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First published Sat Dec 20, 2008; substantive revision Tue Oct 24, 2023 The idea of the moral judgments of approval and disapproval are possible given that people normally are focused on achieving their own interests and concerns. He conjectured that in making moral judgments individuals abstract in imagination from their own interests and adopt an impartial point of view from which they assess the effects of their own and others' actions on the interests and adopt an impartial point of view from which they assess the effects of their own and others' actions on the interests of everyone. our agreement in moral judgments (see Hume 1739 [1978, 581]; Rawls, LHMP 84-93, LHPP 184-187). Subsequently, philosophers posited similar perspectives for moral reasoning designed to yield impartial judgments once individuals abstract from their own aims and interests and assess situations from an impartial point of view. But rather than being mainly explanatory of moral judgments like Hume's "judicious spectator," the role of these impartial perspectives is to serve as a basis from which to assess and justify moral rules and principles. Kant's categorical imperative procedure, Adam Smith's "impartial spectator," and Sidgwick's "point of view of the universe" are all different versions of the moral point of view. An important feature of the moral point of view is that it is designed to represent what is essential to the activity of morally motivated person can adopt in deliberating about what they ought morally to do (Rawls, CP 498ff; LHMP). When joined with the common assumption that the totality of moral reasons, the moral position, as initially conceived, is his account of the moral point of view regarding matters of justice. The original position is a hypothetical perspective that we can adopt in our moral reasoning about the most basic principles of social and political justice. What primarily distinguishes Rawls's impartial perspective from its antecedents (in Hume, Smith, Kant, etc.) is that, rather than representing the judgment of one person, it is conceived socially, as a general agreement by (representatives of all adult) members of an ongoing society. The point of view of justice is then represented as a general agreement by free and equal persons on the basic terms of cooperation for their society. 2. The Original Position and Social Contract Doctrine Historically the idea of a social contract had a more limited role than Rawls assigns to it. In Thomas Hobbes and John Locke the social contract serves as an argument for the legitimacy of political authority. person to exercise the absolute political power needed to maintain peace and enforce laws necessary for productive social cooperation. (Hobbes, 1651) By contrast, Locke argued against absolute monarchy by contending that no existing political constitution is legitimate or just unless it could be contracted into starting from a position of equal right within a (relatively peaceful) state of nature, and without violating any natural rights or duties. (Locke, 1690) For Rousseau and perhaps Kant too, the idea of a social contract plays a different role: It is an "idea of reason" (Kant) depicting a point of view that lawmakers and citizens should adopt in their reasoning to ascertain the "general will," which enables them to assess existing laws and decide upon measures that promote justice and citizens' common good. (Rousseau, 1762; Kant, 1793, 296-7; to determine and assess the justice of political constitutions and of economic and social arrangements and the laws that sustain them. To do so, he seeks in the original position "to combine into one conception the totality of conditions which we are ready upon due reflection to recognize as reasonable in our conduct towards one another" (TJ 587/514 towards) and the laws that sustain them. rev.). Why does Rawls represent principles of justice as originating in a kind of social contract? Rawls says that "justice as fairness assigns a certain primacy to the social" (CP 339). Unlike Kant's categorical imperative procedure, the original position is designed to represent the predominantly social bases of justice. To say that justice is predominantly social does not mean that people do not have "natural or human rights and duties" (TJ, §§19, 51) that apply to all human beings as such. But whatever our natural or human rights and duties may be, they do not provide an adequate basis for ascertaining the rights and duties of justice that we owe one another as members of the same ongoing political and economic justice as grounded in social cooperation on terms of reciprocity and mutual respect. For this reason Rawls eschews the idea of a state of nature where pre-political persons with antecedent natural rights agree on the form of a political constitution (as in Locke). Rawls regards us as social beings in the sense that in the absence of society and social development we have but inchoate and unrealized capacities, including our state of nature in Hobbesian and Lockean views, which is to distinguish the rights, claims, duties, powers and competencies we have prior to membership in society from those we acquire as members of society. Not being members of society is not an option for us. In so far as we are rational and reasonable beings at all, we have developed as members of some society, within its social framework and institutions. Accordingly Rawls says that no sense can be made of the notion of that person's situation in a state of nature (PL 278). The traditional idea of pre-social or even pre-political rational moral agents thus plays no role in Rawls's account of justice and the social contract; for him the state of nature is an idea without moral significance (PL 278-280). The original position is set forth largely as an alternative to the state of nature and is regarded by Rawls as the appropriate initial situation for a social contract. (Below we consider a further reason behind Rawls's rejection of the state of nature: it does not adequately allow for impartial judgment and the equality of persons.) Another way Rawls represents the "profoundly social" bases of principles of justice is by focusing on "the basic social institutions". that constitute the "basic structure of society" (TJ sect.2). These basic institutions include the political constitution, which specifies political offices and procedures for legislating and enforcing laws of property, its transfer and distribution, contractual relations, etc. which are all necessary for economic production, exchange, and consumption; and finally norms that define and regulate permissible forms of the family, which is necessary to reproduce and perpetuate society from one generation to the next. It is the role of principles of justice to specify and assess the system of rules that constitute these basic institutions, and determine the fair distribution of rights, duties, opportunities, powers and positions of office, and income and wealth realized within them. What makes these basic social institutions and their arrangement the first subject for principles of social justice is that they are all necessary to social cooperation and have such profound influences on our circumstances, aims, characters, and future prospects. No stable, enduring society could exist without certain rules of property, contract, and transfer of goods and resources, for they make economic production, trade, and consumption possible. Nor could a society long endure without some political mechanism for resolving disputes and making, revising, interpreting, and enforcing its economic and other profoundly to reproduce, sustain, and nurture members of its future generations. This is what distinguishes the social institutions constituting the basic structure from other profoundly influential social institutions, such as religion; religion and other social institutions are not basic in Rawls's sense because they are not generally necessary to sustain the norms of particular societies, many societies can and do exist without the involvement or support of religious institutions). Another reason Rawls regards the original position as the appropriate moral conception of justice for a democratic society wherein persons regard themselves as free and equal citizens (TJ viii/xviii rev.). Here he assumes an ideal of citizens as "moral persons" who regard themselves as free and equal, have a conception of their rational good, and have a "sense of justice." "Moral persons" (an 18th century term) are not all necessarily morally good persons. Instead moral persons are persons who are capable of being rational since they have the capacities to form, revise and pursue a rational conception of their good; moreover, moral persons also are capable of being reasonable since they have a moral capacity for a sense of justice—to cooperate with others on terms that are fair and to understand, apply, and act upon principles of justice and their requirements. Because people have these capacities, or "moral powers," (as Rawls calls them, following Kant) we hold them responsible for their actions, and they are regarded as capable of freely pursuing their interests and engaging in social cooperation. Rawls's idea is that, being reasonable and rational, moral persons (like us) who regard ourselves as free and equal should be in a position to accept and endorse as both rational and morally justifiable the principles of justice regulating our basic social institutions and individual conduct. Otherwise, our conduct is coerced or manipulated for reasons we cannot (reasonably or rationally) accept and we are not fundamentally free persons. Starting from these assumptions, Rawls construes the moral point of view from which to decide moral principles of justice as a social contract in which (representatives of) free and equal persons are given the task of coming to an agreement on principles of justice that are to regulate their social and political relations in perpetuity. How otherwise, Rawls contends, should we represent the justification of principles of justice for free and equal persons who have different conceptions of their good, as well as different religious, philosophical, and moral views? There is no commonly accepted moral or religious authority or doctrine to which they could appeal in order to discover principles of justice that all could agree to and accept. Rawls contends that, since his aim is to discover a conception of justice appropriate for a democratic society, it should be justifiable to free and equal persons in their capacity as citizens on terms which all can endorse and accept. justifiable hence acceptable to all reasonable and rational members of society, and that they are principles which all can commit themselves to support and comply with. How is this social contract to be conceived? It is not an historical event that must actually take place at some point in time (TJ 120/104 rev.ed.). It is rather a hypothetical situation, a kind of "thought experiment" (JF 17), that is designed to uncover the most reasonable principles of justice. Rawls maintains (in LHPP, cf. p.15) that the major advocates of social contract, as a hypothetical event. Hobbes and Locke thus posited a hypothetical state of nature in which there is no political authority, and where people are regarded as rational and (for Locke) also reasonable. The purpose of this hypothetical social constitutions and governments are political value of individuals' political obligations (LHPP p.16). The presumption is that if a constitution or form government could be agreed to by rational persons subject to it according to principles and terms they all accept, then it should be acceptable to rational persons generally, including you and me, and hence is legitimate and is the source of our political obligations. Thus, Hobbes argues that all rational persons in a state of nature would agree to authorize an absolute sovereign to enforce the "laws of nature" necessary for society; whereas Locke comes to the opposite conclusion, contending that absolutism would be rejected in favor of constitutional monarchy with a representative assembly. Similarly, in Rousseau and Kant, the social contract is a way to reason about the General Will, including the political constitution and laws that hypothetical moral agents would all agree to in order to promote the common good and realize the freedom and equality of citizens. (Rousseau, 1762, I:6, p.148; II:1, p.153; II:11, p.170; Kant, 1793, 296-7; Kant 1797, 480; cf. Rawls, LHPP, 214-48). Rawls employs the idea of a hypothetical social contract for more general purposes than his predecessors. He aims to provide principles of justice of the institution of property and of social and economic arrangements for the production and distribution of income and wealth, as well as the distribution of educational and work opportunities, and of powers and positions of office and responsibility. Some have objected that hypothetical agreements cannot bind or obligate people; only actual contracts or agreements cannot bind or obligate people; only actual contracts or agreements cannot bind or obligate people; only actual contracts or agreements cannot bind or obligate people; only actual contracts or agreements cannot bind or obligate people; only actual contracts or agreements cannot bind or obligate people; only actual contracts or agreements cannot bind or obligate people; only actual contracts or agreements cannot bind or obligate people; only actual contracts or agreements cannot bind or obligate people; only actual contracts or