Chapter 7
Distributive Theories of Justice

Abstract Social justice in the social work literature is frequently equated with fairness and equality in the distribution and access to resources, opportunities and rights and liberties. This is a version of social justice known as the distributive theory of justice. The most influential exponent of this theory is philosopher John Rawls, outlined primarily in his book *A Theory of Justice*. Given the influence of the distributive theory on social work specifically, and the welfare state generally, this chapter explains the distributive theory of justice according to Rawls. The location of justice as the first virtue of institutions is explained, as are Rawls' two main principles of justice: (1) justice as equal rights and opportunities; and (2) the difference principle, which may be seen as socially just inequality. How and why Rawls arrived at these principles is explained, as are his objections to utilitarian and meritocratic conceptions of justice.

Introduction

Suppose you were tasked with deciding how and on what basis a society's goods, benefits, burdens and responsibilities should be distributed and allocated. What principle should be chosen to guide the distribution of society's benefits and burdens? How should we decide and agree on this? Who should get what, and why? And what institutional arrangements need to be put in place to ensure that your social justice vision is enacted in practice? These are the sorts of questions that distributive theories of justice seek to grapple with. They are also the sorts of questions that occupy social work's approaches towards social justice, evidenced by the long history that social work has in addressing poverty, inequality, disadvantage, marginalisation and exclusion. As we saw in chapter two, social work codes of ethics that describe social justice make frequent reference to the combined efforts of social work to bring about a fair and equitable distribution of resources, benefits and opportunities.

Let us explore this further by considering a definition of social justice along distributive lines:

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> Social justice…stands for a morally defensible distribution of benefits or rewards in society, evaluated in terms of wages, profits, housing, medical care, welfare benefits and so forth. Social justice is therefore about 'who *should* get what'. (Heywood, 1994, p. 235, original italics)

Notice in this definition that the focus is on the distribution of "benefits or rewards", and notice also Heywood's use of the term "morally defensible". Distributive theories of justice represent a broad paradigm of thinking concerned to outline a morally defensible position of who should get what, with a particular emphasis on wealth, income and goods, but also to include the distribution of non-material goods such as "rights, opportunity, power, and self-respect" (Young, 1990, p. 16). It basically concerns attempts to achieve a fair distribution of a society's benefits and burdens (Capeheart & Milovanovic, 2007).

A key instrument to try and bring about some degree of fairness and equality in the way a society's benefits are distributed in advanced liberal economies is the welfare state; although the claim that the welfare state actually delivers on *social justice* would be contested by both the left and the right in politics (George & Wilding, 1985). What did develop in advanced liberal democracies following World War Two is some commitment to welfarism, which is "the belief that social well-being is properly the responsibility of the community and that this responsibility should be met through government" (Heywood, 1994, p. 248). The sorts of community and government responsibilities to promote well-being include things like various social services, publically funded education, health services, public health and safety, housing, tax concessions for lower incomes and families and a range of different pensions and income support policies. Commitment to funding and delivering these is highly contested. For example, the welfare state has endured sustained critique and attack under neoliberalism, which favours more individual responsibility and less government involvement, and substantially reduced public funding in the provision of services and resources to meet need (Ife, 2016) (see Chap. 4, this volume).

The philosophical backdrop to the development of the distributing welfare state is arguably utilitarian, which is concerned to maximise the greatest good for the greatest number and alleviate suffering and deprivation (Farrelly, 2004). Furthermore, Marxist and other radical social movements have influenced policies to bring about more social and economic equality (we briefly discuss Marxism and utilitarianism in the context of distributive theories of justice later in this chapter). At the same time, the development of the welfare state has followed the lines of liberalism, which is an attempt to initiate and sustain a governmental state that includes institutions of security, laws and a judiciary, social and economic welfare, and economic growth and stability—all the while allowing for personal freedoms and liberties to flourish (Heywood, 2007). All this presents a tricky balancing act. Too much governmental control and intervention in people's lives can become oppressive, and too much emphasis on free-market ideologies and smaller government can lead to inequality.

