotas.
- It **influenced later cases** like *Grutter v. Bollinger* (2003) and *Fisher v. University of Texas* (2016), which upheld race-conscious admissions under specific conditions.
- It shaped ongoing debates over diversity, merit, and fairness in college admissions.

Affirmative Action

Rawls on affirmative action

- Rawls concentrated for most of his life on what he called ideal theory –what constitute a truly just society.
- That doesn't tell you what to do when you are in unjust society .
- Affirmative action is clearly a policy to deal with unjust consequences of an unjust history. Whether affirmative action is itself just or unjust is a central question of non ideal theory for a society like our.
- Affirmative action only began to be a major issue in the early 1970 after the final elimination of legal segregation. The Regents of University of California vs. Bakke case was not decide until 1978. Apparently Rawls expressed in conversation his view of the importance of defending constitutionally of affirmative action but he never wrote anything about it.
- Segregation and racial discrimination clearly violate the Rawls's first principle of justice. But what make affirmative action an issue is when formal segregation has been eliminated.
- In term of Rawls's conception the injustice that affirmative action seeks to combat is special form of the failure of fair equality of opportunity.

Rawls on affirmative action (2)

- Those born poor cannot compete as effectively as the well-off for desirable positions. They are also likely less motivated to succeed. They don't have fair equality of opportunities even if they are not formally discriminated against.
- Because of slavery followed by a century of legally enforced discrimination and because of physical identifiability and continuing prejudices of other members of the society. The disadvantage is economic, political and very importantly psychological – due to the psychology of the minority as well of the majority.
- So long as the deprivation of blacks as group continue, those born black will suffer from a systemic disadvantage in the competition for places in society.
- Racial preference in education provide one way to attempt to break the self-reproducing inertia of the American caste system

Affirmative Action

Correcting for bias in standardize test

The ability to predict success of standardize test is questionable. However are used for school admissions. Some studies show that blacks and Hispanic students score lower. Family, social, cultural background matter. But weighing results for racial, ethnic of economic background does it not defeat the idea that college should admit those student with the greatest academic potential?

Compensating for past wrongs

Minority students should given preference to make up for a history of discrimination that has place them at disadvantage. But those have suffered are other people. Beneficiaries of affirmative actions can be student coming from middle-class who did not go through hard times. Should we look instead at class discrimination?

Promoting diversity

We want to promote diversity, it is a value and everybody can benefit from that. The quality of the educational experience improves. Critics says that diversity policies and affirmative actions in general are not improving relationship among different groups, heighten racial tensions and induce resentment among white groups that they feel discriminate.

Does Affirmative Action violate Rights?

- Using race or ethnicity for the purpose of having a more equal society may violate the rights of some people
 - For Utilitarians that is not an issue as far as the over all utility of the society is greater than the lost utility of some people
 - For Kantians or Rawlsians there is potential issue since any policy even if it has a desirable end should not override individual rights.
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- But Universities define their missions and standard as they please (academic skills, sport, ethnicity, etc.)
 - Admissions are not honors to be rewarded for superior merits or virtues. Admissions are justified as far as they serve a social purpose set by the University. No one has the right to be admitted because he/she excel in one of various criteria.
 - It is not a matter of moral desert
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- But then is it possible to condemn racist exclusions or anti-Semitic restrictions as Universities did in the past if they can establish any rules they like?
 - The restrictions of the past were based on the idea that *one race was superior or more worthy than another*, today “discriminations” are set for good objectives: a more equal society and valorization of cultural differences

Can Justice be detached from Desert?

- Rawls has given a positive answer to this question. “No one deserve his greater natural capacity nor merits a more favorable starting place in society”.
 - But a common view is that the best jobs and opportunities are for those that they deserve them and work hard to get them. Success is viewed as the result of our own doing not the result of an imaginary lottery.
 - This has a two effects: on one hand successful people feel less responsible for those who fall behind and on the other people are incentivized to work hard
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- Communitarians belief that justice has also an honorific aspect: it is important not only who gets what but also what qualities are worth of honor and rewards. Social institutions – universities, professions, public offices, orchestras, etc. – are not free to define their mission as they please. *Certain goods are appropriate to certain social institutions.*

Why not auction university admission?

- Actually Universities accept “development admit” for the sons of big wealthy donators. But this are exceptional and rare. This big donations are beneficial for mission of the University.
 - Selling “admissions” as any goods in eBay does not seem appropriate. A University is not a corporation. Its purpose is not maximizing profit, but to serve the common good of teaching and research.
 - It is seems hard to separate question of justice from question of honor and virtue
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- Kant and Rawls have developed philosophies that try to define justice and right independently and neutral from competing visions of the good life. **Communitarians (new Aristotelians) are challenging this view.**

Rawls on Justice to Future Generations

- In his theory Rawls discusses justice between the generations from the viewpoint of “the just savings principle. For Rawls, savings fulfils a very important function: its purpose is to establish and maintain a **just system over time**. Once the necessary capital base for this has been achieved the real saving can be reduced to zero. By capital, Rawls means not only factories and machines but also knowledge and cultural accomplishment.
- “The principle of just saving holds between generations, while the difference principle holds within generations.”
- He distinguishes two alternative versions of the original positions:
 - a) People of all generations assemble. They do not know to which generation they belong to.
 - b) Only people from one generation assemble. They know that they are contemporaries but not which generation they belong to.
- He rejects model a) because it presupposes the existence and size of all generations as given, which is absurd. (it ignores the connection between demographics policies and saving policies in modern society). He adopts model B. But remember in the original position people are guided by self-interest. Therefore, they have no reason to save for future generations because it does not directly benefit from doing so.

Rawls on Justice to Future Generations (2)

- To ensure that the parties agree a saving principle, Rawls has to rethink the premises of his model which is based on self-interests. He assumes that “The parties are regarded as representing family lines, say, with ties of sentiment between successive generations”. These altruistic feelings are deemed to extend across at least two generations.
- This approach is unconvincing. Altruistic sentiments contradict the assumption of self-interest in the original position. Altruistic motivation does not embrace remote future generations. Therefore, it largely neglects long-term process of nature degradation, climate change, etc. Furthermore, since only contemporaries are involved ((b) model) it raises the question if this can really be called justice between generations. Here we have duties of the present generation with regard to future generations. Even if generation k decide on a saving rate it is far from guaranteed that remote future generation will stand to benefit the other future generations.
- The postulate of altruistic interests within the original position compromise the whole systematic derivation from contract theory. The device of the veil of ignorance is intended to help the self-interested person to choose universal principles from an impartial perspective.

Rawls on Justice to Future Generations (3)

- Due to these criticisms, Rawls made a new suggestion for determining the just saving principle. He says **that the parties in the original position would choose the saving principle that they would wish the past generations to have followed and future generation also to follow.**
- Following this idea, in the original position one can compare various saving rate by comparing costs and benefits accruing to the generations. The just saving principle is beneficial for all generations (except the first).
- Even this solution fails to solve that the generation represented in the original position has not reason to save for the future generations. In other words, there is a n-generation prisoner's dilemma. Generation K would only be willing to save if previous generations had saved on similar scale. But such an agreement between different generations is not possible in the model (b) because only one particular generation k is represented there.
- This contradiction highlight the peculiarities of Rawls's approach which starts from Humean premises but makes use of Kant's notion of impartiality. The bridging element between the conflicting theories of Hume and Kant is the veil of of ignorance, which ensures that even selfish people adopt an impartial viewpoint and opt for just institutions.

Dworkin: Equality of Resources or Luck Egalitarianism

- Ronald Dworkin (1931 – 2013) was an American philosopher and jurist. He advocates a theory that he defines **equality of resources**. This approach is based on two main ideas. The first is that human beings are *responsible* for the life choices they make. The second is that natural endowments of intelligence and talent are *morally arbitrary* and ought not to affect the distribution of resources in society. Like the rest of his work, his theory of equality is based on the principle that every person is entitled to *equal concern and respect* in the design of the structure of society.



- Dworkin rejects **equality of welfare** as an interpretation of the ideal of distributive equality. Equality of welfare would require all of us compensating people who messes up his life over and over to keep his level of welfare, but no one would agree to have a society structured along these lines.

Dworkin: Equality of Resources

Two premises:

- a) People are responsible, and should be held responsible, for the outcomes of their own choices (libertarian).
- b) People are not responsible, and should not be held responsible for the unchosen circumstances. My unchosen circumstances include my native endowments that dispose me toward being *physically strong* or *weak*, *clever* or *slow*, *talented* or *untalented*

- How can we combined a) and b)? Dworkin thinks that we can set up framework based on market economy with tort law and criminal law protection and provide every one a fair initial endowment of resources such that people can make their choices without any call for further redistribution
- A market mechanism is required to fix a fair initial endowment resources since the true measure of the resources one has is measure by what others would be willing to pay for them. The initial division is an equal division which achieved giving to people an equal amount of purchasing power.

Dworkin: Equality of Resources

The Initial Auction

- Dworkin imagines a situation where some shipwreck survivors land in a desert island. An auction is organized to divide the available resources. The island is divided in plots which together with other available resources (coconuts, etc.) are put up for auction. Rare shells are used as money and equally distributed to the survivors.
- The outcome of the auction has the property to be *envy-free*: no one would prefer anyone else's bundle to her own. The outcome of the auction also has the property of efficiency in the Pareto sense: it is impossible to improve the situation of anyone without making somebody else worse off.



- *The ideal of equality resources (**first version**): Following an equal auction (each individual get a bundle of resources of the same value) each member of the society live their lives as they choose, in fair framework of interaction, with no further redistribution.*

Dworkin: Equality of Resources

The problem of native endowments or internal resources

- People's unchosen circumstances, besides initial differences in external resources, holdings also include native endowments or internal resources which will have a grate impact on the final outcomes.
- To compensate people for difference in talent is problematic. Suppose Mario has a special talent as golf player but he wants to be a singer and Giovanni has a talent as singer but wants to be a golf player. If they have the same external resources Mario will envies Giovanni and vice-versa. If we redistribute resources from Giovanni to Mario. Mario's envy will decrease but Giovanni's envy will increase. It is impossible to achieve an envy-free equilibrium.



Dworkin: Equality of Resources

The hypothetical insurance market

- In the theoretical equal auction besides auctioning the external resources each individual should also buy an insurance against be untalented or having a serious handicap, assuming that there is a veil of ignorance about these things, When the veil is lifted if you end up below the level of talent you insured against, you get a payment. If you end up with a position with more marketable talent than you were insured, you do not receive compensation. In this insurance market the books must clear. The cost of a given insurance policy depends on other people' insurance decisions. (Dworkin suggests two hypothetical insurance markets: one for talent and one for handicaps.)



- *The ideal of equality of resources (**final version**): Following a theoretical equal auction for external resources together with hypothetical insurance markets for marketable talent and for handicaps, with all members of society participating, the veil is lifted and insurance payment and pay-out is made, and after this, people will live their lives as they choose, in a fair framework of interaction, with no further redistribution.*

Dworkin: Equality of Resources

Ambitions and circumstances

- Each person is responsible for his ambition but not for the unchosen circumstances. So initial circumstances should be equalized according to the theoretical equal auction model modified by the hypothetical insurance markets. But made these correction each one of us is responsible for the consequences for one's life that flow from one's choice. I can choose to work hard and become prosperous or devote myself to contemplation or fun leisure.