agreements cannot bind or obligate people; only actual contracts or agreements cannot bind or obligate people; only actual contracts or agreements cannot bind or obligate people; only actual contracts or agreements cannot bind or obligate people; only actual contracts or agreements cannot bind or obligate people; only actual contracts or agreements cannot bind or obligate people; only actual contracts or agreements cannot bind or obligate people; only actual contracts or agreements cannot bind or obligate people; only actual contracts or agreements cannot bind or obligate people; only actual contracts or agreements cannot be actua is not intended to impose new obligations on us; rather it is a device for discovery and justification: It is to be used, as Rawls says, "to help us work out what we now think" (CP 402); it incorporates "conditions...we do in fact accept" (TJ 587/514 rev.) and is a kind of "thought experiment for the purpose of public- and self-clarification" (JF, p.17). Hypothetical agreement in the original position does not then bind anyone to duties or commitments they do not already have. Its point rather is to help discover and explicate the requirements of our moral concepts of justice and enable us to draw the consequences of considered moral concepts of justice that we all presumably share. Whether we in turn consciously accept or agree to these consequences and the principles and duties they implicate once brought to our awareness does not undermine their moral justification. The point rather of conjecturing the outcome of a hypothetical agreement is that, if the premises underlying the original position correctly represent our most deeply held considered moral convictions and concepts of justice, then we are morally and rationally committed to endorsing the resulting principles and duties whether or not we actually accept or agree to them. Not to do so implies a failure to accept and live up to the consequences of our own moral convictions about justice. original position incorporates all the relevant reasons and considered moral convictions for justifying principles, as utilitarians it incorporates are not relevant to moral justification to begin with (such as the publicity of fundamental principles, as utilitarians argue, Sidgwick, 1907, or the separateness or persons, temporal neutrality and rationality of the parties in promoting their own conception of the good). (Parfit, 1985, 163, 336; Cohen, G.A., 2009; Cohen, J., 2015,). Or they may argue that the state or nature, not the original position, is the appropriate perspective from which to ascertain fundamental principles of justice, since individuals moral and property rights are pre-social and not dependent upon social cooperation. (Nozick, 1974, 183-231). 3. The Veil of Ignorance Rawls calls his conception "justice as fairness." His aim in designing the original position is to describe an agreement situation that is fair among all the parties to the hypothetical social contract. He assumes that if the parties are fairly situated and take all relevant information into account, then the principles everyone agrees to; furthermore, whatever laws or institutions are required by the principles of justice are also fair. The principles of justice chosen in the original position are in this way the result of a choice procedure designed to "incorporate pure procedure designed to "a choice procedure designed to "incorporate pure procedure designed to "a choice procedure designed to "incorporate pure procedure designed to "a choice procedure designed to "incorporate pure procedure designed to "a choice procedure designed to "a choi "procedure of construction"; see the supplementary section: Constructivism, Objectivity, Autonomy, and the Original Position, in the supplementary document Further Topics on the Original Position. There are different ways to define a fair agreement situation depending on the purpose of the agreement and the description of the parties to it. For example, certain facts are relevant to entering a fair employment contract - knowledge of a prospective employee's talents, skills, prior training, experience, motivation, and reliability - that may not be relevant to other fair agreements. What is a fair agreement situation among free and equal persons when the purpose of the agreement is fundamental principles of justice for the basic structure of society? What sort of facts should the parties to such a fundamental social contract know, and what sort of facts are irrelevant or even prejudicial to a fair agreement? Here it is helpful to compare Rawls's and Locke's social contracts. A feature of Locke's social contract is that it transpires in a state of nature among free and equal persons who know everything about themselves that you and I know about ourselves and each other. Thus, Locke's parties know their natural talents, skills, education, and other personal characteristics; their racial and ethnic group, gender, social class, and occupations; their level of wealth and income, their religious and moral beliefs, and so on. Given this knowledge, Locke assumes that, while starting from a position of equal political right, the great majority of free and equal persons in a state of nature - including all women and racial minorities, and all other men who do not meet a rigid property qualification - could and most likely would rationally agree to alienate their natural rights of equal political jurisdiction in order to gain the benefits of political society. Thus, Locke envisions as legitimate a constitutional monarchy that is in effect a gender-and-racially biased class state wherein a small restricted class of amply propertied white males exercise political rights to vote, hold office, exercise political and social influence, and enjoy other important benefits and responsibilities to the exclusion of everyone else (see Rawls, LHPP, 138-139). The problem with this arrangement, of course, is that gender and racial classifications, social class, wealth and lack thereof, are, like absence of religious belief, not good reasons for depriving free and equal persons of their equal political rights or opportunities to occupy social and political positions. Knowledge of these and other facts are not then morally relevant for deciding who should qualify to vote, hold office, and actively participate in governing and administering society. Rawls suggests that the reason Locke's social contract results in this unjust outcome is that it transpires (hypothetically) under unfair conditions of a state of nature, where the parties have complete knowledge of their circumstances, characteristics and social situations. Socially powerful and wealthy parties then have access to and can unfairly benefit from their knowledge of their "favorable position and exercise their threat advantage" to extract favorable terms of cooperation for themselves from those in less favorable positions (JF 16). Consequently, the parties' judgments regarding constitutional provisions are biased by their knowledge of their particular circumstances and their decisions are biased by their knowledge of their particular circumstances and their decisions are biased by their knowledge of their particular circumstances and their decisions are biased by their knowledge of their particular circumstances and their decisions are biased by their knowledge of their particular circumstances and their decisions are biased by their knowledge of their particular circumstances and their decisions are biased by their knowledge of their particular circumstances and their decisions are biased by their knowledge of their particular circumstances and their decisions are biased by their knowledge of their particular circumstances and their decisions are biased by their knowledge of their particular circumstances and their decisions are biased by their knowledge of their particular circumstances and their decisions are biased by their knowledge of their particular circumstances and their decisions are biased by their knowledge of their particular circumstances and their decisions are biased by their knowledge of their particular circumstances and their decisions are biased by their knowledge of their particular circumstances and their particular circumstances and their particular circumstances are biased by their knowledge of their particular circumstances are biased by their knowledge of their particular circumstances are biased by their knowledge of their particular circumstances are biased by their knowledge of their particular circumstances are biased by their knowledge of their particular circumstances are biased by their knowledge of their particular circumstances are biased by their knowledge of their particular circumstances are biased by their knowledge of their particular circumstances are biased by their knowledg redefine the initial situation within which the social contract transpires. Rather than a state of nature Rawls situates the parties and result in unfair principles. Rawls's original position is an initial agreement situation wherein the parties are without information enabling them to tailor principles of justice favorable to their personal circumstances and interests. Among the essential features of the original position, wealth, or social status, nor does anyone know their race, gender, fortune or misfortune in the distribution of natural assets and abilities, level of intelligence, strength, education, and the like. Rawls even assumes that the parties do not know their values or "conceptions of the good," their religious or philosophical convictions, or their special psychological propensities. The principles of justice are chosen behind a "veil of ignorance" (TJ 12/11). This veil of ignorance deprives the parties of all knowledge of particular facts about themselves, about one another, and even about their society and its history. The parties are not however completely ignorant of facts. They know all kinds of general facts about persons and societies, including knowledge of relatively uncontroversial scientific laws and generalizations accepted within the natural and social sciences - economics, psychology, political science, biology, and other natural sciences of human behavior and psychological development, about neuropsychology and biological evolution, and about how economic markets work, including neo-classical price theory of supply and demand. As discussed below, they also know about the circumstances of justice—moderate scarcity and limited altruism—as well as the desirability of the "primary social that are needed by anyone in modern society to live a good life and to develop their "moral powers" and other capacities. What the parties lack however is knowledge of any particular facts about their own and other persons' lives, as well as knowledge of any resources, religious institutions, etc.. Rawls thinks that since the parties are required to come to an agreement on objective principles that supply universal standards of justice applying across all societies, knowledge of particular and historical facts about any person or society is reason Rawls gives for such a "thick" veil of ignorance is that it is designed to be a strict "position of equality" (TJ 12/11) that represents persons purely in their capacity as free and equal moral persons. The parties in the original position do not know any particular facts about themselves or society; they all have the same general information. They are then situated equally in a very strong way, "symmetrically" (JF 18) and purely as free and equal moral persons. They know only characteristics and interests" in developing the moral powers of justice and rationality, their need for the primary social goods and so on. The moral powers, Rawls contends, are the "basis of equality, the features of human beings in virtue of which they are to be treated in accordance with the principles of justice" (TJ, 504/441). Knowledge of the moral powers and their essential role in social cooperation, along with knowledge of the moral powers (TJ, 504/441). relevant, Rawls believes, to a decision on principles of justice that are to reflect people's status as free and equal moral persons. A thick veil of ignorance interprets the Kantian idea of equality as equal respect for moral persons (cf. CP 255). Many criticisms have been leveled against Rawls's veil of ignorance. Among the more common criticisms are that the parties' choice in the original position is indeterminate (Sen, 2009, 11-12, 56-58), or would result in choice of the principle of (average) utility (Harsanyi, 1975), or a principle of relative prioritarianism that gives greater weight to but does not maximize the least advantaged position (Buchak, 2017) (The argument for the indeterminacy of decision in the original position are that the parties are deprived of so much information about themselves that they are psychologically incapable of making a choice; or they cannot decide between a plurality of reasonable principles. (Sen 2009, 56-58). Or they are incapable of making a choice; or they cannot decide upon ethical principles without knowing our primary purposes in life, the values of community, or certain other final ends and commitments. (MacIntyre, 1981; Sandel 1982) One answer to to the criticism of inability to make a rational choice due to ignorance of our final ends is that we do not need to know everything about ourselves, including these primary purposes, to make rational decisions about the background social conditions needed to pursue these primary purposes. For example, whatever our ends, we know that personal security