Introduction

This study focuses on John Rawls's complex understanding of egalitarian justice. Rawls addresses this subject both in *A Theory of Justice* and in many of his articles published between 1951 and 1982. In these works, he argues for a view that is distinct from the leading contemporary theories of equality – equality of resources, equality of access to advantage, equality of opportunity for welfare, and equality of capabilities. In particular, Rawls offers an alternative to approaches to egalitarian justice that aim primarily to compensate victims for undeserved bad luck. The values that ground the most plausible account of egalitarianism, Rawls argues, are real equality of economic opportunity combined with the guarantee of a fair distribution of social goods.

Rawls's conception of egalitarian justice, particularly as developed in the argument for *democratic equality* in Chapter 2 of *A Theory of Justice*, has exerted a significant influence on contemporary egalitarian thought. The egalitarian theories of Richard Arneson, G. A. Cohen, Ronald Dworkin, Martha Nussbaum, John Roemer, and Amartya Sen – to name only the most salient contributors to this literature – all respond in various ways to arguments that Rawls develops in that chapter. Rawls's view, moreover, offers resources to address controversies that have emerged in this literature regarding responsibility, the genuineness of choice, and adaptive preferences. Luck egalitarians such as Arneson, Cohen, and Dworkin argue that egalitarian concerns regarding fairness must be tempered by an equal concern with responsibility. In their accounts, egalitarian justice is concerned primarily to compensate for inequalities in well-being for which it is inappropriate to hold the person responsible. Elizabeth Anderson, Samuel Scheffler, Timothy Hinton, and others have responded that such imputations of responsibility will necessarily involve disrespectful and paternalistic judgments regarding the person's use of his or her freedom. In addition, Matt Mattravers and Alexander Kaufman have argued, theories that aim to hold persons responsible for their disadvantage require accounts

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of free and genuine choice that – in turn – require resolution of a num-
ber of intractable metaphysical questions. Rawls's view, however, sets
out an approach to responsibility that establishes the basis for a reason-
able balance between concerns regarding responsibility and freedom by
ensuring fair equality of opportunity and a fair basic structure of soci-
ety and then treating outcomes as a matter of pure procedural justice.
Since Rawls's view does not aim to compensate persons for undeserved
well-being deficits, it does not require an account of the genuineness of
choice. Similarly, since Rawls's conception does not treat the individ-
ual's preferences as the decisive criterion of well-being, the account of
just relations generated under that conception is less likely than wel-
farist accounts to be skewed by adaptive preferences.

Rawls's potential contribution to contemporary egalitarian thought,
however, has been obscured by numerous confusions regarding both
the content and the justification of his theory. In the contemporary
literature, it is not uncommon to find views attributed to Rawls that
his work flatly contradicts. For example, it is routinely asserted that
Rawls's maximin argument requires redistribution to maximize the
share of goods held by the least advantaged members of society. Sim-
ilarly, it is widely assumed that the difference principle derives its jus-
tification directly from the maximin argument. Pluralist commenta-
tors claim that Rawls would endorse stringent limits on the content
of public discourse in order to suppress challenges to liberal consen-
sus.[1] Another category of commentators argues that Rawls's later work
abandons his earlier ambition to identify and specify the objective
requirements of distributive justice and instead recommends accom-
modation to the views of the majority.[2] Stated without qualification,
all of these views – and many others routinely attributed to Rawls –
are false. During the four decades since the publication of *A Theory
of Justice*, error has been overlaid upon error to produce a generally
accepted account of the nature of Rawls's views that Rawls would not
recognize.

In order to discuss the contribution that Rawls's work might make
to contemporary egalitarian thought, then, it is first necessary to
address various misunderstandings and confusions regarding his argu-
ment and views. In particular, a reader requires a clear and undistorted
understanding of Rawls's approach to political justification in order to
assess the persuasiveness of Rawls's substantive arguments regarding
egalitarian justice. Part I of this book therefore attempts to clarify

central aspects of Rawls's argument relating to the issues of objectivity, stability, constructivism, and rational choice under uncertainty. Only after Rawls's views regarding these issues are presented clearly can the reader assess Rawls's contribution to egalitarian thought. The purpose of the book is thus dual. First, I aim to correct misunderstandings that have obscured the potential of Rawls's conception of equality to contribute to contemporary egalitarian thought. Second, I aim to develop the implications of Rawls's conception of egalitarian justice for contemporary debates regarding egalitarian justice and antipoverty policy.