Dworkin: Equality of Resources

Brute luck and option luck

- The distinction between choice and circumstances is related to the distinction between **brute luck** and **option luck**. “Option luck is matter of how deliberate and calculate gamble turn out.” Brute luck is matter how risks fall out that are not in that sense deliberate gamble. The ideal of equality requires that unchosen **brute luck outcomes** must fully compensated and chosen **option luck outcomes** be left as they are without compensation. Pursuing one or another career one or another line of business activity is matter of option luck not brute luck. We correct for brut lack but not for option luck.



Dworkin: Equality of Resources

Special preferences

- According to Dworkin we are responsible for our values, aims and preference not because we choose them but because we identify positively with them. **We are responsible for the preference we are glad to have.** Some preferences we have might not satisfy this condition. For example I might have expensive preference (I love caviar) or craving for certain drugs. These preference might be an obstacle to achieve other goals. They should count as negative talent in the hypothetical insurance market.



Dworkin: Equality of Resources

Ideal vs. Reality

- Dworkin recognizes that the ideal cannot be implemented. We cannot even come close. However, the society should try to set its institutions to mimic as far as is feasible the outcomes that it would have achieved via a theoretical auction with hypothetical insurance market followed by letting people live as they choose.
- We should arrange the institutions so that the distributions of benefits and burdens across people is **ambition-sensitive** (the outcomes are function of one person's ambition and the choices she makes) but **endowment-insensitive** (so people's unchosen circumstances including bad brute luck in their initial personal endowment are fully off-set or compensated)
- Dworkin suggest that some practical implications of equality of resources is to have a tax system that mimic the hypothetical insurance markets transferring trough a progressive income tax resources to badly off persons.
- Similarly, he support an inheritance tax at steeply progressive rate to compensate for the bad luck to be conceived by poor or unlucky or selfish parents.

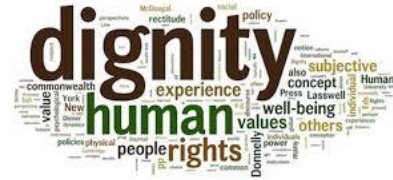


Dworkin: Equality of Resources

The Two Dimension of Human Dignity (1)

Dworkin believes that these principles represent a common ground for people belonging to the Western tradition even though those people are joining different creeds, religions or ethical views.

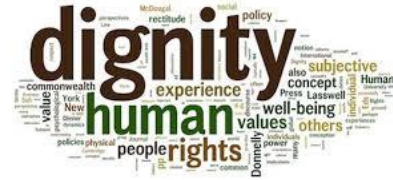
- **First Principle (the principle of intrinsic value):** *Each human life has a special kind of objective value. It has value as potentiality; once a human life has begun, it matters how it goes. (equality)*
- **Second Principle (the principle of personal responsibility):** *Each person has a special responsibility for realizing the success of his own life, for identifying value in their own life; a responsibility that includes exercising his judgement about what kind of life would be successful for him. (liberty)*
- These two principles together define the basis and condition of the **human dignity**. They reflect two important values that have been important in Western political theory. The first is an abstract invocation of the ideal of equality and the second of ideal liberty. They do not suppose that the success of the individual can be achieved independently of the success of some community or tradition.



Dworkin: Equality of Resources

The Two Dimension of Human Dignity (2)

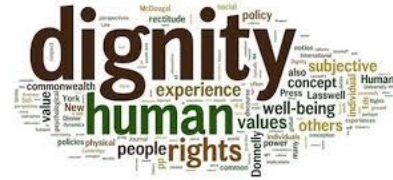
- Dworkin believe that it exists an **objective standard** of success in living. It is not just a matter of pleasure or pain (critique to utilitarianism): a satisfactory life must have some level of close personal relationships, or of some important achievements. Life has to be meaningful. For example, a life spent in collecting stamps would not fulfill this requirement. Those who lack a proper appreciation of the importance of leading a good life lack personal dignity
- Each one of us has personal responsibility for the governance of his own life that includes the responsibility to make and execute ultimate decisions about what life be a good one to lead. We do not want to subordinate ourselves to the will of other human beings in making those decisions. Other may give us advice and we may be disposed to take that advice. Are important religious groups unable to accept the second principle? Dworkin believes that at least in the American tradition followers of some religious traditions don't regard themselves as having been coerced into that opinion. That might not be case in in places where religious offices has the power to punish apostates.



Dworkin: Equality of Resources

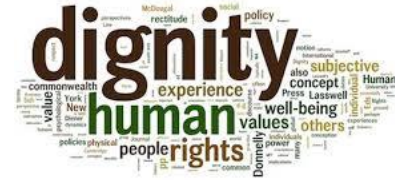
The Two Dimension of Human Dignity (3)

- The second principle assign each of us a personal responsibility for certain decisions. These are, for instance, decisions about marriage, occupation, religion. But I cannot decide what is morally right or wrong in a society (what is yours or mine, or whether I may injure you or use the seat belts). The State makes those decisions for us and coerce us to obey its decisions. The difference between these two kind of decisions is the difference between ethics and morality. Our ethical convictions define what we should count as good life and our moral principles define our responsibility and obligations to other people.



A theory of legitimacy

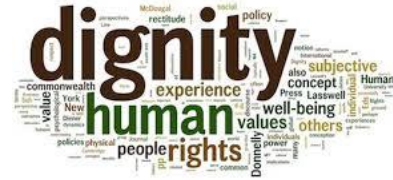
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Dworkin: Equality of Resources

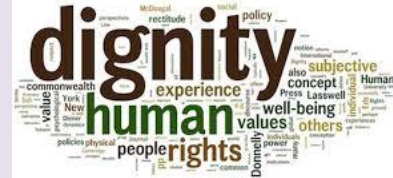
Political settlement - Libertarianism and utilitarianism

- Everything the government does or does not affects the resources of its citizens. So the state cannot escape the demands of equal concern by disavowing responsibility for the position of each citizen. The resources that each citizen has are functions of many variables (talents, skills, luck, etc.) - economic variables - but also depend on political variables: laws, policies of the community, etc. We call the second group of variable the **political settlement**.
- The government cannot avoid the challenge of equal concern by arguing that the resources an individual has depend on his choice not the government's choice.
- Anything the government does or does not will affect the consequences of the decisions of each individual for each of the set of choice (education, production, training, etc.)
- Laissez faire advocates or **libertarians** ignore that government simply cannot leave its citizen alone. Of course we can have a minimum state, but would be a political choice not a *natural outcome*.
- But if the Government, let say, decide to maximize some index of total happiness, does he show equal concern for everyone? If the resulting inequality is *too great* it would be difficult to say that it has shown equal concern. **Utilitarianism** does not guarantee equal concern. Both libertarianism and utilitarianism do not respect people's **human dignity**.



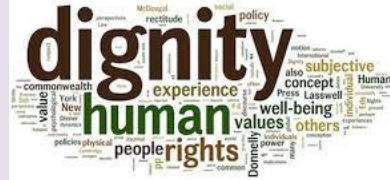
Dworkin: Equality of Resources

- If government shows equal concern for all why do not we organize the political settlement so that each one has the same resources no matter what choice is making or his luck has fallen. But that is too quick a conclusion. We must also respect the second principle. Equality of welfare does not respect the principle of responsibility.
- According to Rawls's view the political settlement should, once the basic and political liberties are guaranteed, aim to make the least well-off group in the community as well-off as possible. Critics have objected that **Rawls's principle** ignores that relative wealth matters as well as absolute wealth. Dworkin argue that Rawls define the **worst-off** group only in terms of the resources its member have. With no discrimination between those that fallen ill or had bad luck or those that are badly off because have chosen not to work or not to work at all. So he does not consider that some people may be in this group because their personal choice or responsibility. **In doing this, we might end up subsidizing people that have chosen not to work.**
- Dworkin also criticizes Rawls political liberalism (see the idea of public reason) for isolating political convictions from deeper moral ethical and religious convictions. Dworkin believes that we should not exclude people's most profound convictions from political debates. He believes that the **two principles** which are at the basis of the **human dignity** can be shared by people on different ethical points of view and therefore to be the basis for a fruitful discussion.

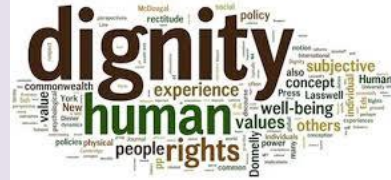


A theory of just taxation

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A theory of just taxation (2)



Dworkin: Equality of Resources

A theory of just taxation (3)

- We can correct for these *ex ante* inequalities by asking what level of insurance of different kinds we can safely assume that most reasonable people would have bought if the wealth of the community had been **equally divided among them** and no one knew that had already bad luck or had better or worse odds of suffering it than anyone else. Then we could fix the optimal rates of distributive tax in any political community.
- Because an extra dollar is much more important to poor people than to rich one – has declining marginal utility – people with high income would be willing to pay higher premiums than those with lower income. Therefore, if we model the tax structure on the hypothetical insurance story we would have a fairly steep progressive tax system so that those with more income would pay a higher rate. Flat-tax and poll tax schemes would be offensive to our ideal of ex-ante equality (*equal sacrifice principle: if we equalize the sacrifice, with a logarithm utility function we get progressive taxation*).
- In the end, a just tax is necessary for the legitimacy of our political community. If we refuse to tax ourselves enough to save from hopelessly bleak and dangerous lives we de-legitimize our institutions. We are not showing equal concern to each citizen.



Dworkin: Equality of Resources what is democracy ?

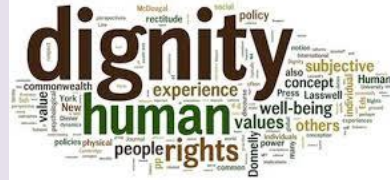
- There are two conception of democracy in contest:
 - ✓ The *majoritarian* view: democracy is governed by majority rule, in accordance with the will of the greatest number of will expressed in election .
 - ✓ *Partnership* view: democracy means that people govern themselves each as full partner in a collective political enterprise so that majority decision are democratic only when certain further condition are met. A community that steadily ignores the interest of some minority or group is not democratic



Dworkin: Equality of Resources

what is democracy ? (2)

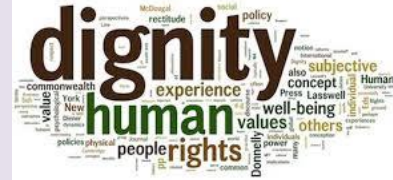
- Constitutional democracies are not pure example of the majoritarian conception of democracy. The United States have introduced Bill of Rights to limit the power of the majority. The decisions of the majority can be overruled by the Supreme Court- The Italian Constitution states the sovereignty of the people can be exercise within the limits set by Constitution. Constitutional democracies through the rule of law tend to defend the minority putting constrains to the majority. Some democracies today tend to be disrespectful of the rule of law and be autocratic.
- However, all democracies are far from the the ideal of the *partnership* view which requires mutual respect and attention among the parties. On the contrary, we tend to see someone with whom we disagree as an enemy.
- The majoritarian conception claim to be purely procedural and therefore independent of other dimensions of political morality; procedural democracies are putting the interests of the majority before those of the minorities and those of people outside the political community such as that of immigrants.