and an absence of social chaos are conditions of most anyone's living a good life (as Hobbes contends). Similarly, though Rawls's parties do not know their own values and commitments, they do know that as free and equal persons they require an adequate share of primary social goods (rights and liberties, powers and opportunities, income and wealth, and the social bases of self-respect) to effectively pursue their purposes, whatever they may be. They also know they have a "higher-order interest" in adequately developing and exercising their "moral powers" - the capacities to be rational and reasonable - which are conditions of responsible agency, effectively pursuing one's purposes, and engaging in social cooperation. Rawls contends that knowledge of these "essential goods" is sufficient for a rational choice on principles of justice by the parties in the original position. To the objection that choice behind the veil of ignorance is psychologically impossible. Rawls says that it is important not to get too caught up in the theoretical fiction of the original position, as if it were some historical event among real people who are being asked to do something impossible. The original position, as if it were some historical event among real people who are being asked to do something impossible. designed to organize our considered convictions of justice and clarify their implications. The parties in it are not real but are "artificial persons" who have a role to play in this thought experiment. They represent an ideal of free and equal reasonable and rational moral persons that Rawls assumes is implicit in our reasoning about justice. The veil of ignorance is a representation of the kinds of reasons and information that are relevant to a decision on principles of justice for the basic structure of a society of free and equal moral persons (TJ 17/16). Many kinds of reasons and facts are not morally relevant to that kind of decision (e.g., information about people's race, gender, religious affiliation, wealth, and even, Rawls says more controversially, their conceptions of their good), just as many different kinds of reasons and facts are irrelevant to mathematician, scientist, or musician exercise their expertise by ignoring knowledge of particular facts about themselves, presumably we can do so too in reasoning about principles of justice for the basic structure of society. Rawls says we can "enter the original position at any time simply by reasoning in accordance with the enumerated restrictions on information," (PL 27) and considering general facts about persons, their needs, and social and economic cooperation that are provided to the parties (TJ 120/104, 587/514). A related criticism of Rawls's "thick" veil of ignorance is that even if the parties can make certain rational decisions in their interest without knowledge of their final ends, still they cannot come to a decision about principles of justice without knowledge of their final ends, still they cannot come to a decision about principles of justice without knowledge of their final ends, still they cannot come to a decision about principles of justice without knowledge of their final ends, still they cannot come to a decision about principles of justice without knowledge of their final ends, still they cannot come to a decision about principles of justice without knowledge of their final ends, still they cannot come to a decision about principles of justice without knowledge of their final ends, still they cannot come to a decision about principles of justice without knowledge of their final ends, still they cannot come to a decision about principles of justice without knowledge of their final ends, still they cannot come to a decision about principles of justice without knowledge of their final ends, still they cannot come to a decision about principles of justice without knowledge of their final ends, still they cannot come to a decision about principles of justice without knowledge of their final ends, still they cannot come to a decision about principles of justice without knowledge of their final ends, still they cannot come to a decision about principles of justice without knowledge of their final ends, still they cannot come to a decision about principles of justice without knowledge of their final ends, still they cannot come to a decision about principles of justice without knowledge of their final ends, still they cannot come to a decision about principles of justice without knowledge of their final ends, still they cannot come to a decision about principles of justice without knowledge of their final ends, still they cannot come to a decision about p consists of the measures that most effectively promote good consequences, and these ultimately reflect facts about individuals' utility or welfare. This criticism is mirrored in utilitarian versions of the moral point of view, which incorporate a "thin" veil of ignorance that represents a different idea of impartiality. The impartial sympathetic spectator found in David Hume and Adam Smith, or the self-interested rational chooser in John Harsanyi's average utilitarian account, all have complete knowledge of particular facts about people and their historical situations. Impartiality is achieved by depriving the impartial observer or rational chooser of any knowledge of its own identity. This leads it to give equal consideration to everyone's desires and interests, and impartially take everyone's desires and interests, and impartially take everyone's desires and interests. impartial observer/chooser rationally chooses the rule or course of action that maximizes the satisfaction of desires, or utility (aggregate or average), summed across all persons. (See TJ, §30) Rawls's original position with its "thick" veil of ignorance represents a different conception of impartiality than the utilitarian requirement that equal consideration be given to everyone's desires, preferences, or interests. The original position abstracts from all information about current circumstances and the status quo, including everyone's desires and particular interests. Utilitarians assume peoples' desires and interests are given by their circumstances and the status quo, including everyone's desires and particular interests. so doing utilitarians suspend judgment regarding the moral permissibility of peoples' desires, preferences, and ends and of the social circumstances and institutions within which these are shaped and cultivated. For Rawls, a primary reason for a thick veil of ignorance is to enable an unbiased assessment of the justice of existing social and political institutions and of existing desires, preferences, and conceptions of the good that they sustain. People's desires and purposes are not then assumed to be given, whatever they are, and then promoted and fulfilled. On Rawls's Kantian view, principles of right and justice are designed to put limits on what satisfactions and purposes have value and impose restrictions on what are reasonable conceptions of persons' good. This basically is what Rawls means by "the priority of right over the good." People's desires and aspirations are constrained from the outset by principles of justice, which specify the criteria for determining permissible ends and conceptions of the good. (TJ 31-32/27-28) If the parties to Rawls's original position had knowledge of peoples' beliefs and desires, as well as knowledge of the laws, institutions and circumstances of their society, then this knowledge would influence their decisions on principles agreed to would then not be sufficiently detached from the very desires, circumstances, and institutions these principles are to critically assess. Since utilitarians take peoples' desires, preferences, and/or ends as given under existing circumstances, any principles, laws, or institutions chosen behind their thin veil of ignorance will reflect and be biased by the status quo. approved from a utilitarian impartial perspective when these laws take into account racially prejudiced preferences which are cultivated by grossly unequal, racially discriminatory and segregated social conditions. To impartially give equal consideration to everyone's desires formed under unjust conditions is hardly sufficient to meet requirements of justice. This illustrates some of the reasons for a "thick" as opposed to a "thin" veil of ignorance. 4. Description of the Parties: Rationality and the Primary Social Goods Rawls says that in the original position, "the Reasonable frames the Rational" (CP 319). He means the OP is a situation where rational choice of the parties is made subject to reasonable (or moral) constraints. In what sense are the parties and their choice and agreement rationality into the original position, one that he thinks most any account of practical rationality and their choice and agreement rationality. would endorse as at least necessary for rational decision. The parties are then described as rational in a formal or "thin" sense that is characteristic of the theories of rational and social choice. They are resourceful, take effective means to their ends, and seek to make their preferences consistent. They also take the course of action that is more likely to achieve their ends (other things being equal). And they choose courses of action that satisfy more rather than fewer of their purposes. Rawls calls these principles of rational choice the "counting principles" (TJ §§25, 63; JF 87). More generally, for Rawls rational persons upon reflection can formulate a conception of their good, or of their primary values and purposes and the best way of life for themselves to live given their purposes. This conception incorporates their primary aims, ambitions, and philosophical convictions that give meaning for them to their lives. Ideally, rational persons have carefully thought about these things and their relative importance, and they can coherently order their purposes and commitments into a "rational plan of life," which extends over their lifetimes (TJ §§63-64). For Rawls, rational plans, they are equally concerned with their (future) good at each part of their lives. In this regard, rational persons are prudent—they care for their future good, and while they may discount the importance of future purposes based on probability assessments, they do not discount the importance of future purposes based on probability assessments. §45). (For a different view, see Parfit, 1984) These primary aims, convictions, and commitments are among the primary motivations of the various elements of the various elements of the rational plan of life that defines a good life for them. This is ultimately what the parties are trying to accomplish in their choice of principles of justice. In this sense they are rational. Rawls says the parties in the original position are "mutually disinterested," in the sense that "they take no interest in each other's interests" (TJ 110/[omitted in rev. ed.]). This does not mean that they are self-interested or selfish persons, indifferent to the welfare of others. The interests advanced by the parties' life plans, Rawls says, "are not assumed to be interests in the self, they are interests of a self that regards its conception of the good as worthy of satisfaction..." (TJ 127/110) Most people are concerned, not just with their own happiness or welfare, but with others as well, and have all kinds of commitments, including other-regarding, beneficent, and moral purposes, that are part of their conceptions of the good. But in their capacity as contracting parties. They try to do as best as they can for themselves and for those persons and causes that they care for. Their situation is comparable, Rawls says, to that of "trustees or guardians" acting to promote the interests of the beneficiary they represent to benefit other trustees or individuals. If they did, they would be derelict in their duties. It is perhaps to address the common criticism that the parties to the original position are self-interested that Rawls in the revised edition, cited above, that "the parties are other's interest." Moreover in later writings increasingly he says that we should imagine that the parties are self-interested that Rawls in the revised edition, cited above, that "the parties take no interest." "representatives" of free and equal citizens and their interests and "act as guardians or trustees," seeking to do as best as they can for the particular individuals that each trustee represents. (PL §4, JF§24) In either case, Rawls believes this account of the parties moral motivations or benevolence towards each other would not result in definite choice of a conception of justice (TJ, 148-9/128-9; 584/512). (For example, how much benevolence should the parties have towards one another or towards people in general? Surely not impartial benevolence towards everyone, for then we might as well dispense with the social contract and rely on a disinterested impartial spectator point of view. It is one of the "circumstances of justice" that people have different and conflicting values, and they value their own purposes and special commitments to others more than they value others' purposes and special commitments. undermined by justice, but rather regulated by it, since special obligations and commitments to specific others give meaning to people's lives. (cf. Scheffler, 2001, chs.3, 4, 6) But if not equal concern for other parties and/or persons including themselves (and perhaps other animals), then how much care and concern should the parties in the original position exhibit towards others generally, as compared