This dual focus – on issues of justification and substance – directs attention to one of Rawls's most significant contributions: his account of moral and political justification. While some contemporary commentators have argued that Rawls's early work is inattentive to challenges to the project of theorizing justice posed by pluralistic disagreement about the nature of the good, Rawls focuses on these challenges at every stage of his career and develops a powerful and persuasive response to moral skepticism. Far from assuming away problems of pluralistic disagreement, Rawls focuses much of his attention on the problem of achieving consensus on even the most fundamental questions relating to justice.

In order to address this problem, Rawls seeks to identify the possible grounds of moral justification and to identify "possible bases of agreement where none seems possible" (TJ 509). Rawls concedes that "[w]e must recognize the possibility that there is no way to get beyond a plurality of principles" (TJ 36). Nevertheless, Rawls argues persuasively that (1) certain weak assumptions about the nature and requirements of justice (e.g., justice should be impartial) are widely shared – at least among citizens of democratic societies, and (2) a careful argument from these weak and widely shared premises has the potential to ground judgments that can constitute the focus of consensus, even among people who disagree about the nature of the good.

Doubts about the possibility of justifying normative claims, even seemingly attractive propositions, are pervasive in the contemporary theoretical literature. This skeptical orientation has undermined confidence in the possibility of generating a justifiable egalitarian agenda. Rawls's response to these doubts thus continues to be highly relevant to contemporary discourses regarding distributive justice and constitutes perhaps his most significant contribution.

Rawls's sophisticated approach to justification, moreover, enables him to offer a subtle response to the question of whether – and to what degree – choice justifies otherwise unacceptable inequality and deprivation. Ronald Dworkin argues that an acceptable account of egalitarian justice must hold the individual responsible for the consequences of his or her choices and must therefore refuse to compensate persons for resource deficits that are the result of choice rather than bad brute luck.[3] Rawls's theory, Dworkin argues, is weakened by its failure to hold individual sufficiently responsible for their choices.

Rawls's theory, however, reflects a concern with responsibility quite similar to the view that Dworkin proposes. Rawls's theory is – as he emphasizes – designed to realize pure procedural justice. Within institutions characterized by pure procedural justice, "what a person is entitled to depends on what he does" (TJ 74). Rawls's theory, that is, aims to ensure to each person equal opportunity to compete for advantage within fair economic institutions. The person's just share is determined entirely by what the person has "done in good faith in the light of established expectations" (TJ 76). Rawls thus holds each individual responsible for generating their own fair share of social goods in precisely the manner that Dworkin recommends.

Rawls nevertheless argues for an important qualification of the view that genuine choice justifies unequal holdings. In particular, Rawls's view requires that no choice that a person can make can justify certain extreme levels of inequality and deprivation. As I suggest in Chapter 6, Rawls's argument on this issue provides a particularly powerful counter to Dworkin's position because Dworkin, like Rawls, offers a constructivist approach to justice that is designed to neutralize the influence of arbitrary factors (in particular, bad brute luck) on life chances. In requiring the provision of assistance in extreme cases of choice-generated inequality and deprivation, I argue, Rawls shows himself to be more consistent than Dworkin in the treatment of bad brute luck.

The remaining sections of this introduction describe the basic elements of Rawls's accounts of justice as fairness and political liberalism in order to create a context for the chapters that follow. In the following sections, I will (1) describe the overall character and structure of Rawls's arguments; and (2) highlight issues that will be examined in greater detail in later chapters.

A Theory of Justice

In *A Theory of Justice*, Rawls describes an approach to political reasoning that he calls "due reflection" and employs this approach to argue for an account of a fair choice position from which reliable judgments of justice may be formed. Rawls's argument derives much of its shape and structure from its roots in his approach to justification. This subsection will describe Rawls's approach to justification before providing an account of the substance of his theory.

Justification

Justification, Rawls argues, is a matter of the mutual support of many considerations, "of everything fitting together into one coherent view" (TJ 507). In particular, an acceptable theory must fit with and organize our considered judgments of justice. Considered judgments are judgments made under conditions favorable to the exercise of the sense of justice and therefore exhibiting none of the familiar defects of reasoning. These conditions include access to full information, adequate time for reflection, the absence of stress or other influences that might distort judgment, and independence from the influence of existing dogma or ideological doctrine. Judgments affirmed under these conditions express settled convictions such as the rejection of slavery and of religious intolerance. These judgments, Rawls argues, may be viewed as provisional fixed points (TJ 18) that an account of justice must fit – fixed because they are judgments in which we have confidence, but provisionally fixed because no judgment at any level of generality can plausibly be viewed as definitive.