Dworkin: Equality of Resources

what is democracy ? (3)

- *What's so special about the Majority rule?* The majority Rule is inappropriate for example if we are in life boat and we have to decide to sacrifice a person to save the life of the others. A lottery it would be more appropriate. Majority rule is inappropriate if we have to decide on certain issues such that sexual preferences (homosexuality or sexual practices) or others personal ethical or religious values; the majority cannot impose a life styles on minority groups. That would be a flat violation of the second principle of dignity because people do not have right to assume coercive authority over others on moral issues. On the other hand, on some practical issues such as decide to construct a bridge or to build a new school majority rule is appropriate. **In this case might reflect and represent more closely the general will or the “common good” of the society. An utilitarian approach for this type of collective decisions may be appropriate without violating the dignity of anyone.**

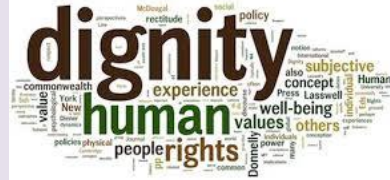


Dworkin: Equality of Resources

what is democracy ? (4)

Partnership Democracy.

- *Equal Concern.* A political community must show equal concern for all its members. So we must do our best to ensure that our political officials act with equal concern for all and that is achieved better with equal suffrage. But widespread suffrage is not per se sufficient to guarantee substantive fairness. It would be better protect equal concern by embedding certain individual rights in a constitution that is to be interpreted by judge rather than by elective representatives. **A correct test whether a political settlement shows genuine or truth equality is to ask whether that arrangement is likely to produce substantive equality in the distribution of resources and opportunities.**
- *Self-government.* Political arrangement must respect's people responsibility for identifying value in their own life. A majority has not general right to impose its will on a minority. When has it this right? A necessary condition of political legitimacy is equal concern, but it is not sufficient because people do not have a moral right to assume coercive power to others. Democracy is said to be an answer to this objection because democracy means *self-government*. My dignity is not compromised because I do take part as an equal partner to those decisions. That explain why democratic government is legitimate.

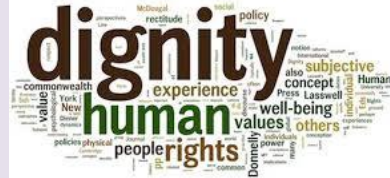


Dworkin: Equality of Resources

what is democracy ? (5)

Partnership Democracy.

- But in order to construct a partnership conception of democracy we must ask what rights must be reserved to an individual if submitting to the will of the majority is to be consistent with his dignity. The right to participate in political decision as a voter and as eligible for political office is essential. Yet it is inconsistent with someone's dignity to submit to the coercive authority of others questions regarding religion, sexual preference or other ethical values.
- In Western constitutional democracies we are not committed to a pure majoritarian conception of democracy. We have constitutions that guarantee fundamental personal rights, Supreme Courts that limit the power of the majority. However, many Western democracies have features that make them very distant from the model of Partnership Democracy. They do not show equal concern for the poor, equality of opportunities is more formal than substantive, many ethnic minorities still live as second-class citizens. Public political discourse is far from being an exchange between mutually respectful partners who disagree.



The **Bill of Rights**, the first ten amendments to the U.S. Constitution, protects minorities by guaranteeing fundamental rights and limiting government power. Even though the majority rules in a democracy, these protections ensure that minority groups are not oppressed by the majority. Here's how the Bill of Rights safeguards minority rights:

1. Freedom of Speech, Religion, and Expression (1st Amendment)

- Allows minority groups to **voice their opinions** without fear of government retaliation.
- Protects religious minorities from discrimination by ensuring **freedom of religion**.
- Ensures minority perspectives can be shared through protests, media, and publications.

2. Right to Due Process & Fair Trials (5th & 6th Amendments)

- Guarantees that minorities **receive fair treatment** in the legal system.
- Protects against **unjust imprisonment or unfair trials**.
- Ensures access to a **lawyer and impartial jury**, reducing discrimination in court cases.

3. Equal Protection from Unreasonable Searches (4th Amendment)

- Prevents law enforcement from **targeting minorities unfairly** through unlawful searches or arrests.
- Requires **warrants and probable cause**, limiting racial profiling.

4. Protection from Cruel and Unusual Punishment (8th Amendment)

- Stops excessive or discriminatory punishment that could disproportionately affect minorities.

5. Right to Bear Arms (2nd Amendment)

- While debated, some argue this allows minority communities to **defend themselves** against threats.

6. Protection from Government Overreach (9th & 10th Amendments)

- Ensures that rights not explicitly listed in the Constitution are still protected.
- Prevents the government from abusing power against minority groups.

Overall, the **Bill of Rights ensures that minorities have legal protections** against discrimination, abuse, and oppression. However, throughout history, enforcement has been inconsistent, and minority groups have had to fight to fully exercise these rights.

Sen's Capability Approach

- Amartya Sen has an extensive background in developing economics, social choice theory (for which received a Nobel price in economics). His Capability approach has strong connection with (i) Aristotle's understanding of human flourishing, (ii) Adam Smith's analysis on moral sentiments and how a country's social norms affects which material goods were understood to be a necessity and (iii) Karl Marx's idea of "replacing the domination of circumstances and chance, over individuals by the dominion of the individuals over chance and circumstances" and the idea that each individual is different and therefore each one of us needs a different treatment.
- The Capability approach addresses various concerns, the more important are:
 - I. *Capabilities*. Individuals can differ greatly in their ability to convert the same resources into valuable functioning. Those with physical disabilities may need specific good to achieve mobility. We need to focus on what people can do with a given amount of means.
 - II. *Adaptive preference*. (The Fox and the Sour Grape). People tend to internalized the harshness of their circumstances. This is a phenomenon of adaptive preferences. He criticizes the revealed preference approach. He believes that evaluation that focuses only on subjective mental metrics (utilitarianism) is insufficient. He is in favor of a more objective approach evaluated by an external and neutral observer.
 - III. *Freedom*. It is important to have valuable options whether or not people take up these options. Evaluation must be sensitive to both actual achievements (*functioning*) and effective freedom (*capability*).



Sen 's Critique of Utilitarianism

- **Happiness vs. Pleasure.** For Sen human well-being depends on what people actually are able to do more than on hedonism and pleasure. This approach has a long tradition that goes back to Aristotle. For Aristotle happiness (eudaimonia) consists in pursuing worthwhile activities for excellence and character rather than pleasure and amusements. These valuable activities are varied and plural: art and science, political excellence, friendship, etc. Pleasure is important but he rejects the view that identifies happiness with a life full of pleasure.
- **Democracy.** Utilitarianism values rights and liberties positively because are instrumental to maximize social utility. Sen believes that democratic rights have their intrinsic importance. He advocates the idea of democracy not only as a technical procedure (elections, parliament, etc.) for taking collective actions, but as an important device that - through public reasoning and discussion - contributes toward many socially desirable goals such as overcoming famine and achieving equity. Democratic rights are non-negotiable claims and cannot be subjected to the calculation of utility maximization.
- **Rejects the preference-satisfaction view.** Preferences are formed by the circumstances in which people grow and are socialized. They are conditioned by the situation under which people live. In particular, a “deprived person, leading a very reduced life, might not appear to badly off in terms of mental metric of desire and its fulfilment. In situation of long-standing deprivation the victim do not go on grieving and lamenting all the time.”

Sen 's Critique of Utilitarianism (2)

- **Objective theory of well-being.** A preference-based view has problems with regard to “expensive taste” (I get satisfaction only with caviar) or “perverse taste” (I am sadistic). An unqualified preference-satisfaction theory without any additional conditions leads to ethically unsatisfactory implications. Objective criteria such as the notion of **urgency** which appeal not to preferences can be more appropriate in arriving at a consensus on our obligation to help. The notion of **exploitation** which was used by Marx can be an other objective criteria to identify at deprived condition of well-being, which can be found in different social settings (feudal, capitalism).
- **Commitment.** The standard economic model is based on the individual that maximize their own interest or utility and the idea that pursuing the individual interest can lead to the greatest happiness of the greatest number or to a Pareto optimum. Sen believes that this approach is too reductionist. He believes that **commitment** undermines the standard model assumption. People are moved by reasons that do not have a connection to their own welfare. Political action are an example. People get involved in elections or political rally because they want to stand for social justice, anti-globalization, environment, family values, anti-abortion, etc. It is commitment rather than just selfishness that bring people together for collective actions. The same for people that are willing to contribute and collaborate in the provision of public goods such as public transportation, a clean environment and social security (kaleidoscopic personalty).

Sen 's Critique of Utilitarianism (3)

- **Pluralist approach.** In contrast to monistic approaches such as the Benthamite Hedonism and the standard economic model, Sen revalues some forgotten aspects of Smith's moral and economic thinking. (i) According to Smith together with selfishness, "humanity, justice, generosity and public spirit" play an important role in human behavior. (ii) As well as Smith Sen recognizes that causes of famines is due to people's lack to buy food, which, in turn, is due to unemployment, malfunctioning of markets and not because of the decline of food supply. Under certain conditions Smith supports State interventions. (iii) Smith also recognizes that certain goods and commodities play an important social role (e.g. leather shoes, linen shirts in the XVIII century in England among all social classes). These goods were necessary to achieve social respect. In Sen's capability approach certain goods are necessary for achieving certain capabilities and functioning. Sen observes that *"poverty" is relative in the realm of commodities, but absolute in the realm of capabilities*. This means that being relative poor in a rich country can be a great capability handicap even when one's absolute income is high according to international standards. In fact in a rich country more income is needed to buy enough commodities to achieve a certain level of social functioning (education, skills, certain goods, fashion, etc).
- **For Sen we need to go beyond the self-interest *homo economicus* model of human being. We need to have a complex view of human motivations as we can find for example in Adam Smith's economic and philosophical views (The Theory of Moral Sentiments).**

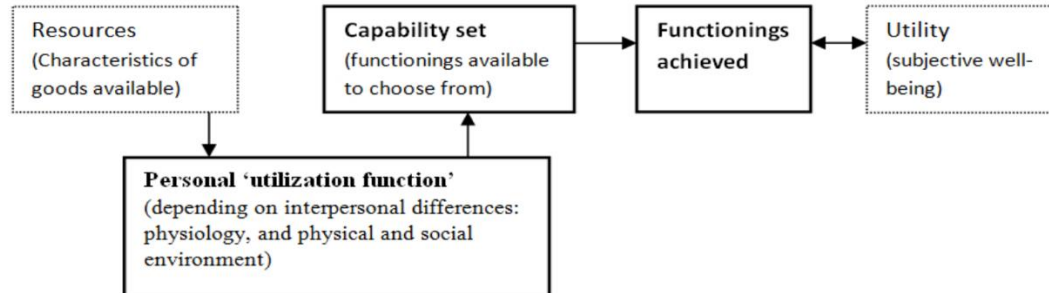
Towards a Capability Theory of Justice

- **Sen's critique to Rawls.** Sen criticizes Rawls's idea that primary goods are the appropriate measures to evaluate people's benefits. Think of a person in a wheelchair. Equalizing the amount of primary goods between an able-bodied and a handicapped person overlooks the fact that the latter would require more material and social resources to be mobile and to achieve other *functioning* including overcoming social discrimination against disability. As Sen points out 'the Difference Principle will give him neither more nor less on grounds of his being a cripple'
- *The primary goods approach seems to take little note of the diversity of human beings ... If people were basically very similar, then an index of primary goods might be a good way of judging advantage. But, in fact, people seem to have very different needs varying with health, longevity, climatic conditions, location, work conditions, temperament, and even body size (affecting food and clothing requirements). So what is involved is not merely ignoring a few hard cases [e.g. handicaps], but overlooking very widespread and real differences (Sen 1980).*

Towards a Capability Theory of Justice (2)

Functionings and Capability

- It is important to consider what people are actually able to be and to do. A bicycle has the characteristic of transportation but whether it will provide transportation depend on the characteristics of those who try to use.
- *Functionings* are state of being and doing such as being well nourished and having shelter.
 - *Capability* refers to the set of valuable functioning that a person has access to. Thus it represents the effective freedom of an individual to choose between different functioning combinations.