with concern for themselves and their own good? (Half as much concern for others' good as for their own? One-fifth as much? There is no clear answer.) Rawls's thought is that, so far as justice is concerned, fair regard for others' interests is best represented by each party's rational choice behind a thick veil of ignorance; for each party has to be equally concerned with the consequences of their choice of principles for each position. Mutual disinterest of the parties also means they are not moved by envy or rancor towards each other or others generally. This implies that the parties do not strive to be wealthier or better off than others for its own sake, and thus do not sacrifice advantages to prevent others from having more than they do. Instead, each party in the original position is motivated to do as well as they can in promoting the optimal achievement of the many purposes that constitute their rational conception of the good, without regard to how much or how little others may have. For this reason they strive to guarantee themselves, but also family conception of the good. Another feature of the parties is that they represent not just themselves, but also family lines, including their descendants, or at least their own children. This assumption is needed, Rawls says, to include representation of "the interests of all," including children and future generations. In the first edition of "the interests of all," including children and future generations. welfare of their nearest descendants" (Rawls 1971, 128). Because of criticisms of the heads of families assumption, (by English, 1977 and others) Rawls said in the revised edition that the problem of future generations can be addressed by the parties choose to apply to future generations. (Rawls 1999a, 111 rev.). The "heads of families" assumption is discussed further in connection with feminist criticisms of Rawls in the supplementary section: A Liberal Feminist Critique of the Original Position. Though the parties are not motivated by beneficence or even a concern for justice, still they have a moral capacity for reasonableness; both are part of practical reasonableness; both are part of practical reasonableness; both are ought to do (JF 6-7; 81-2). The concept of "the end of the end of Rational" concerns a person's good—hence Rawls refers to his account of the good as "goodness as rationality." A person's good for Rawls is the rationality." A person's good for Rawls is the rationality." A person's good for Rawls is the rationality." likelihood of succeeding at alternative life plans one may be drawn to (TJ, §64). "The Reasonable" on the other hand addresses the concept and principles of right, including individual moral duties are independent aspects of practical reason for Rawls. They are independent in that Rawls, unlike Hobbes and other interest-based social contract views, does not regard justice and the reasonable as simply principles of prudence that are beneficial for a person to comply with in order to successfully pursue their purposes in social contexts. (Cf. Gauthier 1984) Unlike Hobbes, Rawls does not argue that an immoral or unjust person is irrational, or that morality is necessarily required by rationality in the narrow sense of maximizing individual utility or taking effective means to realize one's purposes. But rational persons who violate demands of justice are unreasonable in so far as they infringe upon moral principles and requirements of practical reasoning. Being reasonable, even if not required by rationality, is still an independent aspect of practical reasonable and rational parallels Kant's distinction between the reasonable and required by rationality, is still an independent aspect of practical reason. Rawls resembles Kant in this regard (PL 25n); his distinction between the reasonable and rational parallels Kant's distinction between the reasonable being reasonable is having a sense of justice with the capacities to understand and reason about and act upon what justice; it includes a willingness to cooperate with others on terms that are fair and that reasonable persons can accept and endorse. Rawls sees a sense of justice as an attribute people normally have; it "would appear to be a condition for human sociability" (TJ, 495/433 rev.). He rejects the idea that people are motivated only by self-interest in all that they do; he also rejects the Hobbesian assumption that a willingness to do justice must be grounded in enlightened self-interest. It is essential to Rawls's argument for the feasibility and stability of justice as fairness that the parties upon entering society have an effective sense of justice, and that they are capable of doing what justice requires of them. An amoralist, Rawls believes, is largely a philosophical construct; amoralists who actually exist Rawls regards as sociopaths. "A capacity for a sense of justice, beginning in 'Kantian Constructivism in Moral Theory,' (1980) (CP 303ff.) Rawls says that the parties to the original position have a "highest-order interest" in the development and full and informed exercise of their two "moral powers": their capacity for a sense of justice as well as in their capacity for a sense of justice. Subsequently in Political Liberalism (1993) Rawls changed this to the parties' "higher order interests" in development and exercise of the two moral powers (to avoid giving the appearance that the moral powers is a substantive feature of Rawls's account of the rationality is not as "thin" as in social theory; cf. TJ 143/124 rev.) Here Rawls is still not attributing specifically moral motives—a desire to be reasonable and do what is right and just for their own sake—to the parties in the original position. The idea behind the parties' rationality in cultivating their sense of justice is that, since being reasonable and exercising one's sense of justice by complying with fair terms is a condition of human sociability and social cooperation, then it is in people's rational interest—part of their good—that they normally develop their capacities for justice under social conditions. Otherwise they will not be in a position to cooperate with others and benefit from social life. A person who is without a sense of justice is wholly unreasonable and as a result is normally eschewed by others, for they are not trustworthy or reliable or even safe to interact with. is a condition of taking part in social cooperation, the parties have a "higher-order interest" in establishing conditions for the development and full exercise of their capacity for a sense of justice is then regarded by the parties as instrumental to their realizing their conception of the good. (Here again, it is important to distinguish the purely rational motivation of the parties or their trustees in the original position from that of free and equal citizens in a well-ordered society, who are normally morally motated by their sense of justice to do what is right and just for its own sake.) Three factors then play a role in motivating the parties in the original position: (1) First, they aim to advance their determinate conception is. Moreover, they also seek conditions that enable them to exercise and develop their "moral powers," namely (2) their rational capacities to form, revise and rationally pursue a conception of their good, and (3) their capacity to be reasonable and to have an effective sense of justice. The se are the three 'higher-order interests' the parties to Rawls's original position aim to promote in their agreement on principles of justice. The se are the three 'higher-order interests' the parties to Rawls's original position aim to promote in their agreement on principles of justice. provide the basis for Rawls's account of primary goods are the all-purpose social means that are necessary to the exercise and development of the moral powers and to pursue a wide variety of conceptions of the good. Rawls describes them initially in Theory as goods that any rational person should want, whatever their rational plan of life. The primary social goods are basically: rights and liberties; powers and diverse opportunities; income and wealth; and the social bases of self-respect. 'Powers' refer not (simply) to a capacity to effect outcomes or influence others' behavior. Rawls rather uses the term 'powers' to refer to the legal and other institutional abilities and prerogatives that attend offices and position. Hence, he sometimes refers to the primary goods of "powers and prerogatives that are characteristic of their position and trades have institutional powers and prerogatives that are characteristic of their position and trades have institutional powers and prerogatives that are characteristic of their position and trades have institutional powers and prerogatives that are characteristic of their position and trades have institutional powers and prerogatives that are characteristic of their position and trades have institutional powers and prerogatives that are characteristic of their position and trades have institutional powers and precogatives that are characteristic of their position and trades have institutional powers and precogatives that are characteristic of their position and trades have instituted by the precogative of the precoga which are necessary if they are to carry out their respective roles and responsibilities. By income and wealth Rawls says he intends "all-purpose means" that have an exchange of ends (JF 58-59). Finally, "the social bases of self-respect" are features of institutions that are needed to enable people to have the confidence that they and their position in society are respected and that their conception of the good is worth pursuing and achievable by themselves. These features depend upon history and culture. Primary among these social bases of self respect in a democratic society, Rawls will contend, are equal recognition of persons as citizens, and hence the institutional conditions needed for equal citizenship, including equality of basic rights and liberties with equal political rights; fair equality of poportunities; and personal independence guaranteed by adequate material means for achieving it. The social bases of self-respect are crucial to Rawls's argument for equal basic liberties, especially political equality and equal rights of political participation. The parties to the original position are motivated to achieve their higher-order interests in pursuing their moral powers. "They assume that they normally prefer more primary social goods rather than less" (TJ, 142/123 rev.). This too is part of being rational. Because they are not envious, their concern is with the absolute level of primary goods, not their share relative to other persons. To sum up, the parties in the original position are formally rational in that they are assumed to have and to effectively pursue a rational plan of life with a schedule of coherent purposes and commitments that they find valuable and give their lives meaning. As part of their capacities to be rational and to be reasonable. These "higher-order interests" together with their rational their choice of principles of the primary social goods that enable them to achieve these higher-order ends and effectively pursue their conceptions of the good. A final feature of Rawls's account of rationality is a normal human tendency he calls "the Aristotelian principle" (TJ sect.65). This "deep psychological fact" says that, other things being equal, people normally find activities that call upon the exercise of their developed and realized and the greater the complexity of activities (TJ, 426/374). Humans enjoy doing something as they become more proficient at it, and of two activities they perform equally well, they normally prefer the one that calls upon a larger repertoire of more intricate and subtler discriminations. Rawls's examples: someone who does both activities well generally prefers playing chess to checkers, and studying algebra to arithmetic. (TJ 426/374) Moreover Rawls, citing J.S. Mill believes that development at least some of our "higher capacities" (Mill's term) is normally important to our sense of self-respect. These general facts imply that rational people should incorporate into their life plans activities that call upon the exercise and development of their talents and skills and distinctly human capacities (TJ 432/379). This motivation becomes especially relevant to Rawls's argument for the stability of justice (TJ §79, §86; see below, §5.3). The important point here is that the Aristotelian principle is taken into account by the parties in their decision on principles of justice. They want to choose principles that maintain their sense of self-respect and enable them to freely develop their capacities for a sense of justice. 5. Other Conditions on Choice in the Original Position The veil of ignorance is the primary moral constraint upon the rational choice of the parties in the original position. There are several other conditions imposed on their agreement. 