The Two Principles of Justice: The Liberty Principle and the Difference Principle

The two principles of justice are the liberty principle and the difference principle. The two principles are intended to apply to the basic structure of society—the fundamental political and economic arrangements—as opposed to particular actions by governmental officials or individual statutes. The liberty principle requires that the basic structure provide each citizen with a fully adequate scheme of basic liberties—such as freedom of conscience, freedom of expression, and due process of law. The difference principle requires that inequalities in wealth and social position be arranged so as to benefit the worst off group in the world. Rawls states that the two principles are lexically ordered, with the liberty principle taking precedence over the difference principle in the case of conflict.

Rawls revised the two principles over time. A Theory of Justice contains the first and most widely cited version of the principles, but Rawls modified them in Political Liberalism and Justice as Fairness. All three works should be consulted for a full appreciation of the content and meaning of the two principles. It also relates to right and wrong.

The original position and the veil of ignorance

The veil of ignorance is a concept used by Rawls to arrive at the two principles of justice. The veil of ignorance requires that when people decide on the principles of justice they are not aware of their specific set of circumstances. Since the principles that will emerge will not be designed to advantage/disadvantage individuals in particular sets of circumstances, the principles to emerge from behind the veil of ignorance can be characterized as fair.

Clearly we cannot in reality shield individuals from the knowledge of the particular set of circumstances that surround their lives. However, Rawls does not expect the veil of ignorance to be applied to individuals. Indeed Rawls concedes that the original conditions required are unusual. (pg. 16, A theory of justice, Belknap Press, revised edition.)

The aim of invoking the idea of the veil of ignorance is to use it as a test for the fairness of the principles of justice. Thus principles that would not emerge from behind a veil of ignorance, were it to exist, would not be acceptable.

Thus principles that would be proposed if ones unique circumstances were known, are ruled out. This is done by ensuring that only such information is taken into consideration as is necessary to conceive of principles of justice.

TWO PRINCIPLES OF JUSTICE

I shall now state in a provisional form the two principles of justice that I believe would be chosen in the original position. In this section I wish to make only the most general comments, and therefore the first
formulation of these principles is tentative. As we go on I shall run through several formulations and approximate step by step the final statement to be given much later. I believe that doing this allows the exposition to proceed in a natural way. The first statement of the two principles reads as follows. First: each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others. Second: social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all. There are two ambiguous phrases in the second principle, namely "everyone's advantage" and "equally open to all." Determining their sense more exactly will lead to a second formulation of the principle in § 13. The final version of the two principles is given in § 45; §39 considers the rendering of the first principle.

By way of general comment, these principles primarily apply, as I have said, to the basic structure of society. They are to govern the assignment of rights and duties and to regulate the distribution of social and economic advantages. As their formulation suggests, these principles presuppose that the social structure can be divided into two more or less distinct parts, the first principle applying to the one, the second to the other. They distinguish between those aspects of the social system that define and secure the equal liberties of citizenship and those that specify and establish social and economic inequalities. The basic liberties of citizens are, roughly speaking, political liberty (the right to vote and to be eligible for public office) together with freedom of speech and assembly; liberty of conscience and freedom of thought; freedom of the person along with the right to hold (personal) property; and freedom from arbitrary arrest and seizure as defined by the concept of the rule of law. These liberties are all required to be equal by the first principle, since citizens of a just society are to have the same basic rights.

The second principle applies, in the first approximation, to the distribution of income and wealth and to the design of organizations that make use of differences in authority and responsibility, or chains of command. While the distribution of wealth and income need not be equal, it must be to everyone's advantage, and at the same time, positions of authority and offices of command must be accessible to all. One applies the second principle by holding positions open, and then, subject to this constraint, arranges social and economic inequalities so that everyone benefits.

These principles are to be arranged in a serial order with the first principle prior to the second. This ordering means that a departure from the institutions of equal liberty required by the first principle cannot be justified by, or compensated for, by greater social and economic advantages. The distribution of wealth and income, and the hierarchies of authority, must be consistent with both the liberties of equal citizenship and equality of opportunity. (pp 60-61)

TOLERATION OF THE INTOLERANT

Let us now consider whether justice requires the toleration of the intolerant, and if so under what conditions. There are a variety of situations in which this question arises. Some political parties in democratic States hold doctrines that commit them to suppress the constitutional liberties whenever they have the power. Again, there are those who reject intellectual freedom but who nevertheless hold positions in the university. It may appear that toleration in these cases is inconsistent with the principles of justice, or at any rate not required by them. I shall discuss the matter in connection with religious toleration. With appropriate alterations the argument can be extended to these other instances.