Concept	Definition	Example
Functionings	What people actually achieve (states of being and doing)	Being healthy, being educated, having a job
Capabilities	The real freedoms and opportunities to achieve functionings	Having access to education, being able to get a job if one chooses

Sen argues that **development should focus on expanding capabilities**, not just achieving functionings. Policies should ensure people have real freedoms to choose their life paths rather than just measuring outcomes like GDP or education levels.

For example:

- If a country has high literacy rates, that is good, but did people have **genuine access** to education? Or were they forced into a rigid system?
- If a government provides food aid, does it empower people with real choices to sustain themselves in the long term?

1. Functionings: Achievements and States of Being

Functionings refer to the **actual conditions** of a person's life. They include:

- Basic functionings like being well-fed, being healthy, or being literate.
- More complex functionings like participating in political life, having a fulfilling job, or engaging in cultural activities.

Functionings can be **basic** (e.g., having enough food) or **higher-order** (e.g., self-respect, social participation).

- ❖ **Example 1:** A person who has received education and is literate.
 - Here, **literacy is a functioning**—it is an achieved state.
- ❖ **Example 2:** A person who has a job and earns a living.
 - Having a job and earning money are functionings.

2. Capabilities: The Freedom to Achieve

Capabilities refer to the **real opportunities and choices** a person has. It is not just about what they are doing but what they could do if they chose to.

- ❖ **Example 1:** Two people can both be literate (a functioning), but one had access to education while the other had to struggle against social barriers to learn.
 - The **first person had the capability** to be educated, meaning they had real opportunities.
 - The **second person may have lacked the capability** but achieved the functioning through struggle.
- ❖ **Example 2:** Compare two people who are not eating enough:
 - One person is fasting out of religious or personal choice.
 - Another person is starving due to poverty.Both have the same **functioning** (not eating), but their **capabilities** are different:
 - The fasting person has the **capability** to eat but chooses not to.
 - The starving person lacks the **capability** to eat because they do not have access to food.

Towards a Capability Theory of Justice (3)

Which functioning matter for the Good Life?

- We do not value subjective well-being (utilitarianism) or resource wealth (contractarian) . We need to define which functioning matter for a good life. We have two approaches:
 - a) Nussbaum specifies a list of the constituents/elements of the flourishing of life and does this on philosophical ground along Aristotelian/Marxian lines (See Martha Nussbaum, Ch. 2) The Central Human Capabilities are: life, body health, bodily integrity, [sense, imagination, and thought] Emotions, Practical Reason, Affiliation, Other Species, Play, Control over one's Environment
 - b) Sen reject the above approach because it denies the relevance of the value people may come to have and the role of **democracy** as an instrument of public reasoning and discussion to identify solutions. Although there are many reasonable disagreements among people, Sen suggests that there are some important capabilities which are associated with some basic needs that may be easily identified and agreed upon such as education, health, and shelter. But other important more complex functioning that are generally supported are self-respect, social recognition and political participation.

Towards a Capability Theory of Justice (3)

The Capability approach analyzes the complex relationship between people and commodities

- 1) *Individual physiology*. In order to achieve the same functionings people with different features may have particular needs for non-standard commodities or need for more standard commodities.
- 2) *Local environment diversities* such as climate, pollution epidemiology imposes different costs on society.
- 3) *Variation in social conditions* due to the the provision of public goods and the nature of community relationships.
- 4) *Differences in relational perspectives*. Convention and customs determine the commodity requirements of expected standards of behavior.
- 5) *Distribution within the family* . Distributional rules within a family between males and females, and children and adults.

Towards a Capability Theory of Justice (4)

Well-being vs. Agency

- An individual as an **agent** pursues various goals, accomplish different things and take responsibility for this actions. An individual in the **well-being** aspect is seen as patient or beneficiary. However, it is important to notice the substantial interconnection between the two and most often the proven way to enhance people's well being is to follow the agency and participation route.

For example, it has been shown that women's well-being in developing countries is tremendously improved by such things as women's ability to earn an independent income, to find employment outside the home, to be literate, to be informed participants in decision-making within and outside the family, and to have ownership rights. These things make a positive contribution to women's voices and agency and hence, enhance the social standing of women in the household and family. Even infant mortality and overpopulation are more effectively tackled by the **agency and participatory approaches** of educating and empowering women than through some coercive health policies.

Towards a Capability Theory of Justice (5)

Social Policy – A new Perspective

- Sen's capability approach has served as an inspiration for social policy priorities on different fronts.
- Among the most well-known uses of the theoretical insights of the capability approach is the annual Human Development Report (HDR) published since 1990 by the United Nations Development Programme (UNDP).
- Sen's idea that development is not merely economic growth, but is also an expansion of people's capabilities to be and to do certain valuable things is the starting point of the Human Development paradigm.
- One important part of the HDR is the Human Development Index (HDI) that ranks countries in the world based on the three basic capabilities: **life expectancy** (ability to live long and avoid premature death), **literacy** (ability to read, write and communicate better) and **economic standard of living** (ability to buy goods and services that one wants measured by GDP per capita). This index does show that the traditional income-based GDP per capita measure is an imperfect indicator of human development and that capabilities-based indicators show different results than the former.

ARISTOTLE

Back to Aristotle

Callie's story

Callie was a very popular cheerleader in a wheelchair for a high school in West Texas. At the end of season was kicked off from the team. The head of the cheerleader's father led the opposition to Callie's inclusion in the team. Why? After all she was very good in energizing the fans. Apparently she was achieving the purpose. But what does mean to perform well in the role of cheerleader? To perform well means to do tumblers and splits which takes a lot of work and exercises. What kind of resentment might motive the opposition? The idea is that Callie has been accorded an honor she does not deserve. It is like devaluing the role of cheerleading and so the sense of proudness to be a cheerleader. Callie was re-defining this role. What counts as purpose of cheerleading depend on what virtues you think are worth rewarding. Evidently is not just energizing the fans but also other excellences and virtues (doing tumblers, splits, exercising) that students admire and emulate. Questions of equal rights, discriminations or fair opportunities do not seems that matter on this case.

Aristotelian conception of Justice

Justice is teleological

Defining rights require to find out the *telos* (purpose, essential nature) of the social practice in question

Justice is honorific

Understanding the *telos* is to argue about what virtues it should honor and reward

- Kantians and Rawlsians separate questions of fairness and rights from argument about honor, desert and virtues. Principles of justice are neutral about ends. Comprehensive doctrines deal with these issues. People choose and pursue their ends for themselves without involving the conception of justice.
- Aristotle does not believe that justice can be neutral in this way. He believes that debates about justice are necessarily debates about honor, virtue and the nature of the good life.

Aristotelian conception of Justice (II)

- Justice is giving people what they deserve, giving each person her/his due. But what is a person due? Depend on what is distributed.
- Justice involve two factors: things and persons to whom things are assigned
- Persons who are equal should have assigned to them equal things. But equal in which respect? Depend on what we are distributing and on the virtues relevant to those things.
- If we are distributing violins who should get them? The best violinists.
- Justice discriminate according to merit, according to the relevant excellences
- It is unjust to discriminate on any other basis such as wealth, birth, beauty or mere chances.
- There are several spheres of justice which must remain separate (desert, need, free exchange)

Aristotelian conception of Justice (III)

- We are not distributing violins to the best violinists so that we will have the best music to please everybody as listeners; we do for a different reason: the best violins should go to the best violinists because that is what violins are for – to be played well.
- It is true that we will end up with having the best music anyway but this is not the true motive of our distribution.
- In order to determine the just distribution of a good we need to investigate what is the *telos* of the good to be distributed.

What is the Purpose or Telos of a University?

- The debate over affirmative action can be reconsidered in light of Aristotelian Conception of justice.
- Some say that universities are for the sake of promoting scholarly excellence others say that are for serving certain civic purposes and reflection of current society (diversity).
- Those who believe that universities are for celebrating and rewarding excellence are against affirmative action and those who believe are for promoting certain civic ideal are in favor of affirmative action
- Arguments about right and justice sometime are about the purpose or telos of certain institutions

What is the Purpose of Politics?

- When we discuss about distributive justice today we talk about the distribution of income, wealth and opportunities.
- For Aristotle distributive justice was about offices and honors. Who should have the right to rule? How offices and honor should be distributed and to who?
- But first we have to answer to the question of what the telos of politics is. Today we would answer that is a prerogative of people to choose the purpose of politics. If we view politics *per se* we think at a set of procedures independent of purposes.
- Aristotle doesn't think this way. For him it is to form good citizen and to cultivate good character

What is the Purpose of Politics? (II)

- Aristotle rejects both oligarchy and democracy. Both overlook the highest end of political association: to cultivate the virtue of citizens. Oligarchs want to protect their power and wealth, democrats are wrong because politics is not just giving the majority its way.
- The purpose of State is not provide an alliance for mutual defense and promote economic exchange and the development of the economy; ... is to enable people to develop:
 - their distinctive human capacity and virtues
 - to deliberate about the common good
 - To acquire practical judgment
 - To participate in self government
- Defense pacts and trade agreements are not political communities, are not *polis*
- “A polis is not an association for residence in a common site, or the sake of preventing mutual injustice and easing exchange”

What is the Purpose of Politics? (III)

The end and purpose of a polis is the good life and the institutions of social life are means to that end

- Those who contribute most to an association of this character are those who excel in civic virtue. Those who are greatest in civic excellence – not the wealthiest, the majority, - are the one who merit the greatest political recognition;
- The greatest consideration should go to those with the qualities of character and judgment in taking the important decision for the fate of the community
- Communities exist to honor and reward civic virtues

Men are political animals

- Today we see politics as a necessary evil. More or less like participating at the condominium's meeting
- Why Aristotle believes that participating in politics is so important for a good life?
- Only by living in a *polis* and participating in politics we realize our nature as human beings
- Nature make nothing in vain and human being are furnished with the faculty of language
- Only in a political association we can exercise this faculty. Only in a polis we deliberate with others about justice and injustice. "The polis exists by nature and it is prior to the individual"
- The man who is isolated is no part of the polis and must therefore be either a beast or a god

The Moral Life

- The Moral Life aim to happiness, but happiness is not balancing pleasure over pain. The virtuous person take pleasure in doing the right thing, the virtuous things. Happiness is not a state of mind but a way of being, an activity of the soul in accordance with virtue
- Moral virtues come about as result of habit. We learn by doing. Moral education is about learning to discern the particular situation that call for a certain behavior rather than an another
- “To do the right thing to the right person, to the right extent, at the right time, with the right motive, and in the right way” (Perfectionism)
- Politics is essentially the good life. The law of the polis inculcate good habit, form good character in order to pursue civic virtue. To learn this things we have to participate to the life of the polis. Politics is not collective decision for maximizing utility (Mill) or providing fair rules for the pursuit of individual interest (Rawls ?) It is instead a way to express our nature and an essential aspect of the good life

Aristotle and Slavery

- Aristotle offered a justification for slavery that is unacceptable but opened up for a revision
- For Aristotle justice is a matter of fit. To allocate rights we look at the telos of the institutions. Giving people their due means giving them the offices they deserve according to their nature. Modern theories emphasize freedom and choice.
- Slavery to be just must be necessary and be natural: someone has to take care of the household if citizens are busy and spending in their civic duties for the common good.
- But must be also natural – people need to be fit for the role – Aristotle recognizes that slaves were freemen once. Many slaves find themselves slaves because adverse conditions and luck. It could be the case that slavery is not in accordance with the true nature of man.
- For liberal thinking slavery is unjust because it is coercive, for teleological theories it could be unjust because it is at odds with man's nature: coercion is a symptom of the injustice, not the source