Considered judgments operate at different levels of generality. Persons form considered judgments about the nature of justice itself (e.g., the kinds of considerations that are relevant to judgments of justice), about specific issues (e.g., slavery, religious persecution), and about specific aspects of policy (e.g., whether affirmative action is required to correct damage caused by racial discrimination). During the reflective process that Rawls calls "due reflection," the person models in the form of a decision procedure considered judgments regarding the kinds of restrictions that it seems reasonable to impose on judgments of justice. The resulting decision procedure, which Rawls calls the *original*

position, plays a central role in Rawls's justification of his theory. Two considered judgments, the first requiring that persons should not be able to tailor principles to their own case and the second requiring that judgments of justice should not be grounded in considerations that are irrelevant from the standpoint of justice (TJ 16–17), justify the most salient feature of the original position: persons are to choose principles as though they were behind a veil of ignorance that deprives them of information regarding their interests, talents, and abilities, about the nature of the society in which they live, and about any information that is irrelevant (to judgments of justice) from the moral point of view.

After generating an account of this decision procedure, the person employs the procedure to select principles of justice. The principles selected must then be tested to determine whether, when they are applied to specific issues and policy questions, the results match our specific considered judgments regarding these issues. Initially, Rawls expects that there will be discrepancies. If so, the person must consider and revise her considered judgments and/or the account of the decision procedure. If a description of the decision procedure can be devised that yields principles that match the person's adjusted considered judgments, then the person has achieved *reflective equilibrium* – her principles and judgments coincide. Political principles that match our considered judgments in reflective equilibrium, Rawls argues, can be characterized as objective – they are the principles that we would want everyone, including ourselves, to follow.[4]

Justice as Fairness

A conception of justice is necessary, Rawls argues, to regulate the most basic social institutions in order to determine the division of the advantages generated by social cooperation. An acceptable conception of justice must regulate the effects of the basic structure of society – the major social institutions that determine the division of advantages from cooperation – on the life chances of citizens in order to ensure that the burdens and benefits of cooperation are distributed fairly. In particular, an acceptable conception must ensure that the basic structure does not favor starting positions defined in terms qualities of individuals that are distributed in a way that is "arbitrary from a moral perspective."

In *A Theory of Justice*, Rawls argues for two specific principles to regulate the basic structure. These principles require that:

1 Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all.
2 Social and economic inequalities are to be arranged so that they are both:
   a to the greatest benefit of the least advantaged, and
   b attached to offices and positions open to all under conditions of fair equality of opportunity. (TJ 266)

Rawls provides arguments to justify acceptance of these principles in both Chapters 2 and 3. While Rawls, in fact, states that the argument presented in Chapter 2 merely provides an explication of the second principle that supplements and supports the formal argument developed from the standpoint of the original position, the line of reasoning developed in Chapter 2 clearly contains an independent argument regarding the nature of an acceptable conception of distributive justice – an argument that reflects an important strand of Rawls's reasoning. It is important, then, to take account of the informal argument presented in Chapter 2 as well as the formal argument presented in Chapter 3 when assessing the structure of Rawls's justification of his theory. The informal argument of Chapter 2 works from specific considered judgments regarding arbitrariness and the inviolability of the person, while the formal argument of Chapter 3 employs the original position to identify principles that rational choosers would select from the standpoint of a fair decision procedure.

The Informal Argument

The argument of Chapter 2 assumes that persons who accept the considered judgment that justice requires respect for the inviolability of the person will accept the first principle and, therefore, focuses on the justification of the second principle. In developing this informal justification, Rawls does not employ the original position to structure the argument. Rather, he argues directly from the considered judgments that (1) arbitrary factors should not determine life chances and (2) acceptable principles of justice are the principles that free and equal people would choose for themselves. If it is assumed that the principles

regulating the distribution of goods must be acceptable to all persons viewed as free and equal, Rawls argues, then it is reasonable to assume that all inequalities permitted by the principles must satisfy *two conditions* – first the inequalities must reasonably be expected to be *to everyone's* advantage; and second the inequalities must be attached to *positions and offices open to all* (TJ 53). Rawls's informal justification for the second principle generates an account of acceptable principles to regulate the distribution of goods by examining three conceptions of distributive justice that combine possible elaborations of these two conditions: (1) natural liberty, (2) liberal equality, and (3) democratic equality (TJ 57–73)

Natural liberty interprets "to everyone's advantage" to require satisfaction of the *principle of efficiency*, and interprets "open to all" to require that *careers are open to talents* (TJ 57–63). As Rawls notes, many possible arrangements of the basic structure satisfy the principle of efficiency, and that principle provides no basis for singling out one of these possible distributions as just. The requirements of the principle could not, for example, rule out arrangements including serfdom or apartheid as unjust. Natural liberty therefore supplements the principle of efficiency by requiring that careers must be open to talents. This additional condition, however, simply requires that all must have the same legal rights of access to social positions. As Rawls notes, this added requirement would view as just conditions in which the distribution of social goods is determined by endowments such as inherited wealth and social position. Natural liberty, Rawls concludes, is unacceptable as a conception of distributive justice because it would treat as just arrangements in which factors that are arbitrary from the moral point of view determine or strongly affect the distribution of social goods.