Liberalism, Fairness and Equality

Modern theories of distributive justice are deeply indebted to the overarching influence of liberalism going back to Immanuel Kant, because they try to articulate questions of individual rights, whilst drawing on concepts of fairness and justice, and with due regard for how these can be fruitfully developed within political and social systems and institutions that are characterised by pluralism and liberalism (Rawls, 1996; Sandel, 1998). Liberalism, according to Heywood, is a political ideology that seeks to protect citizens from tyrannical rule by balancing the rule of law and minimal government together with personal liberties and freedoms, and with tolerance for difference and diversity of views and values. Liberalism relies on reason and social contract theory to work out how a society's benefits, burdens and obligations should be distributed (Heywood, 2007). Liberal notions of egalitarianism are central to distributive conceptions of social justice as *fairness* and *equality* (Farrelly, 2004). What do we mean by fairness? According to Raphael, fairness usually means "the requital of desert; impartiality, including equal treatment in the absence of relevant reasons for discrimination; and perhaps, but questionably, special help for the needy" (Raphael, 2001, p. 237). What do we mean by *equality*? In political theory, the term equality does not imply that all things (people, relations, status, wealth, and so on) need to be *exactly* the same. Rather, it is about creating the necessary political and economic conditions that allow people to live well and enjoy the same basic rights and opportunities as others (Heywood, 1994).

There are different kinds of equality too. Formal equality is foundational and presupposes that all people, by virtue of belonging to the human family, have common needs and experiences that should receive equal treatment and favour. For example, to not be exploited or persecuted or treated differentially under the law. In fact, the law is a commonly used instrument to bring about formal equality; for example, to eliminate racial or gendered discrimination (Heywood, 1994). Equality of opportunity refers to establishing a level playing field (such as universal access to education) and it is widely embraced as being central to bringing about social justice. Equality of opportunity is largely meritocratic because success depends on individual talent and how much effort someone invests into the opportunity they are presented with. Despite equal opportunities, differences in outcomes are likely. In contrast, equality of outcome is more radical and egalitarian. It requires high degrees of political and economic intervention and coordination to bring about a situation where everyone has equal income, wealth and social well-being and ownership or resources. An implication of this position is that individual liberties, freedoms and differences may be subordinated in order to achieve the higher value of equality of outcome (Heywood, 1994).

Utilitarianism, Marxism and the Welfare State

For much of the nineteenth and early twentieth centuries, the dominant political theories of distribution were either utilitarian or Marxist, both of which were under attack from scientific positivism that sought to expunge values and normative statements from political theory (Fleischacker, 2004). Talk of fairness and equality, and slogans like "greatest good for the greatest number" (utilitarian) and "from each according to his ability, to each according to his needs" (Marx) were considered unscientific. The rise of positivism in the social and political sciences stalled progress in developing a robust account of distributive justice, on the argument that it was pointless to try and resolve moral questions within a scientific paradigm. Furthermore, social Darwinist ideas of the survival of the fittest, particularly as expounded by libertarian thinker Herbert Spencer, aggressively opposed distributive justice for the poor (Fleischacker, 2004). Spencer's view has not gone away, particularly in relation to arguments that redistributing resources to the poor will breed dependency and that redistribution policies step on the rights of the rich to be entitled to their wealth (Fleischacker, 2004). Despite these critiques, the core essence of utilitarianism and Marxism is deeply intuitive and attractive to many, and they have been extremely influential on the development *and* critique of the welfare state, and, as noted earlier, the welfare state has classically occupied a central place in debates, critiques and attempts at social justice.

Utilitarianism is a moral and political philosophy influentially associated with nineteenth-century thinkers Jeremey Bentham and John Stuart Mill (Fleischacker, 2004). Utilitarianism says that the right course of action is that which promotes the greatest good for the greatest number of people concerned (Raphael, 2001), and hence, many utilitarians considered that socialism was the best political system to bring about utilitarian ends (Fleischacker, 2004). The aims of utilitarianism are to increase the net amount of well-being in any situation. It has a focus on ends, rather than means, and these ends are typically defined as the good, happiness or pleasure, and the removal or avoidance of pain, suffering and deprivation. Furthermore, utilitarianism is not merely high-brow philosophy, because the point of utilitarianism is to solve practical problems and make the world a better place (Fleischacker, 2004).

It is for these reasons that utilitarianism makes sense intuitively, and it has proven to be an extremely influential philosophy in the fields of ethics, politics and economics. Furthermore, utilitarianism has been absolutely influential to the development of the welfare state, and to various reforms and social movements to introduce public health, public education, better and safer working conditions (Fleischacker, 2004), early arguments for women's suffrage (Mill & Mill, 2009), and even non-human animal rights (Singer, 1976). From a social justice point of view, utilitarianism states that the right thing to do—the best decision or policy to choose and to advance—would be the one that maximises the well-being and happiness of the most number of people who are affected by the decision being considered.