Legitimacy of dull and repetitive jobs

- The ethics of telos is potentially more demanding on the contracts in the labor market than the other competitive theories of justice. Consider a repetitive and dangerous job with long hours at an assembly line in a factory:

Libertarian justice	Just if the workers have freely exchanged the salary for the labor force with no coercion
Liberal (Rawls) justice	Just if the contract took place against fair background conditions
Aristotelian justice	To be just it as to be suited to the nature of the workers, otherwise justice require to change the organization of the labor and abolish those jobs

Justice & Freedom

- Kant & Rawls reject Aristotle's teleology because there is no room to choose our good for ourselves
- For Rawls a moral person has the capacity to choose and pursue a conception of the good
- For Aristotle justice is matter of fit between person and ends
- The notion that justice should be neutral toward conceptions of the good life reflects a conceptions of person as freely choosing selves
- This view is common to liberal as well as libertarians. Egalitarian liberals use the language of rights: favor civil liberties and economic rights (education, health care, income security, etc.)
- Libertarians use also the language of rights but they oppose welfare policies defend free markets and they believe that people are entitled to keep the money they make

Moral Individualism

To be free is to be subject only to obligations I voluntarily agree: whatever I owe others is by virtue of some act of consent – choice/promise/agreement I have made tacit or explicit

- My duty to carry out a recompense would be an obligation based on consent not an obligation arising from collective identity
- Libertarians – we are all free and independent beings. No one can force me to do something without my consent
- Kant – To be free is to be autonomous and to be autonomous is to obey a law I give myself. My self is detached by any interest, desires or particular attachment
- Rawls – principle of justices based on agreement of individuals detached from any particular interests
- If we see person as free and independent selves they cannot be liable for collective responsibilities
- Not only that, if we are freely choosing independent selves our principle of justices that define our rights should not be based on any particular moral view or religious conception

Should the State be Morally Neutral?

Modern theories of justice are a departure from the ancient conception of justice theorizing an independent and free choosing individual - Communitarians want to recoup the old view

Justice Theories	Individual as	State
Utilitarianism	Free independent selves	Maximizing social utility
Libertarianism	Free independent selves	Neutral minimum state/ no moral view
Kant/Rawls	Free independent selves Principles of justice are independent from any conception of good	Neutral state/no moral view/Constitution and other laws should recognize the difference principle
Communitarianism	Member of a community Sharing common values	Form good citizen, cultivate good character promote the good life

Apologies for historic wrong doing

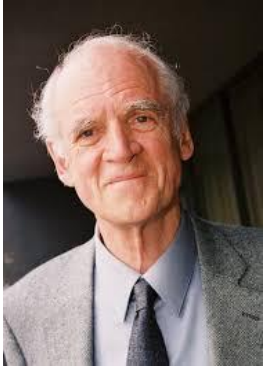
Offender Country	Case	Apologies and Reparations
Germany	Holocaust	In several occasions German leaders apologized asking forgiveness and paid reparations
Japan	In the 30s & 40s thousand of Korean women are forced into brothels and abused as sex slaves	Japan government refuses responsibility
Turkey	World War II- thousands of Kurds are forced to leave the country. Most of them die during the journey	Turkish government refuses to accept responsibility
Australia	From 1910 to the 1970 aboriginal children of mixed race were separated by their mothers and placed them in camp and white families	In 2008 after a long debate prime minister Rudd issued an official apology to the aboriginal people
Italy	Italy-Ethiopian war (1936-40) Italy used gas killing 100.000 Ethiopians	No official apologies yet. Italy provided some funds for the construction of a dam. Recently young Ethiopians asked for apologies and reparations

Apologies for historic wrong doing

Offender Country	Case	Apologies and Reparations
USA	Hiroshima and Nagasaki atomic bombing	Recently Obama recognized the wrong doing but no official apologies yet
USA	During War World II- Japanese Americans were confined in camps in the West Coast	Reagan signed official apologies and provided compensations to survivors
USA	Slavery	Virginia has recently apologized for slavery

- Why should we responsible for crimes committed by our ancestors?
- Should not we responsible only for the actions we do?

COMMUNITARIANISM



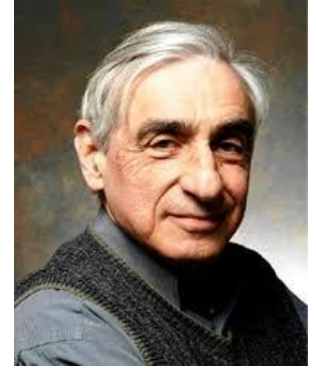
Charles Taylor (1931)



Michael Sandel (1953)



Alasdair MacIntyre (1929)



Michael Walzer (1935)

Communitarianism

- Modern communitarianism starts as a reaction to Rawls's book *Theory of Justice*. Drawing mainly upon the insights of Aristotle a group of philosophers **challenge** Rawls's and other liberals' assumption that the *purpose of the government is to secure and distribute fairly a set of rights and economic resources to lead freely chosen lives (life's project)*.
- The critique to liberalism has been developed leveraging on three sort of allegations:
 - (a) underestimation of the importance of traditions and the social context for moral reasonings;
 - (b) misconception about the social nature of the self;
 - (c) underestimation of the importance and the value of the community;

Communitarianism

Universalism vs. Particularism

- Communitarians argue that the principles of justice cannot be derived by abstract and hypothetical experiments (see the original position) but we have to start from the habits and traditions of actual people living in specific places and times. Liberalism cannot pretend to be a universal doctrine to be applied everywhere.
- The euphoria that followed the collapse of the Communism has faded away. The idea that liberal and democratic practices would have expanded over the world (see Fukuyama, The End of History) has been seriously reconsidered. It is now recognized that ethnic wars, extreme poverty, pervasive corruption pose serious problem to the establishment of liberal and democratic practices over the world.
- The deeper challenge to Western liberal democracy has emerged from the East Asian region. Asian place special emphasis upon family and social harmony. Asians believes that in a society with communitarians values the interest of society take precedence over that of the individuals.
- China in particular looks set to become a heavy weight which challenges the hegemonic power of the Western liberal democracies.

Communitarianism

Universalism vs. Particularism

- Here we have three arguments for cultural particularism that contrast with traditional Western arguments:
 1. Cultural factors can affect the *prioritizing of rights*. Different society may ranks rights differently. For example, US citizen might be more willing to sacrifice social or economic rights with a political right. In contrast, the Chinese may be more willing to sacrifice a civil or political liberty with a social or economic right. Asian society show different priorities. For example, East Asian societies with a Confucian heritage place great emphasis upon the value of education and they dedicated large amount of resources on education compared to other societies.
 2. Cultural factors can affect the *justification* of rights. For example democratic rights in Singapore can be justified on the grounds they are good for strengthening ties to such communities as the family or the nation.
 3. Cultural factors can *provide moral foundations* for distinctive political practices. For example, following Confucius it is held that children have a profound duty to care for elderly parents. A current debate is to center the question of whether the right to the filial piety is best realized by a mandatory law for children to provide this service or should rely more on tax-breaks for the elderly and on housing benefits. Thinkers of Confucian tradition have suggested that a democratic political settlement should also have a “house of Exemplary Persons”.

Communitarianism

The Debate over the Self

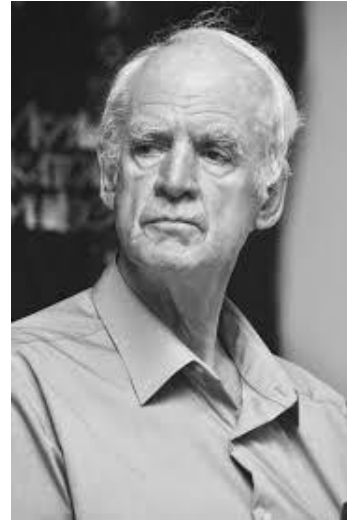
- Communitarians believe that Rawlsian liberalism rests on an overly individualistic conception of the self. For example, when Rawls says that our supreme interest is pursuing our life plan he neglects the fact that our selves are defined and constituted by many communal attachments (family or religious attachments)
- This implies that politics should not only concern itself with securing the conditions for allowing people to exercise their autonomous choices but also to promote the social attachments crucial to our sense of wellbeing and respects.
- Communitarians argue that the goods we should feel committed to are not invented by the individuals but are determined and oriented by the community in which we are living. The liberal idea of a self who freely invents or chooses his conception of the good cannot do justice to our actual moral experience.
- Communitarians cast doubts on the view that choice is intrinsically valuable. They say that we think of ourselves as members of a family, nation or community. Social attachments are not the product of choices and cannot be rejected. They are not objects of choices.

Charles Taylor

Charles Taylor is a Canadian philosopher. His research has focus on the modern self showing that several strands have gone into making the modern self in the Western world. He describes the modern self as a self that values freedom, values exploration, that see nature as sources of goodness, that prizes authenticity, that affirms ordinary life and feels the pull of benevolence towards the suffering of others (*Sources of self: The Making of Modern identity*).

Taylor has taken an hermeneutical approach to study the society stressing that the meaning that people give to their actions must be taken into account by social scientists. For example, we cannot explain voting behavior just by reference to self-interested calculation. It is also an expression of people involvement in a democratic community and convey many meanings.

Taylor has been dubbed a communitarian for stressing the social nature of selfhood and the obligations that individuals have towards the communities in which they live.



Charles Taylor

The Critique to Atomism

- The term *atomism* is used to characterize the doctrines of the social contract (Hobbes and Locke) and doctrines in general that defend the *priority of the individual and his rights over society* or present an instrumental view of society.
- Theories that assert the primacy of rights and deny the same status to a principle of belonging or obligation towards a certain community and its rules. The primacy of rights theories is plainly that of Locke, Rothbard and Nozick. These ideas have had large influences in today political consciousness (see Neo-liberalism).
- The opposite thesis is the Aristotle's view – the view that man is a social animal or a political animal. Man is not self-sufficient outside a polis. On the contrary, atomism affirms the self-sufficiency of man alone.
- In Aristotle's view men develop their human capacity in society. They become fully responsible autonomous, rational, moral agents as members of a society.
- One could argue that is irrelevant to the individual rights argument. We assign right also to people that have not the possibility to develop the human capability: idiots, or people in a coma, etc.

Charles Taylor

The Critique to Atomism (2)

- Why don't we give right to animals or rocks? Actually many - based on the fact that the animals are sentient beings - argue that it is wrong to make them suffering for futile reasons.
- But when we say that they are sentient beings we want to claim more than simply not to inflict a pain. We are saying that we should respect them because they have some ability to enjoy their life. At the same time, we say that man has the right to life, to freedom, to exercise their moral and religious beliefs because he has capacities to make use of these rights. These capacities command our respect. Our conception of the human capacities is not extraneous to our ascription of rights to people.
- To say that certain capacities command respect is to say that we acknowledge a commitment to foster and develop them. The fact that we ascribe rights to men is because human beings exhibit certain capacities that are worth of respects.
- Liberals give central importance to choose one's own mode of life. "I have the right to do what ever I want with my property". This view that makes freedom of choice at the center exalts choice as human capacity. But this human feature is something that has been developed in a given society or something specific to human nature? If we cannot ascribe human rights without affirming the worth of certain human capacities and if these capacities can be developed only in a suitable society then the assertion of the primacy of right is impossible.
- Because to assert the rights in question is to affirm also some capacities, this commits us also to an obligation to belong (to a society). This is fundamental as the assertion of rights, because it is inseparable from it.

