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Not Quite

The principle aim of Rawls' *A Theory of Justice* is to discover the most reasonable conception of justice for a society of free and equal people. Previous theories of justice have fallen short of incorporating both liberty and equality. Libertarianism protects liberties, but is in no means close to protecting equalities. Utilitarianism protects neither liberty nor equality. To address these issues, Rawls formulates his two principles of justice. The first is the principle of equal basic liberties, which states, "Each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others" (60). The other requires that "social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all" (60). Rawls argues that these principles can be reached through two different methods, the intuitive argument and the original position argument. This paper will focus mainly on the intuitive argument, illustrating how to reason from natural liberty to liberal equality and finally to democratic equality by simply aiming to protect both liberty and equality. After demonstrating how democratic equality can also be reached through the original position argument and considering GA Cohen's critique of the difference principle, it will become apparent that Rawls' democratic equality falls short of providing a theory of justice that incorporates both liberty and equality to the greatest extent.

The intuitive argument begins by maintaining that if there are to be socioeconomic inequalities in a society of equals, those inequalities should be attached to

positions that are open to all, by the equal opportunity principle, and should work for the common advantage. First, consider the idea of natural liberty, which supports that a distribution of resources in a society is just if and only if it results from a society that satisfies three important conditions. The first is that it protects basic liberties: political liberty, liberty of conscience and freedom of thought, freedom of the person, and freedom from arbitrary arrest and seizure. This condition is most important, and these liberties cannot be infringed upon, no matter the circumstances. The second condition requires that the society support formal equality of opportunity. The qualifier formal merely implies that under the laws of a society, positions are open to everyone. Although positions may legally be open to all, class barriers may prevent some people from having the opportunity to acquire a certain position. The third condition for natural liberty requires that the economy is efficient. An efficient economy is one where you cannot improve anyone's position without worsening someone else's. Many distributions can be considered efficient, including the distribution where one man has everything and everyone else has nothing. In this situation, the man with everything has all he wants, and no one else has anything to give him. No one's situation can improve without worsening the situation of the man with everything.

Under the conditions of natural liberty, many distributions could result, and as long as they are a product of the three conditions and of people's choices, these distributions are just. As a result, inequalities may well reflect social inheritance, natural ability, and good luck. Rawls believes that if people fare differently in life, there should be some sort of rationale; natural abilities and social background are morally irrelevant. He believes that it is unfair for a person to fare worse in life because they started in a

worse position than others. Thus, formal equality of opportunity is not enough reason to justify differences because it only eliminates legal barriers; inequalities are still caused by starting positions and differences in natural ability. According to Rawls, such inequalities are not justifiable.

To reconcile these differences, Rawls considers the theory of liberal equality. This theory requires the same three conditions as natural liberty with the additional condition of fair equality of opportunity, which requires that individuals not be hampered by their social background. Rawls believes that “even the willingness to make an effort, to try, and so to be deserving in an ordinary sense is itself dependent upon happy family and social circumstances” (74). If you assume that the aspirations and abilities of an individual are affected by social background, then fair equality is affected by social background. Under the theory of liberal equality, the ideal is a situation in which social inequalities exactly express natural inequalities. In this fashion, wealth is distributed solely according to natural ability and is in no way affected by social background. Although this distribution reconciles the inequalities created through unequal starting positions, there still remains the problem that natural ability, for which people have no control, plays a role in determining the success of an individual. Rawls believes that there is no more reason to permit the distribution of income and wealth to be settled by the distribution of natural assets than by historical circumstances; both are out of the control of the individual and, thus, morally irrelevant.

To compensate for discrepancies in natural ability, Rawls finally arrives at the principle of democratic equality. This principle combines fair equality of opportunity with the difference principle as a final solution for a theory of justice that reconciles

liberty and equality. The difference principle states: “The higher expectations of those better situated are just if and only if they work as part of a scheme which improves the expectations of the least advantaged members of society” (75). Basically, inequalities in wealth distribution are justified if the inequalities work to maximize the advantage of the least well off. The distribution of income and wealth in a society is not a product of nature, but partly a result of the way we organize the rules of the economic game – the basic structure of society. These rules ought to be founded on the idea that people are to be treated as equals regardless of contingent differences. This naturally suggests an equal distribution of wealth and equality of outcome. Now, suppose that an unequal distribution would increase the overall size of the pie and improve the circumstances for everybody. In this way, permitting these inequalities would be benefiting everyone. To prevent these inequalities from becoming extreme, the difference principle says that the justification for some positions being more favored than others is that by favoring these people, the benefits to those in the least advantaged position will be maximized.