A parallel influence on social justice theories generally (particularly in relation to workers' rights and a penetrating critique of capitalism as the root cause of much injustice) has been the Marxist influence on social theory, politics and social reform movements. Marxism has also informed much of the critical and radical traditions in social work (see Chap. 6, this volume). Although it is tempting to see Marx as a champion of distributive justice, according to Fleischacker (2004) this is a mistake. Although Marx made an important class distinction between the wealthy and powerful bourgeoisie and the poorer and less powerful proletariat (divided as they are by unequal ownership and control of the means of production), he rejected redistribution on the grounds that it sidesteps questions concerning the means of production, thereby leaving the beating heart of capitalism untouched. For Marx, redistribution does not humanise the inner workings of capitalism and it does not address alienation. Think for example, of all the people who may be comfortably well off today but find themselves labouring in soul-destroying jobs with little sense of meaning or connection to wider purpose—a situation that undermines solidarity and rationalises human life as a banal technical activity (Capeheart & Milovanovic, 2007).

It is along these lines that Young (1990) is critical of the entire distributive paradigm of thinking about justice, stating that the emphasis on distribution in social justice thinking diverts attention away from the institutions and social structures that are at the root of social injustice in the first place. As Marx noted, the ideas of the ruling elite at the same time constitute ideologies of justice, so that "justice, in short, is what the ruling class defines from its self-interested position to maximize profit (surplus value)" (Capeheart & Milovanovic, 2007, p. 38). Consequently, we see different interest groups engaged in struggles to have their experiences and subjective positions recognised in principles of justice, so that felt experience is combined with legal and juridical authority, like a dance, with one informing the other. An example might be workers' rights movements and unions, or more recent movements to have the lived experience and voices of service users (such as in the disability rights movements) recognised in law and policy to achieve justice as a struggle for recognition, rather than settling on questions of distribution per se (Capeheart & Milovanovic, 2007). Still, amidst massive economic inequalities and glaring disparities in power, opportunities and liberties, questions of distribution are vitally important to conceptions of social justice.

John Rawls—"A Theory of Justice"

The American political philosopher John Rawls is said to be one of the most influential exponents of a distributive conception of social justice since World War Two (Heywood, 1994). As noted by Banerjee (2005), social work has drawn heavily—although problematically—on Rawls to support its social justice aims. Although the idea of a fair distribution of resources and opportunities has its roots in nineteenth-century political and social movements, particularly amidst the French revolution and

socialist movements in England, *distributive justice* as a refined conceptual and theoretical idea is a post-World War Two phenomenon (Fleischacker, 2004), and much of this is owed to Rawls. Rawls is neither utilitarian nor Marxist; his theory of justice is Kantian and deontological and has been characterised as welfare state liberalism (Sandel, 1998), or egalitarian liberalism (Farrelly, 2004).

Rawls' book *A Theory of Justice* (TJ) (1971)—which was later revised in his book *Political Liberalism* (1996) in response to several criticisms (Raphael, 2001)—is extremely precise in both meaning and intent. Each point, concept and claim is explained and defended in meticulous detail. Spanning over 500 pages, the purpose of TJ is to elaborate a *theory* of justice (and not just tropes and slogans of justice) within a strongly defended intellectual framework, the purpose of which is to give a coherent philosophical account of the deeply held intuition that most people subscribe to—that a good and just society is one that is, at its foundations and core, *fair* (Fleischacker, 2004). Rawls belongs to the Enlightenment tradition of moral and political philosophy, which says that morality and politics are human constructs, and therefore they do not arise from divine or mystical sources, such as religion or ancient tradition (Fleischacker, 2004). For Rawls and others following the Enlightenment legacy, we cannot look to divinity or tradition to figure out questions of justice. We must, instead, use our reason and critical faculties to construct principles of justice that would be persuasive, rational and favourable to everyone. How does Rawls propose we do this?