Charles Taylor
The Critique to Atomism (3)

THE STRUCTURE OF THE ARGUMENT
THE PRINCIPLE OF BELONGING

- Human being cannot develop the characteristically human capacity unless part of suitable society
- An individual can only exercise her individual rights if she has developed these characteristically human capacities.
- Individual rights matter to us because the characteristically human capacities matter to us.
- So, if we think that individual rights are important, we are committed to the claim that the relevant capacities are valuable.
- So, we must be committed not only to respecting individual rights but also to promoting the relevant capacities.
- Hence, we must be committed to sustaining a suitable society.(obligation to belong)

Michael Sandel

Sandel endorses a certain type of communitarianism or republicanism, although he is not particularly fond of these labels. In his first book, *Liberalism and the limits of Justice* (1982), Sandel develops his critique of Rawls' *A Theory of Justice*. In this fundamental work Rawls attempts to provide a universalist justification of liberalism based on the priority of the right over the good. According to this approach we can define the *principles of justice* that shape the institutions of the society independently of the existing moral, religious views or conceptions of the good.

- Sandel argues that it is impossible to be morally neutral using only the language of rights when we are dealing with issues such as same sex marriage, free speech, abortion or slavery. Thus, any meaningful political public discourse cannot avoid discussing moral or religious matters.
- Sandel argues that Rawls has presupposed a controversial theory of self-identity: a conception of an **unencumbered and abstract self** that can choose to be attached to any values. Sandel claims instead that personal identity depends deeply on his communal ties and values he is committed to.



Michael Sandel

The limits of liberalism

- Liberalism offers an inadequate account of community
- Debate: Liberals prize individual liberty / Communitarians says that the values of the community or the will of the majority should always prevail
- Liberals are believers in universal human rights / Communitarians say that we cannot judge values that inform different culture (relativism)
- Sandel rejects the above communitarian claims. The point of M.S. is that rights are important but cannot be justified without referring to any particular conception of the good life, and thus, cannot be neutral with respect to the citizens' competing moral convictions. He criticizes and rejects the Kantian/Rawlsian view:

Society, with individual each with his own aims, and conception of the good, is best arranged when it is governed by principles that do not themselves presuppose any particular conception of the good; what justifies these principles is not that they maximize the social welfare or promote the good but rather that they conform to the concept of right which is independent from good.

Michael Sandel

The goodness of the Principles of justice depends on the ends they serve

- For Rawls and Kant the priority of the rights to the good stands for two claims:
 - I. Individual rights are so important that the general welfare cannot override them
 - II. The principles of justice that specifies our duties do not depend for their justification on any conception of the good life or any comprehensive moral or religion conception.
- The notion that justice is not independent from the notion of the good it is commonly identified as “the communitarian critics” of liberalism. We have two versions or two ways to link justice with conception of the good:
 - A. Principles of justice derive their force from values widely shared in a particular community
 - B. The case in favor of a specific rights depends **on the moral importance of the purpose or ends that those rights promote.**

Before we can define the nature of rights (...) “It is necessary for us first to determine the nature of the most desirable way of life. As long as that remains obscure the nature of the ideal constitution must also remain obscure” (Aristotle)

Michael Sandel

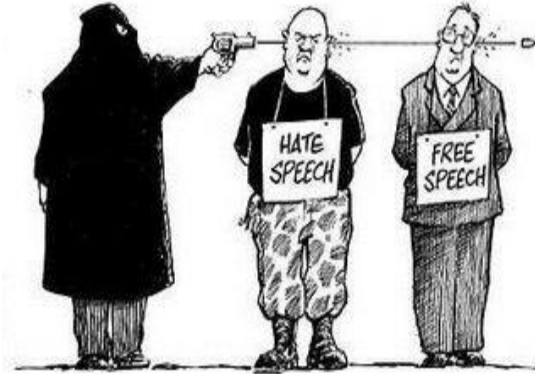
The right to Religion Liberty

- Why should free exercise of religion enjoy constitutional protections?
- For liberals it is important for the same reason individual liberty is important in general - people can choose the values they like. Religious beliefs are worth to be respected not in virtue of their content but in virtue of being the product of free choice. *Right before the Good*.
- But in this way we are missing the role that religion play in those for whom the observance of the religious duties are essential for their good and their identity.
- What make a religion belief worthy of respect is not its mode of acquisition (choice, revelation, habituation) but is the place in a good life or the **qualities of character it promotes** or its tendency to cultivate the habits that make good citizens
- If we loose this distinction and we assimilate religious liberty to liberty in general we do not understand the difference between granting to an orthodox Jew in the military service the right to wear the yarmulke and the right to wear different hats to the servicemen prohibited by the military code. /or granting to Native American a right to the sacramental peyote and extending the right to everybody the use hallucinogenic drugs.

Michael Sandel

The right of Free Speech

- Should the Nazi have the right to march in Skokie a community with a large number of holocaust survivors?
- Liberal argue that the State can regulate time, place and manner of speech but must be neutral about the content of the speech.
- Mill defend free speech on utilitarian basis. Free speech is paramount for pursuing truth. Any doctrine, however immoral might be considered. Limitation on free speech is justified only "to prevent harm to others".
- To ban the content of a speech is imposing some values of others and so fails to respect each citizen's capacity to choose. This is means that my dignity consists not in any social role that I inhabit but instead in my capacity to choose **as an abstract and unencumbered self**. So my dignity could never be damaged by a direct insult to a group with which I identify.
- But for holocaust survivors a Nazi march could be very painful inducing memories of unspeakable horrors. However, the harm such speech inflict has to be weighted against the good of upholding free speech.



Michael Sandel

The right of Free Speech (2)

- But if Skokie could keep out the Nazi, why could not the segregationist communities of the South keep out the civil right marchers in the 50s and 60s? (Remember the historic march from Selma to Montgomery, Alabama)
- Is there a way to distinguish the two cases? For liberals who insist on be neutral with respect of the content of the speech the answer is no. Some communitarians would argue that the point of view of each community should prevail. So liberals would uphold free speech in both cases and communitarians would override it.
- The point of Michael Sandel is that the difference consists in the **content** of the speech and the **nature of the cause**. The Nazi promoted genocide and hate whereas Martin Luther Kings sought civil rights for blacks.
- There is also a difference in the moral worth of the communities whose integrity was at stake. The shared memories of the Holocaust survivors deserve a moral deference that the solidarity of the segregationists does not. The free speech, the free expression of the Nazi is not morally comparable with the free speech, the free expression of the Nazi. The point of Sandel is that the State cannot be morally neutral. It should ban or promote those values that are strengthening a shared “common good”.

Michael Sandel

What money can't buy

- In *What Money Can't buy* (2012) Sandel challenge the idea that markets are morally neutral.
- *"The most fateful change that unfolded in the last three decades,"* Sandel writes, *"was not an increase in greed. It was the expansion of markets, and of market values into spheres of life where they don't belong."*
- This doesn't imply that Sandel is against markets per se. *"No other mechanism,"* he writes, *"for the production and distribution of goods had proved as successful for generating affluent and prosperity."* However, he believes that there are certain moral and civic goods that markets do not honor and should not be for sale.

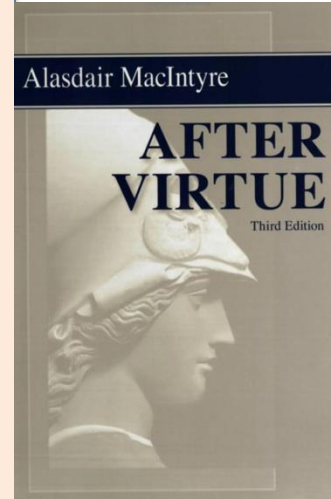
Michael Sandel

Paying for jumping the queue

Each summer New York City's Public theatre offers free outdoor Shakespeare performances in Central Park. Free tickets are made available several hours before the performance. Line standers offer their service for queuing up for as much as \$125 per ticket for the free performances. What's wrong with that? Apparently, there is nothing wrong. Economists argue that market exchange benefits buyer and seller alike. Both the buyer of the ticket and the stander are better off. Not only that but markets allocate tickets to those who value them most highly and, thus, contributing to maximize the economic well-being of everyone in society. This latter argument however is not quite right. The reason is that willingness to pay a certain price reflects both the ability and desire to pay. An individual that values very high the performance may very well be in the position not to be able to pay that price, while an individual that values the performance relatively less may be in the position to easily afford that price. Markets discriminate buyers both on their capacity to pay (income) and their willingness to pay (utility). But this which is an argument based on justice and fairness is not the Sandel's fundamental objection. "Certain good have value in ways that go beyond the utility that they give. How a good is allocated may be part of what makes it the kind of good it is." The NYC's Public Theatre wants people to have that experience for free. It is a kind of a civic celebration. A gift of the City to its citizens. Something is lost when a free public theatre is turned into a commodity. It is at odd with the real purpose of the initiative. It is a kind of corruption

Alasdair McIntyre

- McIntyre (1929) is a Scottish philosopher known for his attempt to revive an Aristotelian conception of moral philosophy with a “peculiar modern” approach.
- He present an historical narration of the development of ethics to illuminate the problems of current moral theories.
- In *After Virtue* (1981) he want to show that the failed attempts by various Enlightenment thinkers to furnish an adequate account of moral theory led to the rejection of moral rationality altogether by subsequent thinkers such as Nietzsche and Sartre. In contrast with these thinkers McIntyre proposes to go back to the tradition of Aristotle with its virtue ethics and the medieval thinking of Thomas Aquinas.
- McIntyre upholds a politics of self-defence for local communities that aspire to protect their practices and sustain their way of life from the corrosive effect of the capitalist economy.



Alasdair McIntyre

After Virtue

- McIntyre imagines a world after a catastrophe where all science have been dismantled. Scientists try to reassembled from the remain of the scientific knowledge that survived. But the new sciences will be devoid of real scientific content because they were based on attitudes and a real substructures that would not be present anymore.
- In a similar situation are the moral theories that emerged from Enlightenment and post-Enlightenment (Kierkegaard, Marx, Kant, Hume) which are philosophically doomed because they used an incoherent language of morality.
- Ancient and Medieval ethics relied in the **teleological idea that human life had a proper end** and character and should be nurtured to achieve this end
- Renaissance rejected the Aristotle's teleological *physics* as incorrect, but unfortunately they rejected also Aristotle's ethics.
- Without teleology, ethics becomes a vocabulary list with few definition and no content.
- The doomed nature of the Enlightenment morality is the fact that it ascribed moral agency to the individual. This made morality no more than one's man opinion – philosophy is nothing but a forum of of subjective rules and principles.