5.1 The Circumstances of Justice (T] §22) Among the general facts the parties know are "the circumstances of justice." Rawls says these are "conditions under which human cooperation is both possible and necessary" (TJ 126/109 rev.). Following Hume, Rawls distinguishes two general kinds: the objective and subjective and subje circumstances also include conditions of moderate scarcity of resources: there are not enough to provide all with adequate satisfaction of their basic needs; unlike conditions of extreme scarcity (e.g. famine), cooperation then seems productive and worthwhile for people. Among the subjective circumstances of justice are the parties' mutual disinterestedness, which reflects the "limited altruism" (TJ 146/127) of persons in society.. Free and equal persons have their own plans of life and special commitments to others, as well as different philosophical and religious beliefs and moral doctrines (TJ 127/110). Hume says that if humans were impartially benevolent, equally concerned with everyone's welfare, then justice would be unnecessary. People then would not be concerned about their personal rights or possessions, and property would be unnecessary (Hume 1777 [1970, 185-186]). But we are more concerned with our own aims and interests — which include our interests of those nearer and dearer to us—than we are with the interests. Rawls adds that concern for our interests and plans of life does not mean we are selfish or have interests only in ourselves—again, interests of a self should not be confused with interests in others and in all kinds of causes, ends, and commitments to other persons (T] 127/110). But, as history shows, our benevolent interests in others and in religious and philosophical doctrines are at least as often the cause of social and international conflict as is self-interest. The subjective circumstances of justice also include limitations on human knowledge, thought, and judgment, as well as to differences in religious, philosophical, and moral convictions. In Political Liberalism, Rawls highlights these subjective circumstances, calling them "the burdens of judgment" (PL 54-58). They imply, significantly, that regardless how impartial and altruistic people are, they still will disagree in their factual judgments and in religious, philosophical and moral doctrines. Disagreements in these matters are inevitable even among fully rational and reasonable pluralism" (PL 36), which is another general fact known to the parties in the original position. Reasonable pluralism of doctrines lends significant support to Rawls's arguments for the first principle of justice, especially to equal basic liberties of conscience, expression, and associated with the concept of right that Rawls says the parties must take into account in coming to agreement on principles of justice. The more a conception of justice satisfies these formal constraints of right, the more reason the parties have to choose that conception. The formal constraints of right are: generality, universality in application, ordering of conflicting claims, publicity, and finality. claims and order their priority. Ordering implies a systematicity requirement: principles of justice should provide a determinate resolution to problems of justice is not able to order conflicting claims and resolve problems of justice, that gives greater reason against choosing it in the original position compared with those that do. The ordering condition is important in Rawls's argument against pluralist moral doctrines he calls "Intuitionism." Sidgwick attaches a great deal of importance to the ordering condition, and contends that "Universal Hedonism" is the only reasonable moral doctrine that can satisfy it (Sidgwick 1907 [1981], 406). Rawls would have to concede that justice as fairness does not possess, at least theoretically, the same degree of systematic ordering of claims as does hedonistic utilitarianism which has cardinal measures of utility. For example, Rawls's priority principles can resolve conflicting claims regarding the priority of basic liberties over fair equality of opportunity, fair opportunity over the difference principle of efficiency and the general welfare, as well as many disputes arising within the difference principle or algorithm to resolve many conflicts between basic liberties themselves (e.g. conflicts between freedom of speech and the fair value of equal political liberties in restrictions on campaign finance contributions). Often in such conflicts we have to weigh competing considerations and come to a decision about where the greater balance of reasons lies, much like intuitionist views. (See Hart, 1973). Rawls in 'Basic Liberties and their Priority,' 1980, PL ch.VIII, addresses this problem to some degree with the idea of the moral powers.) The lack of a priority or algorithmic ordering principle does not mean the balance of reasons in such conflicts regarding basic liberties is indeterminate but rather that reasonable individuals will often disagree, and that final decisions practically will have to be made through the appropriate democratic, judicial, or other procedures (which of course can be mistaken). But for Rawls a moral conception's capacity to clearly order conflicting claims is not dispositive, but one among several formal and substantive moral conditions that the principles of justice they choose will be publicly known to members of society and recognized by them as the bases for their social cooperation. This implies that people will not be uninformed, manipulated, or otherwise have false beliefs about the bases of their social and political relations. There are to be no "noble lies", false ideologies, or "fake news" obscuring a society's principles of justice and the moral bases for its basic social institutions. The publicity of principles of justice is ultimately for Rawls believes that individuals in a democratic society should know the bases of their social and political relations and not have to be deceived about them in order to cooperate and live together peacably and on fair terms. Publicity plays an important role in Rawls's arguments against utilitarianism and other consequentialist conceptions. The idea of public reason in political deliberation. Related to publicity is that principles should be universal in application. This implies not simply that "they hold for everyone can understand the principles of justice and use them in their deliberations about justice and its requirements. Universality in application then imposes a limit on how complex principles of justice can be—they must be understandable to common moral sense, and not so complicated that only experts can apply them in deliberations. For among other things, these principles are to guide democratic citizens in their judgments and shared deliberations about just laws and policies. Both publicity and universality in application (as Rawls defines it) are controversial conditions. Utilitarians, for example, have argued that the truth about morality and justice is so complicated and controversial that it might be necessary to keep fundamental moral principles (the principle of utility) hidden from most individuals' awareness. For morality and justice often require much that is contrary to peoples' beliefs and personal interests. Also sometimes it's just too complicated for people to understand their individual duties, it may be better if they do not understand the principles and reasons behind them. So Sidgwick argues that the aims of utilitarianism might better be achieved if it remains an "esoteric morality," knowledge of which is confined to "an enlightened few" (Sidgwick 1907 [1981], 489-90). The reason Rawls sees publicity and universality as necessary relates to the conception of the person implicit in justice as fairness. If we conceive of persons as free and equal moral persons capable of political and moral autonomy, then they should not be under any illusions about the bases of their social relations, but should be able to understand, accept, and autonomy these principles in their deliberations about the bases of their social relations. (moral and political) of democratic citizens. Finally, the generality condition is straightforward in that it requires that principles of justice not contain any proper names or rigged definite descriptions, which Rawls says rules out free-rider and other forms of egoism together with the ordering condition. The finality condition says that moral principles of justice provide conclusive reasons for action, providing "the final court of appeal in practical reasoning." They override demands of law and custom, social rules, and reasons of personal prudence and self-interest. (TJ 135-36/116-17). Finality is one of several Kantian conditions Rawls imposes that have been questioned by critics on grounds that it underestimates inevitable and sometimes irresolvable conflicts of moral reasons with other values. For example, should reasons of justice always be given priority over reasons of love, prudence, or even self-interest? (See Williams 1981, chs.1, 5; Wolf, 2014, chs.2, 3, 9) 5.3 The Stability Requirement Rawls says, "An important feature of a conception of justice is that it should generate its own support. Its principles should be such that when they are embodied in the basic structure of society, people tend to acquire the corresponding sense of justice and develop a desire to act in accordance with its principles. In this case a conception of justice is stable" (TJ, 138/119). The parties in the original position are to take into account the "relative stability" of a conception of justice and the society that institutes it. The stability of a just society that institutes it. change members of a society should be able to maintain their allegiance to principles of justice and the institutions they support. When disruptions to society departs from justice, citizens' commitments to principles of justice are sufficiently robust that just institutions are eventually restored. The role of the stability requirement for Rawls is twofold: first, to test whether potential principles of justice are compatible with human natural propensities, or our moral psychology and general facts about social and economic institutions; and second, to determine whether acting on and from principles of justice are conducive and even essential to realizing the human good. To be stable principles of justice should be realizable in a feasible and enduring social world, the ideal of which Rawls calls a "well-ordered society." (See below, §6.3.) They need to be practicably possible given the limitations of the human condition. Moreover, this feasible social world must be one that can endure over time, not by just any means, but by gaining the willing support of people who live in it. People should knowingly want to uphold and maintain society's just institutions not just because they benefit from them, but on grounds of their sense of justice. In choosing principles of justice, the parties in the original position must take into account their "relative stability" (TJ §76). They have to consider the degree to which a conception, and whether the institutions and demands of such a society will attract people's willing compliance and generally engage their sense of justice. For example, suppose principles of justice were to impose a duty to practice impartial benevolence towards all people, and thus a duty to show no greater concern for the welfare of ourselves and loved ones than we do towards billions of others. This principle demands too much of human nature and would not be sustainable or even feasible—people simply would reject its onerous demands. But Rawls's stability requirement implies more than just 'ought implies can.' It says that principles of justice and the scheme of social cooperation they describe should evince "stability for the right reasons" ((as Rawls later says in PL xli, 143f., 459f.,). Recall here the higher-order interests of the parties in development and exercise of their capacities for justice. A just society should be able to endure not simply as a modus vivendi, or compromise among conflicting interests; nor simply endure by promoting the majority of peoples' interests and/or coercive enforcement of its provisions. Stability "for the right reasons," as conceived in Theory, requires that people support society for moral reasons of justice. Society's basic principles must respond to reasonable persons' capacities for justice as an integral part of our nature as sociable beings. He believes that one role of a conception of justice is to accommodate human capacities for sociability, the capacities and sensibilities, which are among the moral psychology by enabling us to knowingly and willingly exercise our moral capacities and sensibilities, which are among the moral powers to be reasonable. This is one way that Rawls's conception of justice is "ideal-based" (CP 400-401 n.): it is based in an ideal of their social relations as generally acceptable and justifiable to all reasonable persons whatever their circumstances (the ideal of a well-ordered society). This relates to the second ground for the stability condition, which can only be mentioned here: it is that the correct principles of justice should be compatible with, and even integral to realizing the human good. It speaks strongly in favor of a conception of justice requires of