The Veil of Ignorance, the Original Position and Principles of Justice

Given his intention that human beings need to work out for themselves questions of justice, Rawls proposes an intriguing thought experiment to consider how such questions are to be resolved by people in discussion and deliberation with one another. In this thought experiment, he argues that principles of justice are best decided from behind a veil of ignorance, from an original position of not knowing anything about yourself. Assume for a minute that you do not know anything about your life circumstances, your current situation, or your family. You know nothing about any special talents or gifts you may possess. You know nothing about your present social and economic context, or your generation. From a position of ignorance about your circumstances, only then can you really reasonably deliberate on principles of justice that would be suitable for everyone and *not just you*.

Why is this position of ignorance so important to a reasonable debate about justice? Rawls gives an example of how easy it is to argue for conditions of justice that are favourable to our *known* circumstances and self-interests:

> if a man (sic) knew he was wealthy, he might find it rational to advance the principle that various taxes for welfare measures be counted unjust; if he knew he was poor, he would most likely propose the contrary principle. (Rawls, 1999, p. 17)

Actually, this is what really does happen. And given that people with wealth and power are typically able to influence social and political concepts of justice, we often end up with policies that favour the well off (see the Marxist point made earlier about the way power distorts our views of justice). For example, we frequently hear that giving tax breaks to corporations while cutting welfare benefits to the poor is just plain old common sense, and "Economics 101". This is presented as unquestionably economically rational, but it is not obvious that that is a reasonable way to figure out questions of social justice. But what if, in following Rawls, we did not know anything of our circumstances and interests? What principles of justice would we choose then? From behind the veil of ignorance, what kind of deliberation would we see, what would go on?

It should be made clear that Rawls contends that it ought to be individuals and not institutions or their delegates who should be responsible for working out principles of justice. Although people behind the veil are ignorant of their particular circumstances, and ignorant of the probabilities that determine their life chances, they have at least a basic understanding of what society might look like once the veil is lifted. This basic understanding is informed by a general knowledge of the psychological and sociological sciences (Rawls, 1971). Therefore, people behind the veil are aware of the *potential* of social injustice and inequality, and aware of the *potential* for deprivation and suffering. But people behind the veil do not know what probabilities will determine their life chances against these potentials, and so they are motivated to choose principles of justice that will not unduly harm them or put them at risk. They are motivated to use reason to choose principles of justice (for example, a rational person behind the veil would hardly choose principles that result in inequality, oppression, abuse of power and deprivation of liberty). Likewise, a reasonable person without knowledge of their particular circumstances would not make choices rooted in envy, or by some desire to inflict suffering on others. They will not gamble with choices that put one's own well-being at risk even if the very same choice guarantees that others will be punished or disadvantaged (Kukathas & Pettit, 1990). As an aside, we actually see this punishment approach in policies that penalise the poor for their poverty, or stigmatise and criminalise the mentally ill, and those with various addictions. So Rawls' instinct to design a theory of justice that removes potentials to punish the disadvantaged seems right.

Having said all this, what principles of justice does Rawls suppose would be chosen from behind the veil of ignorance, and from within such a context of reasonable and reasoned discourse? Rawls theorises that individuals would choose what they would reasonably expect everyone else would also choose. In the end, sound principles would appear to be ones that everyone would agree to, and therefore adherence to the principles that make up the basic structure of society would be expected. The principles of justice would enjoy widespread endorsement, thereby bringing about cooperation and an enduring notion of justice from one generation to the next. What principles, exactly, does Rawls say would be chosen from behind the veil of ignorance? There are two that Rawls has revised since his original publication, and they are quoted below as follows:

> (a) Each person has the same indefeasible claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all; and
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> (b) Social and economic inequalities are to satisfy two conditions: first, they are to be attached to offices and positions open to all under conditions of fair equality of opportunity; and second, they are to be to the greatest benefit of the least-advantaged members of society (the difference principle). (Rawls, 2004, p. 15)

By *basic liberties* Rawls is referring to:

> …political liberty (the right to vote and hold public office) and freedom of speech and assembly; liberty of conscience and freedom of thought; freedom of the person, which includes freedom of psychological oppression and physical assault and dismemberment (integrity of the person); the right to hold personal property and freedom from arbitrary arrest and seizure as defined in the concept of the rule of law. (Rawls, 1999, p. 53)

By *offices and positions open to all* Rawls (1999) basically means "positions of responsibility and authority" (p. 53), and by *least-advantaged* Rawls means (1) people who have disadvantaged family or class origins or locations (for example, lower socio-economic status, but more specifically, he is referring to working poor or those willing to work but unable to do so), (2) disadvantage in relation to "natural endowments" (p. 83) (for example, chronic illness, disability) and (3) misfortune or bad luck (for example, the result of ecological or economic disaster, ill-health, family tragedy).