Alasdair McIntyre

After Virtue (2)

- McIntyre believe that morals and virtues can only be comprehended through their relationship to the community in which they come from. Whereas Rawls conceives justice abstracting ourselves from who we are (i.e. behind the veil of ignorance)
- We are storytelling being. We live our lives as narrative quests. We are part of a story. We do not know what happen next but we project our future starting from our personal story. I choose but my deliberation is more interpreting my life story than exerting my will.
- For McIntyre as for Aristotle the moral deliberation is bound with membership and belonging
- “I am someone’s son, belong to that City, that nation. I inherit from the past a variety of obligations and rightful expectations...”
- The narrative accounts is at odd with modern individualism. For modern individualism I am what I choose to be. *If I am American I am not responsible for the effects of slavery upon black Americans, etc... If I am German born after 1945 I am not responsible for what the Nazi did to the Jews and has no relevance with my relationship with the Jewish*
- McIntyre refuses this moral stance since we cannot detach the self from its social and historical roles and status

Alasdair McIntyre

After Virtue (2)

- In After Virtue, he has argued that moral behaviour begins with the good practice of a profession, trade, or art: playing the violin, cutting hair, brick-laying, teaching.
- Through these everyday social practices, he maintains, people develop the appropriate virtues. In other words, the virtues necessary for human flourishing are not a result of the top-down application of abstract ethical principles, but the development of good character in everyday life.
- After Virtue, which is in essence an attack on the failings of the Enlightenment, has in its sights a catalogue of modern assumptions of beneficence: liberalism, humanism, individualism, capitalism.
- MacIntyre yearns for a single, shared view of the good life as opposed to modern pluralism's assumption that there can be many competing views of how to live well

Communitarianism vs. Liberalism

- The narrative conception is contrast with liberal moral individualism The story of my life is always embedded in the story of those communities from which I derive my identity. I cannot forget my past. If I do I deform my present relationship.
- For the liberal conception obligation can arise as: (a) natural duties we ought to human being as such (treating them with respect); (b) as voluntary obligations we incur by consent,
- Natural duties (don't require consent): autonomous will (Kant) – hypothetical social contract (Rawls)
- For liberals: we must respect the dignity of all persons, but beyond this, we owe only what we agree to owe
- There is no political obligation, strictly speaking, for citizen generally
- The liberal account of obligation is too thin for the communitarians. I do recognize the special obligation we have as member of nation, family or people; as bearer of that history. These narrative account, these identities are not contingencies we should set aside when deliberating about morality or justice

Michael Walzer

- Michael Walzer (1935) is one of leading communitarians along with MacIntyre and Sandel. His most important contribution on social justice is *Spheres of Justice* (1983) where he develops the theory of complex equality.
- According to this theory justice is not measured by one standard but rather requires that each good be distributed according to his social meaning, and we should not allow any good (like money or political power) allowed to dominate or distort the distribution of goods in other spheres; further, justice has meaning in a particular nations or community and cannot be developed as a generalized moral standard to be applied every where.



Michael Walzer's *Spheres of Justice* (1983) presents a theory of distributive justice based on the idea of "complex equality." His central argument is that justice is not a singular, universal principle but is instead relative to different social goods and their specific meanings within a given society.

Key Aspects of Walzer's Theory:

1.Pluralism of Social Goods

1. Walzer argues that different types of goods (e.g., wealth, power, education, healthcare, political office) have distinct social meanings and should be distributed according to criteria appropriate to each good.
2. For example, medical care should be distributed based on need, while political power should be allocated through democratic processes.

2.Complex Equality vs. Simple Equality

1. Instead of advocating for a single metric of equality (such as economic equality alone), Walzer proposes "complex equality," where no single good (like money) dominates the distribution of other goods.
2. If different goods are distributed independently within their own spheres, no group will be able to dominate society entirely.

3.Blocked Exchanges

1. Certain goods should not be exchanged for others because doing so corrupts their social meaning. For instance, buying political power with money (i.e., bribery) violates democratic fairness.

4.Cultural Relativism of Justice

1. Justice is not universal but is context-dependent. Different societies have different understandings of what goods mean and how they should be distributed.
2. He critiques John Rawls' *A Theory of Justice* for being too abstract and ignoring cultural and historical specificity.

Implications of His Theory

- Walzer's framework challenges meritocracy and market-based distributions of all goods.
- It supports policies that ensure different goods remain within their own spheres (e.g., public funding for education to prevent economic inequality from distorting access to knowledge).
- His approach has influenced debates on multiculturalism, welfare states, and democratic theory.

Michael Walzer

The social meaning of goods and the concept of complex equality

The ideal of equality is best served when distinctive goods, such as money, are not allowed to dominate the distribution of other goods, such as public offices or the political process. In each sphere each individual will be different and will have more of each social good according to talent, need or money. This is a complex equality because with many different spheres of competences overall people are equal even if they differ in specific respect

1. Different goods have different social meaning and their respective distributions must be in accordance
2. Any good belonging to one sphere should not be allowed to dominate the distribution of a good belonging to another sphere. If person A receive a dominant distribution in the political sphere, should not achieve dominance in the economic sphere.
3. It is the history and culture of a particular community that determine the meaning of social good

- We have tyrannical tendencies when dominance spill over to other spheres from one spheres
- “Blocked exchange” is the rules which in practice maintain boundaries between social institutions. It is a source of greater equality.
- The spheres of justice include: membership (citizen or community membership), security and welfare, money and commodities, office, hard work, free time, education, kinship and love, recognition and political power, religion
-

Michael Walzer: The social meaning of goods (II)

“ A radically laissez-faire would be like a totalitarian state, invading other sphere, dominating every other distributive process” – The Tyranny of Money

When the accumulation of money in the hands of one institutions become so vast that individuals cannot be said to bargain freely and fairly as equal Walzer propose a number of measures: welfare state must guarantee basic needs of life; unions must be protected; corporation subject to a democratic participation; progressive income taxes scheme are needed and limits placed on inheritance of properties

The Distributive Principles

- **Free exchange** – Money is the dominant good – we have carefully to define the boundaries where operate money to avoid tyranny
- **Desert** – Desert is a strong claim but it call for difficult judgment
- **Need** – In a poor society a high proportion of social wealth be drawn in this sphere (health care, social housing, food tickets)

Michael Walzer: A Theory of Goods

A Theory of Goods

- Goods are the fundamental medium of social relations; they enter people's minds before they come into their hands.
- All goods are social goods.
- Men and women develop concrete identities through the ways they conceive, create, and possess social goods. There is no single set of primary goods that applies universally across all moral and material worlds.
- The meaning of goods determines their movement (their distribution). Since social meanings are historical in nature, what is considered just or unjust in distribution changes over time.
- Every social good belongs to a specific distributive sphere, within which only certain criteria are appropriate.
- However, violations of these criteria are systematic. Many societies are structured in ways that allow certain goods or sets of goods to dominate.
Political and religious offices, land, capital, and technology have each been dominant at different historical periods. Yet, no single social good has ever been completely dominant.
The claim to monopolize a dominant good is an ideology.

Simple Equality

- A dominant good, whatever it may be, should be redistributed—this amounts to saying that monopoly is unjust.
- For example, breaking the monopoly of money neutralizes its dominance, but other goods come into play, and inequality takes new forms.
- A simple form of equality means that everyone has the same amount of money. However, in such a system, a meritocratic society is likely to emerge, where a group of talented individuals gains dominance.
- To mitigate the dominance of this new good (talent), state intervention would be necessary (see the difference principle). But then, state power itself becomes the center of dominance.
- Politics is always the most direct path to power, which highlights the need to constrain those who impose constraints.
- One approach is to widely redistribute political power, but solving this problem is not easy. The issue stems from focusing on monopoly rather than dominance as the central problem.

Michael Walzer: A Theory of Goods

Complex Equality

- Imagine a situation where social goods are monopolistically held, but no particular good is convertible into another.
- In each sphere of competence, there is fierce competition, but no intrusion from one sphere into another. Some individuals may dominate a particular sphere—for example, in the political sphere, a more persuasive person may become the leader. However, as long as everyone remains within their respective spheres, there will be no tyranny or overarching domination—this is the principle of *Complex Equality*.
- Such a society would not be strictly egalitarian, but it would prevent domination. Different individuals would excel in various fields—some as soldiers, doctors, artists, entrepreneurs, or politicians—without any single sphere overtaking the others.
- **No social good *X* should be distributed to someone merely because they possess another good *Y*, without consideration of the meaning and criteria of *X*.**

Michael Walzer: A Theory of Goods

Hierarchies and Caste Societies

- Can we imagine a society in which all goods are hierarchically structured? Consider the caste system of ancient India—a system built upon an extraordinary integration of meaning. Prestige, wealth, office, occupation, clothing, food, and even the social good of conversation were all governed by the strict discipline of hierarchy.
- This system, as a whole, was sustained by a religious doctrine that promised equality of opportunity not in this life, but across the life of the soul. In such a world, there was no space for autonomous distribution of goods.
- *Complex equality* requires the defense of boundaries; it operates by differentiating goods, just as hierarchy operates by differentiating people.
- We can speak of a regime of complex equality when there are multiple boundaries to defend—though the precise number of boundaries cannot be predetermined. However, the moment we begin to distinguish meanings and define distributive spheres, we are engaging in an egalitarian endeavor.

Michael Walzer: A Theory of Goods

The Setting of the Argument

- The political community serves as the setting for this enterprise. It is not a self-contained distributive world, as goods are exchanged across political frontiers. Nevertheless, it remains the closest we have to a shared space of meaning, where language, history, and culture come together to form a collective identity.
- The community itself is a good that must be distributed. For this to happen, individuals must be physically admitted and politically recognized. Membership cannot be granted by an external agency; its value depends on an internal decision made by the community itself.
- The only conceivable alternative to the political community is humanity as a whole—a global society, a world of nations. Yet, such a community does not currently exist.
- Ideal contractualism, as proposed by cosmopolitans, seeks to achieve justice on a global scale. However, any hypothetical global agreement would be unenforceable without dismantling the political monopolies of individual states. If power were instead concentrated in the hands of an international bureaucratic elite, the result would not be *complex equality* but *simple equality*, undermining the very principles of distributive justice.

Michael Walzer: Membership

Members and strangers

- The idea of distributive justice presupposes a bounded world within which distribution occurs—a political community composed of individuals committed to dividing, exchanging, and sharing social goods.
- The most fundamental good we distribute to one another is **membership** in a human community. Those without membership are stateless. While they may still participate in markets, they remain vulnerable and unprotected, lacking access to communal provisions of essential public goods.
- Affluent countries function much like elite universities—overwhelmed by applicants and forced to decide whom to admit. Membership, however, is not a good that community members distribute among themselves; it is already theirs. Instead, it is something they extend to outsiders.
- The absence of cooperative arrangements defines the context for **mutual aid**. When two strangers meet, positive assistance is expected when:
 1. One party is in need, and
 2. The risks and costs of providing aid are relatively low.
- Under these conditions, one has an obligation to stop and help.
- In a world of global libertarianism, devoid of political communities, justice would be reduced to mere non-coercion, good faith, and acts of goodwill—akin to the ethics of the Good Samaritan. Without a defined framework for **mutual aid**, such decisions would lack clear constraints or standards.
- Communities regulate their populations through immigration policies and birth control measures, balancing the distribution of membership while maintaining their internal cohesion.

Michael Walzer: Membership

Countries as clubs

Countries can be thought of as neighborhoods, clubs, or even families, each with its own principles of inclusion and cohesion. The utilitarian philosopher Henry Sidgwick argued for perfect freedom of contract and movement, envisioning a world as a single global community. However, he also acknowledged that such a world was not feasible in practice. He identified three key challenges:

1.Loss of Patriotic Sentiments – A borderless world would undermine national cohesion by weakening shared identity and commitment.

2.Economic Disruptions – Unrestricted movement could negatively impact the working classes, driving down wages and increasing inequality.

3.Cultural Consequences – The free movement of people might hinder the promotion of intellectual culture, as a highly heterogeneous population could dilute shared educational and linguistic traditions.