Rawls regards the difference principle and democratic equality as a solution for equality that compensates for differences in natural ability without infringing upon basic liberties. The basic idea is that people require incentive in order to do things they may otherwise be unwilling to do but would benefit the least well off. Take, for example, an extremely talented doctor who would rather be a comedian. If the compensation for each job is the same, the person will inevitably choose to be a comedian because that is the position he enjoys. Yet, being a comedian may not be the position that is most beneficial to the least advantaged. Thus, through the difference principle, it is justifiable to offer unequal pay in order to give the talented doctor an incentive to practice medicine. In this

way, the difference principle only allows natural ability to play a role in the distribution of wealth if doing so also benefits the least advantaged.

Before discussing the flaws in Rawls' argument, it is important to introduce the other method by which Rawls believes his principles of justice can be reached – the original position argument. This theory reflects the idea that the right way to order a society is the way that the members of a society would themselves unanimously agree upon. What every man accepts there is no reason to call unjust. Even though it is very improbable that everyone will agree on specific details, there are certain fundamentals that Rawls believes everyone will accept. The first of these points of agreement is that certain particular practices are unjust: religious intolerance, racial discrimination, and similar practices. The second point agreement is that we are all free and equal moral persons. A free and equal moral person has three important qualities: a conception of the good, some set of goals and loyalties; a capacity to form a conception of the good, decide on one and pursue it; and the ability to act upon the morals that they uphold. Rawls believes that a society is just if it protects the rights of free and equal persons.

At this point, Rawls introduces the veil of ignorance, a theoretical situation in which a man is responsible for determining the rules of society with no knowledge of what position he will hold in it, what his preferences will be, or what his natural talents are. Even under the veil of ignorance, a man knows that he needs to uphold certain primary goods: basic liberties, like freedom of thought and expression, freedom of movement and choice of occupation, the right to income and wealth, and the social basis of self-respect, the fundamental good. In these circumstances, the man will undoubtedly choose principles of justice that will protect the least advantaged because he could be that

person. Our chance of living a good life greatly depends on achieving self-respect, which is dependent upon how we are regarded and treated by others in our society. How society treats individuals depends on the theories of justice ruling that society. Because the value of liberty is a function of the resources you have, when an individual is in the original position, he will choose to maximize the wealth of the least advantaged. That will in turn maximize the liberty of the least advantaged and best protect the fundamental good of self-respect. Thus, the difference principle and democratic equality are reached in a different way, through the original position argument.

Although Rawls' two principles seem to protect liberty and equality as best they can, the question arises as to whether they succeed in best reconciling liberty and equality. In GA Cohen's *If You Are An Egalitarian, Why Are You So Rich?*, Cohen offers some arguments against Rawls' difference principle. Cohen does not support the idea promoted by the difference principle that inequalities are justified if they benefit the least advantaged. Rawls promotes the idea that justice permits the use of incentives for individuals who have scarce talents if those incentives motivate people to use those talents in ways that benefit the least advantaged. Incentives are necessary both because people can insist upon more compensation because others do not know they are willing to work for less and because people really are unwilling to work for less since they would prefer to do something else. Cohen argues that even though the least advantaged are better off when you pay the talented an unequal share as an incentive, the talented are still *able* to do their work for less. Thus, the least advantaged would benefit even more if the talented were not compensated. Cohen argues that in a true Rawlsian just society, where people are really committed to the difference principle, the talented would not demand an

extra reward because not doing so would be even more beneficial to the least advantaged. Rawls replies by claiming that being committed to the difference principle requires being committed to the institutions and laws and policies that benefit the least advantaged; the difference principle is not concerned with individuals. Cohen responds in turn by arguing that individual preferences and attitudes should be guided by the difference principle. He claims that the difference principle is practical, not just, and, in effect, the talented who demand a reward are stealing from the least advantaged.

Although Rawls theory of democratic equality provides a practical theory of justice that does better than most in reconciling liberty and equality, it has its shortcomings. As Cohen points out, to promote true equality, the difference principle would need to be applied to individuals and not just to the structures of society. Also, Rawls' two principles restrict liberty more than some other theories of justice, such as libertarian theory. Using incentives to coax people into using their talents when they would prefer other positions severely restricts liberties. Also, if you were to follow Cohen's interpretation of the difference principle and require the talented to work without incentives, you would restrict personal liberties even more. Clearly, democratic equality is not the true solution for a theory of justice, but it does take a step in the right direction.