Several questions should be distinguished. First, there is the question whether an intolerant sect has any title to complain if it is not tolerated; second, under what conditions tolerant sects have a right not to tolerate those which are intolerant; and last, when they have the right not to tolerate them, for what ends it should be exercised. Beginning with the first question, it seems that an intolerant sect has no title to complain when it is denied an equal liberty. At least this follows if it is assumed that one has no title to object to the conduct of others that is in accordance with principles one would use in similar circumstances to justify one's actions toward them. A person's right to complain is limited to violations of principles he acknowledges himself. A complaint is a protest addressed to another in good faith. It claims a violation of a principle that both parties accept. Now, to be sure, an intolerant man will Say that he acts in good faith and that he does not ask anything for himself that he denies to others. His view, let us suppose, is that he is acting on the principle that God is to be obeyed and the truth accepted by all. This principle is perfectly general and by acting on it he is not making an exception in his own case. As he sees the matter, he is following the correct principle which others reject.
The reply to this defense is that, from the standpoint of the original position, no particular interpretation of religious truth can be acknowledged as binding upon citizens generally; nor can it be agreed that there should be one authority with the right to settle question of theological doctrine. Each person must insist upon an equal right to decide what his religious obligations are. He cannot give up this right to another person or institutional authority. In fact, a man exercises his liberty in deciding to accept another as an authority even when he regards this authority as infallible, since in doing this he in no way abandons his equal liberty of conscience as a matter of constitutional law. For this liberty as secured by justice is imprescriptible: a person is always free to change his faith and this right does not depend upon his having exercised his powers of choice regularly or intelligently. We may observe that men's having an equal liberty of conscience is consistent with the idea that all men ought to obey God and accept the truth. The problem of liberty is that of choosing a principle by which the claims men make on one another in the name of their religion are to be regulated. Granting that God's will should be followed and the truth recognized does not as yet define a principle of adjudication. From the fact that God's intention is to be complied with, it does not follow that any person or institution has authority to interfere with another's interpretation of his religious obligations. This religious principle justifies no one in demanding in law or politics a greater liberty for himself. The only principles which authorize claims on institutions are those that would be chosen in the original position.

Let us suppose, then, that an intolerant sect has no title to complain of intolerance. We still cannot Say that tolerant sects have the right to suppress them. For one thing, others may have a right to complain. They may have this right not as a right to complain on behalf of the intolerant, but simply as a right to object whenever a principle of justice is violated. For justice is infringed whenever equal liberty is denied without sufficient reason. The question, then, is whether being intolerant of another is grounds enough for limiting someone's liberty. To simplify things, assume that the tolerant sects have the right not to tolerate the intolerant in at least one circumstance, namely, when they sincerely and with reason believe that intolerance is necessary for their own security. This right follows readily enough since, as the original position is defined, each would agree to the right of self-preservation. Justice does not require that men must stand idly by while others destroy the basis of their existence. Since it can never be to men's advantage, from a general point of view, to forgo the right of self-protection, the only question, then, is whether the tolerant have a right to curb the intolerant when they are of no immediate danger to the equal liberties of others.

Suppose that, in some way or other, an intolerant sect comes to exist within a well-ordered society accepting the two principles of justice. How are the citizens of this society to act in regard to it? Now certainly they should not suppress it simply because the members of the intolerant sect could not complain were they to do so. Rather, since a just constitution exists, all citizens have a natural duty of justice to uphold it. We are not released from this duty whenever others are disposed to act unjustly. A more stringent condition is required: there must be some considerable risks to our own legitimate interests. Thus just citizens should strive to preserve the constitution with all its equal liberties as long as liberty itself and their own freedom is not in danger. They can properly force the intolerant to respect the liberty of others, since a person can be required to respect the rights established by principles that he would acknowledge in the original position. But when the constitution itself is secure, there is no reason to deny freedom to the intolerant.

The question of tolerating the intolerant is directly related to that of the stability of a well-ordered society regulated by the two principles. We can see this as follows. It is from the position of equal citizenship that persons join the various religious associations, and it is from this position that they should conduct their discussions with one another. Citizens in a free society should not think one another incapable of a sense of justice unless this is necessary for the sake of equal liberty itself. If an intolerant sect appears in a well-ordered society, the others should keep in mind the inherent stability of their institutions. The liberties of the intolerant may persuade them to a belief in freedom. This persuasion works on the psychological principle that those whose liberties are protected by and who benefit from a just constitution will, other things equal, acquire an allegiance to it over a period of time (872). So even if an intolerant sect should arise, provided that it is not so strong initially that it can impose its will straightway, or does not grow so rapidly that the psychological principle has no time to take hold, it will tend to lose its intolerance and accept liberty of conscience. This is the consequence of the stability of just institutions, for stability means that when tendencies to injustice arise other forces will be called into play that work to preserve the justice
of the whole arrangement. Of course, the intolerant sect may be so strong initially or growing so fast that
the forces making for stability cannot convert it to liberty. This situation presents a practical dilemma
which philosophy alone cannot resolve. Whether the liberty of the intolerant should be limited to preserve
freedom under a just constitution depends on the circumstances. The theory of justice only characterizes the
just constitution, the end of political action by reference to which practical decisions are to be made. (pp.
216-219)