Rawls' argument is that these are the principles that *would* be chosen from behind the veil because these are principles that rational people would want to govern the basic structure of the society they live in (Kukathas & Pettit, 1990; Rawls, 1971). For example, people *would* choose the second principle of justice because it guarantees that once the veil is lifted, if one finds oneself disadvantaged or in a minimal social position, then one is afforded a level of protection through the difference principle (Raphael, 2001). Furthermore, people *would* choose these principles because no one stands to be grossly harmed or disadvantaged by them and therefore the principles would enjoy widespread support thus promoting social and political stability, cooperation and fellow feeling towards one another (Kukathas & Pettit, 1990; Rawls, 1971). People tend to have an in-built sensitivity for fairness and unfairness, and justice as fairness appeals to a psychological need that human beings possess for fairness, making Rawls' principles intuitively attractive (Kukathas & Pettit, 1990).

Rawls' principles are presented in serial order so that the first principle concerning equal basic liberties should be satisfied first, followed by the second principle (Raphael, 2001). Regarding the second principle itself, the condition of fair equality of opportunity should be satisfied before the difference principle, which concerns the least-advantaged (Rawls, 2004). So, in serial order, the principles are to be (1) equality of liberty, (2) equality of opportunity and (3) if there is to be inequality, it should be arranged so as to benefit the least well off (Kukathas & Pettit, 1990). This serial ordering is arguably subject to a good deal of contestation in practice. For example, should we accept a situation where material needs are guaranteed at the expense of some liberties, thereby reversing the ordering of the principles (Raphael,

2001)? Some policies regarding national and economic security follow this thinking, arguing that people need to give up some basic liberties (privacy or religious freedom, for example) in exchange for material security and comfort.

Against Utilitarianism

For Rawls, the natural home for the principles of justice is in society's institutions—the rules, laws, policies and decisions that build a political and social structure. Justice demands that a society's institutions delivery equality of liberty, equality of opportunity, and inequalities to be arranged to benefit the least advantaged. They should not be based on moral or religious dogma (Kukathas & Pettit, 1990; Rawls, 1971). Furthermore, economic and environmental justice demands that the current generation does not plunder resources from future generations. If a society's institutions are not arranged to deliver on these principles, then they are not, according to Rawls, just, and injustices and all their associated by-products may proliferate.

There are, of course, competing philosophical positions to Rawls' deontological liberalism. We could argue that utilitarianism can provide the philosophical framework to deliver programs of social justice, as evidenced in many social reforms with utilitarian roots (see the point made earlier in this chapter). But Rawls rejects a utilitarian foundation for social justice (Capeheart & Milovanovic, 2007; Sandel, 1998) because utilitarianism (in theory and in practice) may lead to a situation where the interests and rights of individuals become subordinated by the principal of greatest good for the greatest number. This is because utilitarianism is unable to take the distinction between persons seriously in terms of distribution and in relation to democracy. Laden (2005, p. 57) contends that in a democracy people are fundamentally seen as individuals, going so far as to assert that "questions of justice arise only insofar as there exist distinct individuals with competing claims" and that these claims emerge from intersubjective relations between citizens. Fleischacker (2004) also notes, "utilitarianism is not a doctrine friendly to the idea that individuals have any absolute rights" (p. 103). From a utilitarian point of view, the unit of analysis is typically the common good, rather than the individual. Thus, individual choices are treated together and aggregated into a whole losing the focus on individuals. Instead, Rawls' theory is deontological because principles of justice should be chosen because of their inherent moral value and worth, and not simply because they are a means to some other ends or good (Kukathas & Pettit, 1990). The other aspect is that principles of justice and "their justification must be publicly known (or knowable) by all citizens and their application can [then] proceed in light of such knowledge" (Laden, 2005, p. 53). Moreover, basic to Kantian deontological moral reasoning is the demand that principles of justice are ones on which others can *act* (O'Neill, 1995). O'Neill illustrates this with the example of the norm of injuring others.