- Neighborhoods can only remain open if countries retain the ability to regulate their borders. Otherwise, tearing down the walls of nation-states may result in the emergence of numerous small, exclusionary fortresses.
- Immigration and emigration are not morally equivalent. States, like clubs, have admission committees and rules for acceptance. The fundamental question is: **What kind of community do its citizens wish to build?** With whom do they want to share and exchange social goods?
- Beyond the club model, states also resemble families when they apply **kinship principles** in immigration policies—prioritizing relatives of citizens. Historical examples include the reunification of East and West Germany or the resettlement of Germans expelled from Poland after World War II.

Michael Walzer: Membership

Refugee

- Toward refugee we might have obligations of the same sort we have towards fellow nationals. This is especially true when we are responsible for having created that situation. See Vietnamese who fled Vietnam to America after the war. But we are also bound to help people persecuted or oppressed by someone else even if they do not have affinities with us. In the XIX century England accepted political refugees even if they were no liberals (socialist for example). If the numbers are not big we apply the principle of the mutual aid. Political affinity here might play a role. In current time countries have signed international treaties and are obliged to offer asylum to refugee

Guest Workers

- Guest workers have temporary permissions. Practices change from one country to another. But in many places are locked into an inferior position. They are exploited. Low wages. This raises the question of political justice. Participants in the economy, they ought to be able to regard to themselves as potential participants in politics. They must be set on the road to citizenship. The principle of political justice is that: the process of self-determination through which a state shapes its internal life must be open to all these men and women who live within its territory.

Michael Walzer: The social meaning of goods (III)

WALZER CONTRA RAWLS

- a. Walzer's critique of Rawls is goods-based rather than being directed at Rawls's conception of the person and the person's relation to his community
- b. Walzer reject Rawls's methodology as being too abstract. The Primary goods defined by Rawls that can be utilized by people belonging to different conception of the good fail to respect cultural differences.
- c. For Walzer the case for the welfare state begins with a theory of membership, not rights. "Welfare rights are fixed only when a community adopts some program or mutual provision".
- d. Walzer's conception of the person differs markedly from that of Rawls:

We are culture producing creature; we make and inhabit meaningful Worlds. (...) we do justice to actual men and women by respecting their particular creations. And they claim justice and resist tyranny by insisting on the meaning of social goods among themselves. Justice is rooted in the distinct understanding of places, honors, jobs, things of all sorts, that constitute a shared of life. To override these understanding is (always) to act unjustly

However, Walzer and Rawls have many things in common: both support the idea that basic civil and political right should be equally distributed, that educational opportunities should not be dependent of circumstances of birth and but allocated on the basis of capacity; both oppose the concentration of wealth on the basis that this may lead to political and power distortions

Solidarity and belonging

Family obligations	Communal obligations	Compatriots
<p>Communitarians believe that the special obligations we have to family members go beyond consideration of reciprocity.</p> <p>If two children are drowning you rescue you son – no objection</p> <p>You would help your mother in her time of need no matter she was a caring or neglecting mother</p>	<p>During World War II some French resistance were involved in air bombing. When they were asked to bomb their own villages to hit military target they refused because there were chances to hit civilians. Comment.</p>	<p>During a famine in Ethiopia (1980) many refugee moved to Sudan. Simon Peres, the Israeli prime minister, undertook a covert airlift to rescue 7000 Ethiopian Jews. But there were hundreds thousands of refugees. Wasn't discriminating to pick the Jews?</p>

Is Patriotism leading to chauvinism?

“It seems that the sentiment of humanity evaporates and weakens in being extended over the entire world, and that we cannot be affected by the calamities in Tartary or in Japan the way we are by those of a European people. Interest and commiseration must somehow be limited and restrained to be active.” (Jean-Jacques Rousseau)

Border Patrols

America government has put web cam on the border between Mexico and the US. People on a voluntary basis with no remuneration watch at home the web cam. Why? “I am doing something for our country.”

Michael Walzer says that the ability to *regulate the condition of membership is at the core of communal independence*.

Otherwise “there could not be communities of character, historically stable, ongoing association of men and women with some special commitment to one another and some special sense of their common life.”

From helping the least advantaged a case could be made for open immigration, but...we have special obligation by virtue of the common life and history we share

Buying American

Is patriotic to buy Ford rather than Toyota? Is right to protect American farmers imposing tariff on imports of agriculture products imposing huge costs on farmers living in developing countries? Again from helping the least advantaged point of view that would not be acceptable...

We have to believe that patriotism has a moral basis to justify these policies – obligations of solidarity or membership that can't be reduced to an act of consent

Justice & the Good Life

Challenges to the contractarian view (Kant & Rawls). Examples that cannot be explained by an ethic of consent:

- Public apologies and reparations
- Special responsibilities of family members
- Solidarity with comrades
- Allegiance to one's community
- Fraternal loyalties

- These examples show that not all our duties can be traced out to an act of will or choice. Obligations of solidarity and membership may claim us for reasons bound up with the narratives by which we interpret our lives and communities we inhabit
- This is in contrast with the view our duties and rights should be neutral with respecting competing conceptions of the good. For Kant and Rawls we must abstract from our interests and contingencies to arrive at defining the **MORAL LAW**
- For Kant and Rawls the Aristotelian approach to justice does not leave room for freedom
- Communitarians argue that if the membership and narrative approach is more persuasive it might not be possible to deliberate about justice without deliberating about the conception of the good

On the difficulties to detach arguments about justice and right from arguments about the conception of good

Abortion and Stem Cell

Liberals says that government should be neutral and allow women to decide (freedom of choice) for themselves. But if the developing fetus is equivalent to the child then abortion is infanticide. Impossible to discuss without arguing about the Church's position on the moral status of the fetus.

Same for the debate over stem cell research that involves the destruction of human embryos. Those who would ban the research believe that personhood begins at conception so it is like killing a child. Proponents argue that this research will potentially save thousands of lives. (...)

Same-Sex Marriage

Liberals say that don't let homosexual couples get married and have the same rights of heterosexual couples is a discrimination. But the issue cannot be resolved within the bounds of liberal public reasons. Inevitably we have to argue about the telos of marriage – and therefore about the virtues it honors and rewards. Four solutions (discuss):

1. Recognize only marriage between man and woman
2. Recognize same sex and opposite sex marriage
3. Don't' recognize any marriage and leave this to private initiative (libertarian)
4. Civil Unions

The argument of rights (freedom of choice) is not sufficient otherwise also polygamy would qualify. The Real issue is same-sex unions are worthy of honor and recognition by the community.

The Telos of Marriage

Same-Sex Marriage

Goodridge v. Dept. of Public Health (same sex marriage case)

- ✓ The Judge states that the issue is not the moral worth of the choice but the right of the individual to marry the chosen partner.
- ✓ But the judge also made clear that she was not going to open to polygamous marriage, neither the court called for the abolition of marriage (the libertarian solution)
- ✓ “because it would dismantle a vital organizing principle of our society. One of our community’s most rewarding institutions”.
- ✓ The purpose of marriage is according to the judge is not procreation but “a deeply personal commitment to another human being and ... a highly public celebration of ideals of mutuality, companionship, fidelity and family”.
- ✓ Marriage is for the judge an honorific institution and the virtue that honor is not procreation but “loving commitment between two partners. This is the telos of marriage.

A politics of the Common Good

1. Citizenship and service

1. A just society requires a strong sense of community. It must find a way in citizens a concern for common good.
2. Public schools are the traditional instrument to transmit a civic culture
3. Public services are another way to create this culture
4. Mandatory public services and promoting public schools are some of the proposals of communitarians

2. Limiting Markets

1. One of the tendencies of our time is the expansion of markets in spheres that traditionally are ruled by non-markets norms.
2. Private contractors in the military services in defense actions, outsourcing pregnancy, markets for human organs, privatization of prisons
3. Marketizing certain social practices may corrupt and degrade the norms that define them
4. Markets are useful instruments for organizing productive activity and should remain in that sphere

A politics of the Common Good (II)

3. Inequality, solidarity and civic virtue

1. Just distribution of income is hot political debate these days as gap between rich and poor has grown in the last decades.
2. Utilitarians are in favor of redistribution policies to increase happiness in society
3. John Rawls justify redistribution on the basis of hypothetical consent (original position)
4. Communitarians argue that a big gap between poor and rich undermines the solidarity that a community requires. With a big gap rich and poor live separate lives . The affluent send their children to private schools and the poor to the public school. A similar trend lead to secession by the rich from the public facilities (public transportation, recreation centers, etc) and a degradation of the latter. **Inequality is corrosive to civic virtue.**

4. A politics of moral engagement

1. Liberals believe that politics and law should not be involved in moral disputes. Public reason is not about disputing the good life.
2. Citizen of pluralistic society do disagree about morality and the ends of life.
3. Communitarians argue that it is not possible for government to be neutral on these disagreements.
4. They support a more robust and civic engaged civic life than the one to which we have been accustomed.
5. They argue that a more robust civic engagement could provide the basis for a better mutual respect.

1. John Rawls: Justice as Fairness (Liberal Egalitarianism)

•**Key Idea:** Justice should be based on fairness, achieved through two principles:

- **Equal basic liberties:** Everyone should have equal political and civil rights.
- **Difference Principle:** Social and economic inequalities are only just if they benefit the least advantaged.

•**Method:**

- Rawls' *original position* and *veil of ignorance* ensure fairness in distribution by eliminating personal biases.
- Advocates for **redistributive policies** (e.g., progressive taxation, social welfare).

•**Relation to Walzer:**

- **Similarity:** Both recognize that justice is tied to social structures.
- **Difference:** Rawls promotes a **universal principle** of justice, while Walzer argues justice is **relative** to different cultures and social goods.

2. Robert Nozick: Libertarian Justice (Minimal State / Entitlement Theory)

•**Key Idea:** Justice is about respecting individual property rights and voluntary exchanges. The state should only enforce contracts and prevent force or fraud.

•**Entitlement Theory:**

- **Justice in acquisition:** A person can justly acquire property if it doesn't violate others' rights.
- **Justice in transfer:** A person can justly transfer property as long as it's voluntary.
- **Rectification:** If past injustices occurred, they should be corrected.

•**Method:**

- Nozick **rejects redistribution** (e.g., taxation as theft).
- Defends a **night-watchman state** (minimal government intervention).

•**Relation to Walzer:**

- **Similarity:** Both critique Rawls' universalist approach.
- **Difference:** Walzer believes that **justice varies across social spheres**, while Nozick sees **justice as respecting individual property rights** regardless of context.

- **3. Michael Walzer: Complex Equality**
- (Pluralist Justice)
- **Key Idea:** Justice depends on the **meaning of social goods** in a given society. Different goods should be distributed by different principles appropriate to them.
- **Complex Equality:**
 - No one should be able to **convert** dominance in one sphere (e.g., wealth) into dominance in another (e.g., political power).
 - Supports **blocked exchanges** (e.g., money shouldn't buy education or healthcare).
- **Method:**
 - Justice emerges from shared cultural understandings rather than abstract principles.
- **Relation to Rawls & Nozick:**
 - **Critique of Rawls:** No single theory of justice can apply to all societies. Justice is **context-dependent**, not universal.
 - **Critique of Nozick:** Market forces shouldn't dictate **all** goods; some should be protected from market logic (e.g., political office, healthcare).

Summary Table

Theory	Core Idea	State Role	View on Redistribution	Universality vs. Context
Rawls	Justice as Fairness	Strong state	Redistribution to benefit the least advantaged	Universalist
Nozick	Libertarianism	Minimal state	No redistribution (focus on property rights)	Universalist
Walzer	Complex Equality	Moderate state	Redistribution varies by social good	Contextual