many reasonable people that they change their conscientious philosophical or religious convictions for the sake of satisfying a majority's beliefs, or abandon their pursuit of the important interests that constitute their plan of life, this conception could not gain their willing support and would not be stable over sustained periods of time. Moreover Rawls contends that a conception of justice should enable citizens to fully exercise and adequately develop their moral powers, including their capacities for justice is worth doing for its own sake. For Rawls, it speaks strongly in favor of a conception of justice that acting for the sake of its principles is experienced as an activity that is good in itself (as Rawls contends in Theory of Justice); or at least that willing compliance with requirements of justice is an essential part of the reasonable comprehensive philosophical, religious, or moral doctrines that reasonable persons affirm (as Rawls contends later in Political Liberalism). For then justice and the full and informed exercise of the sense of justice are for reasonable and rational persons essential goods, preconditions for their living a good life, as that is defined by their rational conception of the good. 6. The Arguments for the Principles of Justice from the Original Position is not a bargaining situation where the parties make proposals and negotiate over different principles of justice (unlike, for example, Habermas's discourse ethics; see Habermas, 1995). Instead, the parties' deliberations are much more constrained and regulated. They are presented with a list of conceptions of justice taken from the tradition of western political philosophy. These include different versions of utilitarianism, perfectionism, and intuitionism (or pluralist views) rational egoism, justice as fairness, and a group of "mixed conceptions" that combine elements of these. (For Rawls's initial list see TJ 124/107) Rawls later says libertarian entitlement principles should also be added to the list, and contends the principles of justice are still preferable. (JF 83). (Nozick agrees and says the OP is incapable of yielding historical entitlement principles, but only patterned end-state principles instead. Nozick 1974, 198-204. Rawls replies that the difference principle does not conform to any observable pattern but grounds fair discussing and agreeing upon the conception that each finds most rational, given their specified interests. In a series of pairwise comparisons, they consider all the conception that survives this winnowing process. In this regard, the original position is best seen as a kind of selection process wherein the parties' deliberations are constrained by the background conditions imposed by the original position as well as the list of conceptions of justice provided to them. They are assigned the task of agreeing on principles for designing the basic structure of a self-contained society under the circumstances of justice. In making their decision, the parties are motivated only by their own rational interests. They do not take moral considerations of justice into account except in so far as these considerations bear on their achieving their interests again are defined in terms of their each acquiring an adequate share of primary social goods (rights and liberties, powers and opportunities, income and wealth, etc.) and achieving the background social conditions enabling them to effectively pursue their moral powers. Since the parties are ignorant of their particular conceptions of the good and of all other particular facts about their society, they are not in a position to engage in bargaining. In effect they all have the same general information and are motivated by the same interests. Rawls makes four arguments in Theory, Part I for the principles of justice. The main argument for the difference principle is made later in TJ §49, and is amended and clarified in Justice as Fairness: A Restatement. The common theme throughout the original position arguments is that it is more rational for the parties to choose the principles of justice as fairness with classical and average utilitarianism, with briefer discussions of perfectionism (TJ, §50) and intuitionism (TJ 278-81) Here I'll focus discussion primarily on Rawls's comparison between justice as fairness and utilitarianism. 6.1 The Principles of Justice Before turning to Rawls's arguments from the original position, it is helpful to have available the principles of justice and other principles that constitute Justice as Fairness. First Principle: "Each person has an equal right to the most extensive total system of liberties compatible with a similar system of liberty for all." (TJ 266) The first principle was revised in 1982 to say "Each person has an equal right to the most extensive total system of liberties compatible with a similar system of liberties compatible with a similar system of liberties compatible with a similar system of equal basic liberties ..." (PL, 291) replacing ' the most extensive scheme of equal basic liberties.") Notably, Rawls also introduces in Political Liberalism, almost in passing, a principle of basic needs the treat to the extent that they can understand and fruitfully exercise their basic rights and liberties. (PL 7; JF 79n.) This social minimum is also said in Political Liberalism to be a "constitutional essential" for any reasonable liberal conception of justice. (PL 166, 228ff.; JF 47, n.7) The basic rights and liberties protected by the first principle are specified by a list (see TJ 53f., PL 291): liberty of conscience and freedom of association, (TJ §§33-4); freedom of thought and freedom of speech and expression (PL, pp.340-363); the integrity and freedom of the person and the right to hold personal property; equal rights of political participation and their fair value (TJ §§36-37); and the right to ownership of means of production and laissez faire freedom of contract are not included among the basic liberties. TJ, 54 rev. Also freedom of movement and free choice of occupation are said to be primary goods protected by fair equality of opportunity principle. PL 76, JF 58f.) Second Principle: "Social and economic inequalities are to satisfy two conditions." First they must attach to offices and positions open to all under conditions of fair equality of opportunity; and second they must be to the greatest advantage of the least advantage of the greatest advantage of the least advanta save for future generations at a savings rate that they could rationally expect past generations to have saved for them. (TJ §44; JF 159-160) Principles for individuals, include (a) the natural duties to uphold justice, mutual aid, and not to injure or harm the innocent (TJ §19, 51); and (b) the principle of fairness, to do one's fair share in just or nearly just practices and institutions from which one accepts their benefits, (which grounds the principles of justice are ranked in lexical order. (a) The priority of liberty requires that basic liberties can only be restricted to strengthen the system of liberties shared by all. (b) Fair equality of opportunity is lexically prior to the difference principle is prior to the principle is prior to the bases of selfrespect, are to be distributed equally unless an unequal distribution of any or all of these goods is to the advantage of the least favored." TJ 1971, 80; it applies in non-ideal conditions where the priority of liberty and opportunity is not sustainable 6.2 The Argument from the Maximin Criterion (TJ, §§26-28) Describing the parties' choice as a rational choice subject to the reasonable constraints imposed by the original position allows Rawls to invoke the theory of rational choice as a rational choice and decision under conditions of uncertainty. In rational choice as a rules of choice that are more or less reliably used depending on the circumstances. One rule of choice—called "maximin"—directs that we play it as safe as possible by choosing the alternative whose worst outcome leaves us better off than the worst outcome leaves us better off than the worst outcome of all other alternatives. The aim is to "maximize the minimum" regret or loss to one's position (measured in terms of welfare or, for Rawls, one's share of primary social goods). To follow this strategy, Rawls says you should choose as if your enemy were to assign your social position and says we should "maximize the maximum" potential gain—"maximax"—and choose the alternative whose best outcome leaves us better off than all other alternatives. Which, if either, of these strategies is more sensible to use depends on the circumstances and many other factors. A third strategy advocated by orthodox Bayesian decision theory, says we should always choose to directly maximize expected utility. To do so under conditions of uncertainty should be factored into one's utility function, with probability incorporated into one's utility function, one can always choose the alternative that maximizes expected utility. Since it simplifies matters to apply the same rule of choice to all decisions this is a highly attractive idea, so long as one can accept that it is normally safe to assume that the maximization of expected utility. rare instances where there is absolutely no basis upon which to make probability estimates? Suppose you don't even have a hunch regarding the greater likelihood of one alternative over another. According to orthodox Bayesian decision theory, the "principle of insufficient reason" should then be observed; it says that when there is no reason to assign a greater likelihood to one alternative rather than another, they are for all you know equally likely to occur. By observing this rule of choice consistently over time, a rational chooser presumably should maximize expected individual utility, and hopefully actual utility as well. What now is the appropriate decision rule to be used to choose principles of justice under conditions of complete uncertainty of probabilities in Rawls's original position? Rawls argues that, given the enormous gravity of choice in the original position, plus the fact that the choice is not repeatable (there's no opportunity to renegotiate or revise one's decision), it is rational for the parties to follow the maximin strategy when choosing between the principles of average or aggregate utility (or any other principles that do not guarantee basic rights, liberties, opportunities, and a social minimum). Not surprisingly, following the maximin rule of choice results in choice of the principles of justice as fairness guarantees equal basic liberties, fair equal opportunities, and an adequate social minimum for all citizens. Why does Rawls think maximin is the rational choice rule? Recall what is at stake in choice from the original position. The decision is not an ordinary choice. It is rather a unique and irrevocable choice where the parties decide the basic structure of their society, or the kind of social world they will live in and the background conditions against which they will develop and pursue their aims. It is a kind of superchoice—an inimitable choice of the background conditions for all one's future choices. Rawls argues that because of the unique importance of the fact that it is not renegotiable or repeatable, and the fact the that it determines all one's future prospects—it is rational to follow the maximin rule and choose the principles of justice. For should even the worst transpire, the principles of justice guarantee an adequate share of permissible ends by protecting equal basic liberties and fair equal opportunities and guarantee of any of these benefits. Rawls says that in general there are three conditions that must be met in order to make it rational to follow the maximin rule (TJ 154-55/134 rev.). First, there should be no basis or at most a very insecure basis upon which to make estimates of probabilities. Second, the choice singled out by observing the maximin rule is an acceptable alternative we can live with, so that one cares relatively little by comparison for what is to be gained above the minimum conditions secured by the maximin choice. When this condition is satisfied, then no matter what position one eventually ends up in, it is at least acceptable. The third condition for applying the maximin rule is that all the other alternatives have worse outcomes that we could not accept and live with. Of these three conditions Rawls later says that the first plays a minor role and that it is the second and third conditions that are crucial to the maximin argument for justice as fairness (JF 99). This seems to suggest that, even if the veil of ignorance were not as thick and parties did have some degree of knowledge of the likelihood of ending up in one social position rather than another, still it would be more rational to choose degree of knowledge of the likelihood of ending up in one social position rather than another. the principles of justice over the principle of utility. Rawls contends all three conditions for the maximin strategy are satisfied in the original position when choice is made between the principles of justice and the principles of justice are at stake in the original position. position, and there is no hope of renegotiating the outcome, a rational person would agree to the principles of justice instead of the principles of justice in exercise your capacities for rational and moral deliberation and action, and to maintain your sense of self-respect as an equal citizen. With the principle of utility there is no such guarantee; everything is "up for grabs" (so to speak) and subject to loss if required by the greater sum of utilities. Conditions (2) and (3) for applying maximin are then satisfied in the comparison of justice as fairness with the principle of (average or aggregate) utility. It is often claimed that Rawls's parties are "risk-averse;" otherwise they would take a chance on riskier but more rewarding outcomes provided by the principle of utility. Thus, John Harsanyi contends that it is more rational under conditions of complete uncertainty always to choose according to the principle of insufficient reason and assume an equal probability assumption is made, the principles of justice of insufficient reason and assume an equal probability assumption is made. (Harsanyi 1975). Rawls denies that the parties have a psychological disposition to risk-aversion. They have no knowledge of their attitudes