Liberal equality continues to interpret *to everyone's advantage* to require satisfaction of the principle of efficiency, but interprets *positions open to all* to require satisfaction of the principle of *fair equality of opportunity* (TJ 63–65). Fair equality of opportunity requires that those with similar abilities and skills should have similar life chances. This principle thus aims to neutralize completely the influence of social endowments on the opportunities available to each individual. Under liberal equality, therefore, a just society is a meritocracy. While liberal equality offers a more attractive account of distributive justice than natural liberty, liberal equality still permits the distribution of social

goods to be determined by the natural distribution of abilities and tal-
ents. Liberal equality thus continues to allow a factor that is arbitrary
from the moral point of view to determine the nature of a just distri-
bution and does not, therefore, constitute an acceptable conception of
distributive justice.

Democratic equality addresses this problem by continuing to inter-
pret "positions open to all" to require fair equality of opportunity,
but interpreting "to everyone's advantage" to require satisfaction of
the difference principle (which requires that "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") (TJ 65–73). Democratic equality therefore avoids
allowing the distribution of social goods to be determined by either
(1) inherited social position or (2) inherited natural abilities. Rather,
democratic equality combines (1) a principle designed to neutralize
the influence of social endowments on the distribution of goods by
ensuring equal opportunity with (2) the difference principle, which is
designed to ensure that after equal liberty and equal opportunity have
been ensured, inequalities in the distribution of social goods fall within
a range that is consistent with fairness.

The Formal Argument

In the second (formal) argument for the two principles, Rawls argues
that it is rational for persons reasoning about justice under the con-
strained conditions of the original position to employ a maximin
rule of choice – a rule that instructs the chooser to select that option
that secures the "most satisfactory minimum" state of affairs (TJ
132–39). While the maximin rule is not an appropriate guide for all,
or even most, choices under uncertainty, Rawls argues that it is the
appropriate rule to regulate judgments in the original position because
of (1) the informational constraint imposed by the veil of ignorance
and (2) two additional features of that choice position. First, Rawls
argues, if potential losses and gains are both unlimited, it is rational to
be more concerned to avoid the worst possible outcomes than to insist
upon preserving the possibility of the greatest possible gains. Second,
rational choosers will insist upon ruling out completely certain unac-
ceptable outcomes. If, for example, slavery is a real possibility – as it
must be for persons behind a veil of ignorance – and if a person can

eliminate that possibility *simply* by choosing a principle forbidding slavery; then, Rawls argues, any rational person would insist upon the choice of that principle.

It is important to emphasize that the "satisfactory minimum" sought by the choosers is not a minimum income or bundle of primary goods. Rather, Rawls argues that the "satisfactory minimum" that choosers will attempt to secure constitutes "an adequate minimum conception of justice" (TJ 153) – that is, the conception that provides the most satisfactory minimum guarantee of protections of their fundamental interests by regulating the "two coordinate roles" of the basic structure (JAF 48): (1) securing equal basic liberties and (2) regulating background institutions to secure social and economic justice in the distribution of goods. In particular, Rawls argues, the choosers will choose a conception that (1) minimizes invasions of fundamental liberty interests, (2) promotes equal opportunity to develop and exploit their talents, and (3) mitigates the inequalities that continue to exist in a social order that ensures equal opportunity.

Rawls argues that the principles of justice as fairness provide the most adequate minimum guarantee relating to the *first* role of the basic structure by showing that the principles minimize the "strains of commitment" (TJ 153–54). Any principles of justice chosen will cause some tensions (strains of commitment) between members of society and the social institutions that enforce the requirements of justice. Some just principles of distribution may be unrealizable because of this kind of tension. The parties must, therefore, consider what it would be like to keep the agreement (to respect the principles of justice chosen) if they were assigned the worst social position. If they imagine that, in such a case, they would wish that they had chosen different principles, then they have overtaxed their ability to commit.

Perhaps the greatest strain on commitment, Rawls argues, occurs when a person or group must accept an invasion of their basic rights so that another person or group may benefit. No other theory of justice rules out such a possibility as unequivocally as justice as fairness (because Rawls's theory makes the inviolability of the person a foundational guarantee). Thus, Rawls's two principles are more likely than any other approach to justice to minimize the strains of commitment. Note that Rawls's argument really amounts to the claim that his principles protect fundamental *liberty interests* more securely than any other principles of justice.