towards risk. He argues however that it is rational to choose as if one were risk averse under the highly exceptional circumstances of the original position. His point is that, while there is nothing rational about a fixed disposition to risk aversion, it is nonetheless rational in some circumstances to choose conservatively to protect certain fundamental interests against loss or compromise. It does not make one a risk averse person, but instead it is normally rational to purchase auto liability, health, and home insurance against accident or calamity (assuming it is normally rational to purchase). affordable). The original position is such a situation writ large. Even if one knew in the original position that the citizen one represents enjoys gambling and taking great risks, this would still not be a reason to gamble with their rights, liberties and starting position in society. For if the high risktaker were born into a traditional, repressive, or fundamentalist society, they might never have an opportunity for gambling and taking other risks they normally enjoy. It is rational then even for high risktakers to choose conservatively in the original position and guarantee their future opportunities to gamble or otherwise take risks. an irrational decision rule, and they provide ample examples. To take Rawls' own example, in a lottery where the loss and gain alternative (1/n, 1). This is clearly irrational for almost any number n except very small numbers. (TJ 136 rev.). But such examples do not suffice here; simply because maximin is under most circumstances irrational does not mean that it is never rational. For example, suppose n>1 and you must have 1/n to save you own life. Given the gravity of the circumstances, it would be rational to choose conservatively since you are guaranteed 1/n according to the maximin strategy, and there is no guarantee you will survive if you choose according to the principle of insufficient reason. No doubt maximin is an irrational strategy under most circumstances where we will have future opportunities to recoup our losses and choose again. But these are not the circumstances of the original position. Once the principles of justice are decided, they apply in perpetuity, and there is no opportunity to renegotiate or escape the situation. One who relies on the equiprobability assumption in choosing principles of justice in the original position is being foolishly reckless given the gravity of choice at stake. It is not being risk-averse, but rather entirely rational to refuse to gamble with one's basic liberties, fair equal opportunities and adequate resources needed to pursue one's most cherished ends and commitments, simply for the unknown chance of gaining the marginally greater social powers, income and wealth that might be available to some in a society governed entirely by the principle of utility. Rawls exhibits the force of the maximin argument in discussing liberty of conscience. He says (TJ, sect. 33) that a person who is willing to jeopardize their right to hold and practice their conscience. He says (TJ, sect. 33) that a person who is willing to jeopardize their right to hold and practice their conscience. principle of utility, does not know what it means to have conscientious beliefs, or at least does not take such beliefs seriously (TJ 207-08/181-82 rev.). A rational person with convictions about what gives life meaning is not willing to negotiate with and gamble away the right to hold and express those convictions about what gives life meaning is not willing to negotiate with and gamble away the right to hold and express those convictions about what gives life meaning is not willing to negotiate with and gamble away the right to hold and express those convictions about what gives life meaning is not willing to negotiate with and gamble away the right to hold and express those convictions about what gives life meaning is not willing to negotiate with and gamble away the right to hold and express those convictions about what gives life meaning is not willing to negotiate with and gamble away the right to hold and express those convictions about what gives life meaning is not willing to negotiate with and gamble away the right to hold and express those convictions about what gives life meaning is not willing to negotiate with and gamble away the right to hold and express those convictions about what gives life meaning is not willing to negotiate with and gamble away the right to hold and express those convictions about what gives life meaning is not will negotiate with and gamble away the right to hold and express the right all what could be the basis for negotiation, for what could matter more than the objects of one's most sincere convictions and commitments? Some people (e.g. some nihilists) may not have any conscientious convictions and desires they happen to have at the moment. But behind the veil of ignorance no one knows whether they are such a person, and it would be foolish to make this assumption. Knowing general facts about human propensities and sociability, the parties must take into account that people normally have conscientious convictions and values and commitments they are unwilling to compromise. (Besides, even the nihilist should want to protect the freedom to be a nihilist, to avoid ending up in an intolerant religious society.) Thus it remains irrational to jeopardize basic liberties by choosing the principle of utility instead of the principles of justice. None of this is to say that maximin is normally a rational choice strategy. Rawls himself says it "is not, in general, a suitable guide for choices under uncertainty" (TJ 153). It is not even a rational strategy in the original position when the alternatives for choice guarantee basic liberties, equal opportunities, and a social minimum guarantee basic liberties. section: The Argument for the Difference Principle and the Four Stage Sequence. Rawls relies upon the maximin argument for the first principle of justice requires the social minimum be determined by the difference principle. 6.3 The Strains of Commitment There are three additional arguments Rawls makes to support justice as fairness (all in TJ, sect. 29). Each of these depends upon the concept of a "well-ordered society." The parties in the original position are to choose principles that are to govern a well ordered society where everyone agrees, complies with, and wants to comply with its principles of justice. The ideal of a well-ordered society is Rawls's development of social contract doctrine. It is a society in which (1) everyone knows and willingly accepts and affirms the same public principles of justice and everyone knows this; (2) these principles are successfully realized in basic social institutions, including laws and conventions, and are generally complied with by citizens; and (3) reasonable persons are morally motivated to comply by their sense of justice - they want to do what justice requires of them (TJ 4-5, §69). There are then two sides to Rawls's social contract. The parties in the original position have the task of agreeing to principles that all can rationally accept behind the veil of ignorance under the conditions of the original position. But their rational choice is partially determined by the principles that all can accept agree to and comply with, as the basic principles governing their social and political relations. The parties are to assess principles according to the relative stability of the well-ordered society whose basic structure is organized according to the average utility principle, aggregate utility, perfectionism, intuitionism, libertarianism, and so on. They are to consider which of these societies' basic struture is relatively more stable and likely to endure over time from one generation to the next, given natural and socially influenced psychological propensities and conditions of social cooperation as they interact with alternative principles of justice. Now to return to Rawls's arguments for his principles of justice. The first of Rawls's three arguments highlights the idea that choice in the original position is an agreement, and involves certain "strains of commitment." It is assumed by all the parties that all will comply with the principles they agree to once the veil is lifted and they are members of a well-ordered society (TJ 176f./153f. and CP 250ff). Knowing that they will be held to their commitment and expected to comply with principles for a well-ordered society, the parties must choose principles that they sincerely believe they will be able to accept, endorse and willingly observe under conditions where these principles are generally accepted and enforced. For reasons to be discussed shortly, Rawls says this condition favors agreement on the principles of justice over utilitarianism and other alternatives. position, for the thick veil of ignorance deprives the parties of all bases for bargaining (cf. TJ, 139-40/120-21 rev.). In the absence of bargaining, it is said, there can be no contracts must involve a quid pro quo—something received (called 'consideration' at common law). The parties in the OP cannot bargain without knowing what they have to offer or to gain in exchange. So (the objection continues) Rawls's original position does not involve a real social contract, unlike those that transpire, say, in a state of nature. Rather, since the parties are all "described in the same way," there is no need for multiple parties but simply the rational choice of one person in the original position (see Hampton, 1980, 334; see also Gauthier, 1974 and 1985, 203). In response, not all contracts involve a mutual pledge and commitment to shared purposes and principles. Marriage contracts, or agreements among friends or the members of a religious, benevolent, or political association are often of this nature. For example, the Mayflower Compact was a "covenant" to "combine ourselves together into a civil body politic" charged with making and administering "just and equal laws...for the general good." Likewise the U.S. Constitution represents itself as a commitment wherein "We The People ordain and establish this Constitution" in order "to establish justice," "promote the general welfare," "secure the blessings of liberty," and so on. The agreement in Rawls's original position is more of this nature. Even though ignorant of particular facts about themselves, the parties in fact do give something in exchange for something received: they all exchange their mutual commitment to accept and abide by the principles of justice and to uphold just institutions once they enter their well-ordered society. Each agrees only on condition others do too, and all tie themselves into social and political relations in perpetuity. Their agreement is final, and they will not permit its renegotiation should circumstances turn out to be different than some had hoped for. Their mutual commitment to justice is reflected by the fact that once these principles become embodied in institutions there are no legitimate means that permit anyone to depart from the terms of their agreement. As a result, the parties have to take seriously the moral and legal obligations and potential social sanctions they will incur as a result of their agreement, for there is no going back to the initial situation. So if they do not sincerely believe that they can accept the requirements of a conception of justice and voluntarily conform their actions and life plans accordingly, then these are strong reasons to avoid choosing those principles. It would not be rational for the parties to take risks, falsely assuming that if they end up badly, they can violate at will the terms of cooperation (see Freeman, 1990; Freeman, 2007b, 180–182). Rawls gives special poignancy to this mutual commitment of the parties by making it a condition that the parties cannot choose and agree to principles in bad faith; they have to be able, not simply to live with and grudgingly accept, but instead to willingly endorse the principles of justice as members of society. Essential to Rawls's argument for stability is the assumption of everyone's willing compliance with requirements of justice. This is a feature of a well-ordered society. The parties are assumed to have a sense of justice; indeed the development and exercise of it is one of their fundamental interests. Hence they must choose principles that that they can not only accept and live with, but which are responsive to their sense of justice and they can unreservedly endorse. Given these conditions on choice, the parties cannot take risks with principles they know they will have difficulty complying with voluntarily. They would be making an agreement in bad faith, and this is ruled out by the conditions of the original position. Rawls contends that these "strains of commitment" created by the parties' and this is ruled out by the conditions of the original position. agreement strongly favor the principles of justice over the principles of justice because of their egalitarian nature. Given the lack of these guarantees under the principle of utility, it is much more difficult for those who end up worse off in a utilitarian society to willingly accept their situation and commit themselves to the utility principle. It is a rare person indeed who can freely and without resentment sacrifice their life prospects so that those who are better off can have even greater comforts, privileges, and powers. This is too much to demand of our capacities for human benevolence. It requires a kind of commitment that people cannot make in good faith, for who could willingly support laws that are so detrimental to oneself and the people cannot make in good faith, for who could willingly support laws that are so detrimental to oneself and the people cannot make in good faith, for who could willingly support laws that they must sacrifice their fundamental interests for the sake of those more advantaged? Besides, why should we encourage such subservient dispositions and the accompanying lack of self-respect? The principles of justice, by contrast, conform better with everyone's interests, their desire for self-respect and their natural moral capacities to reciprocally recognize and respect others' legitimate interests while freely promoting their own good. The strains of commitment incurred by agreement in the original position provide strong reasons for the parties to choose the principles of justice and reject the risks involved in choosing the principles of average or aggregate utility. 6.4 Stability, Publicity, and Self-Respect Rawls's strains-of-commitment argument explicitly relies upon a rarely noted feature of his argument: as mentioned earlier, there are in effect two social contracts. First, hypothetical agents situated equally in the original position unanimously agree to principles of justice. This agreement has attracted the most attention from Rawls's critics. But the parties' hypothetical agents situated equally in the original position unanimously agree to principles of justice. acceptability of a conception of justice by free and equal persons in a well-ordered society. Rawls says, "The reason for invoking the concept of a contract in the original position lies in its correspondence with the features of a well-ordered society [which] require...that everyone accepts, and knows that the others accept, the same principles of justice' (CP 250). In order for the hypothetical parties in the original position to agree on principles of justice, there must be a high likelihood that real persons, given human nature and general facts about social and economic cooperation, can also agree and act on the same principles, and that a society structured by these principles is feasible and can endure. This is the stability requirement referred to earlier. One conception of justice is relatively more stable than another the more willing people are to observe its requirements under conditions of a well-ordered society. Assuming that each conception of justice has a corresponding society that is as well-ordered as can be according to its terms, the stability question raised in Theory is: Which conception of justice is more likely to engage the moral sensibilities and sense of justice of free and equal persons as well as affirm their good? This requires an inquiry into moral psychology and the human good, which takes up most of Part III of A Theory of Justice. Rawls makes two arguments in Theory from the original position that invoke the stability requirement, the arguments (1) from publicity and (2) from self-respect (see TJ, §29) (1) The argument from publicity: Rawls contends that utilitarianism, perfectionism, and other "teleological" conceptions are unlikely to be freely acceptable to many citizens when made fully public under the conditions of a well-ordered society. Recall the publicity condition discussed earlier: A feature of a well-ordered society is that its regulative principles of justice, there is no need for the illusions and delusions of ideology for a society to function properly and citizens to accept its laws and institutions willingly. In this sense a well-ordered society lacks false consciousness about the bases of social and political relations. (PL 68-69n.) A conception of justice that satisfies the publicity condition but that cannot maintain the stability of a well-ordered society is to be rejected by the parties in the original position. Rawls contends that under the publicity condition justice as fairness generally engages citizens' sense of justice and remains more stable than utilitarianism (TJ 177f./154f.rev.) For public knowledge that reasons of maximum average (or aggregate) utility determine the distribution of benefits and burdens would lead those worse-off to object to and resent their situation, and reject the principle of utility as the basic principl those who are already more fortunate and have a greater share of primary social goods. It is too much to expect of human nature that people should freely acquiesce in and embrace such publicly known terms of cooperation. By contrast, the principles of justice are designed to advance reciprocally everyone's position; those who are better off do not achieve their gains at the expense of the less advantaged. "Since everyone's good is affirmed, all acquire inclinations to uphold the scheme" (TJ, 177/155). It is a feature of our moral psychology, Rawls contends, that we normally come to form attachments to people and institutions that are concerned with our good; moreover we tend to resent those persons and institutions that take unfair advantage of us and act contrary to our good. Rawls argues at length in chapter 8 of Theory, §§70-75, that justice as fairness accords better than alternative principles with the reciprocity principles of moral psychology that are characteristic of human beings' moral development. In Political Liberalism, Rawls expands the publicity condition to include three levels: First, the principles of justice governing a well-ordered society are publicly known and appealed to in political debate and deliberation; second, so too are the general beliefs in light of which society's conception of justice is generally accepted—including beliefs about human nature and the way political and social institutions generally work—and citizens generally agree on these beliefs that support society's onception of justice. Finally the full justification of the public conception of justice. Finally the full justification of the public conception of justice is also publicly available to any who are interested) and is reflected in society's system of law, judicial decisions and other political institutions, as well as its system of education. (2) The argument from the social bases of self-respect: The publicity condition is also crucial to Rawls's fourth argument for the principles, when publicity known, give greater support to citizens' sense of selfrespect than do utilitarian and perfectionist principles. Rawls says self-respect is "perhaps the most important primary good," (TJ, 440/386 rev.) since few things seem worth doing if a person has little sense of their own worth or no confidence in their role as citizens. The parties in the original position will then aim to choose principles that best secure their sense of self-respect. Now being regarded by others as a free and equal members of a democratic society. Justice as fairness, by affording and protecting the priority of equal basic liberties, and fair equal opportunities for all, secures the status of each as free and equal citizens. For example, because of equal political liberties, there are no "passive citizens" who must depend on others to politically protect their rights and interests; and with fair equal opportunities no one has grounds to experience the resentment that inevitably arises in societies where social positions are effectively closed off to those less advantaged or less powerful. Moreover, the second principle secures adequate social powers and economic resources for all so that they find the effective exercise of their equal basic liberties to be worthwhile. The second principle has the effect of making citizens socially and economically independent, so that no one need be subservient to the will of another. Citizens then can regard and respect one another as equals, and not as masters or subordinates. ("Non-domination," an idea central to contemporary Republicanism, is then essential to citizens' sense of self-respect in Rawls's sense. See Pettit 1997.) Equal basic liberties, fair equal opportunities, and political and economic independence are primary among the social bases of self-respect in a democratic society. The parties in the original position should then choose the principles of justice over utilitarianism and other teleological views both to secure their sense of self-respect, and to procure the same for others, thereby guaranteeing greater overall stability. In connection with Rawls's argument for the greater stability of principles of justice on grounds of their publicity and the bases of self-respect, Rawls provides a Kantian interpretation of difference principle. He says: "[T]he difference principle interprets the distinction between treating men as means only and treating them as ends in themselves. To regard persons as ends in themselves. To regard persons as means is to be prepared to impose on those already less favored still lower prospects of life for the sake of the higher expectations of others" (TJ 157 rev.). Rawls says the principle of utility does just this; it treats the less fortunate as means since it requires them to accept even lower life prospects for the less advantaged and in turn has the effect of undermining their sense of self respect. (TJ 158 rev.) The difference principle, by contrast, does not treat people as means or undermine their sense of self respect. on the publicity condition to argue against utilitarianism and perfectionism. He says publicity "arises naturally from a contractarian standpoint" (TJ, 133/115 rev.). In Theory he puts great weight on publicity ultimately because he thinks that giving people knowledge of the moral bases of coercive laws and the principles governing society is a condition of fully acknowledging and respecting them as free and responsible rational moral agents. With publicity of principles of justice, people have knowledge of the real reasons for their social and political relations and the formative influences of the basic structure on their characters, plans and prospects. In a well-ordered society with a public conception of justice, there is no need for an "esoteric morality" that must be confined "to an enlightened few" (as Sidgwick 1907 [1981], 490). Moreover, public principles of justice can serve agents in their practical reasoning and provide democratic citizens a common basis for political argument and justification. These considerations underlie Rawls's later contention that having knowledge of the principles that determine the bases of social relations is a precondition of citizens' exercise of the powers and abilities that enable them to take full responsibility for their lives. Full publicity is then a condition of the political and (in TJ) moral autonomy of persons, which are significant values according to justice as fairness. (TJ §78, PL 68, CP 325-26) Utilitarians often regard Rawls's emphasis on the publicity of the fundamental principles underlying social cooperation as unwarranted. They contend that publicity of laws is of course important for them to be effective, but there's no practical need for the publicity of the full justification of these principles. Most people are not interested and have little understanding of the complex often technical details that must go into deciding laws and social policies. Moreover, as Sidgwick claimed, utilitarianism functions better as an "esoteric morality" that is not generally incorporated into the public justification of laws and institutions. Others claim that Rawls's arguments from publicity are exaggerated. If people were properly educated to believe that promoting greater overall happiness or welfare is the ultimate requirement of justice and more generally of morality, then just as they have for centuries constrained their self-interests and accepted political constraints on their own liberties for the sake of their religious beliefs, so too could they be educated to accept the promotion of social utility and the general welfare as the fundamental bases for social and political cooperation. Supplementary documents: The Argument for the Difference Principle. Explains the Difference Principle and the least advantaged class. Comparison of the difference principle with mixed conceptions, including restricted utility. Arguments from reciprocity, stability and self-respect, and the strains of commitment. Rawls's reasons why the difference principle supports property owning democracy rather than welfare-state capitalism. The Four Stage Sequence. How principles chosen in OP (first stage), and application of laws to particular circumstances (fourth stage), and application of laws to particular circumstances (fourth stage). said to be necessary to justification of universal principles. Sen's, Mills's, and others' criticisms of ideal theory. A Liberal Feminist Critique of the Original Position and Justice within the Family. Criticism of "heads of families" assumption in OP and Rawls's response to criticisms that principles do not secure equal justice for women and children. Rawls's discussion of OP to decisions on the Law of Peoples governing relations among liberal and decent societies. Human rights, the duty to assist burdened peoples, oulaw societies, and Rawls's rejection of a global principle of distributive justice. Constructivism, Objectivity, Autonomy, and the Original Position. Kantian Interpretation of the OP and Constructivism. OP as a procedure of constructivism. cannot justify. Role of OP in reflective equilibrium. Is the Original Position Necessary or Relevant? Reply to claims that OP is superfluous or irrelevant. Why Rawls thinks rational acceptance of principles in OP and congruence of Right and Good is essential to justice.