> A commitment to injury—by violence, by coercion, by intimidation, by deception, by poverty or by patriarchy—will always be a commitment that is possible for perpetrators but not for victims. It cannot be enacted by all, so is unjust. (O'Neill, 1995, p. 147)

Deontology is a form of categorical moral reasoning, contending that some things are good in and of themselves, uncoupled from consideration of ends or consequences. In contrast, utilitarianism is a type of consequential moral reasoning, contending that the right thing to do is determined by the goodness of its outcome or benefit. As mentioned, utilitarianism relies on a calculus that works in aggregate form around some notion of the good that is specified in advance, whereas Rawls argued that an acceptable form of justice needs to work at the level of individual's specific interests around some notion of their rights, which, as a matter of principle, are *prior to* and of a higher order importance to the greater good (Sandel, 1998):

> By asserting a priority of the right over the good Rawls seeks to avoid the injustices which may be made in the name of maximizing utility. (Farrelly, 2004, p. 4)

One of the problems with utilitarianism is the way it can get hijacked by economic rationalism and neoliberalism, which are underpinned by theories of rational choice. For example, economic growth and prosperity is often touted as a higher good that we should aspire to. Growth and prosperity are promoted as the *good*, and following, economically rationalist rules and laws are promulgated as being the *right* ones to lead to this conception of the good (Farrelly, 2004). This arrangement means that what is right is merely whatever serves the good. And therefore, unjust means can be put into place and morally legitimated. For example, cutting welfare to the poorest people is often politically justified on wider economic grounds if such cutting leads to more national wealth (Farrelly, 2004). It appeals to some notion of utilitarianism often expressed in words like "*we need to make these tough decisions in the national economic interest*" and "*our focus is on jobs and growth, which is good for everyone, especially the economy*". But taking a position like this sidesteps, an equally viable utilitarian decision to distribute wealth far and wide, especially to alleviate suffering (Raphael, 2001; Singer, 1993). Rawls asks: would it not be better to have a theory of justice that focused on what is right in and of itself, without recourse to the good, or without using principles of right only insofar as they are means to some teleologically defined ends?

A system that prioritises ends such as maximum efficiency, profit, or economic growth as desirable goods offers no guarantees there will be social justice (Kukathas & Pettit, 1990). Furthermore, a utilitarian system, in general, would be rejected according to Rawls because people may end up endorsing situations that they would find intolerable if only they were on the receiving end of it (Kukathas & Pettit, 1990). Cutting health and welfare for the "good of the economy" are twisted utilitarian decisions sometimes argued on the grounds of the "greater good" (usually couched in the language of economic growth). But these are hardly decisions that one would take as a matter of fundamental principle, lest they themselves be disadvantaged or harmed by decisions when schools and health services they depend on are closed down or rendered inaccessible.

Against Meritocracy

Utilitarian considerations aside, further arguments about who should get what—particularly in relation to moral desert and entitlement—is the meritocratic idea of justice. This view says that people are entitled to things based on merit and effort, and it is an extremely influential idea in modern political discourse. Simply stated, this idea says that if you work hard for something, you are entitled to its rewards and benefits, and people do not have the right to take that away. On face value, this can seem eminently reasonable. Nozick (1974) expounds this view and has argued against Rawls, and against a distributing welfare state that would corrode entitlement based on merit and effort. Nozick argued that justice demands that people look after their own needs, and that proper distribution should be based on merit and effort. Consequently, the state should play a minimal role in people's affairs (Raphael, 2001). As Nozick argues, if choice, freedom and liberty are so important, why would we legislate and put in place a large an interventionist state that may remove personal liberties in order to engineer or structure equality? He also argues that in practice, questions of justice and distribution are worked out in a chaotic and organic way, and to supersede that with a planned and orchestrated system of distribution would result in all kinds of inconsistencies and contradictions. This is why macro-level policies can result in all kinds of weird anomalies at the individual or small group level.

For example, distributing marks and grades using a distributive curve is often an institutional requirement designed to increase the level of overall fairness and impartiality in how grades are awarded and assigned in schools and universities. It is also intended to ensure that grades correspond to what would be a "normal" distribution across whole groups of students, even across a whole institution. But suppose for a moment that a small group of students in a single class work very hard together. They form a really supportive study group, and they go above and beyond in their efforts and they really excel in their exam. Their combined efforts have upset the "normal" distribution, and so their instructor scales the class marks at the upper level down accordingly. The students complain that this is unfair and that they are entitled to their marks due to their effort, and they conclude that their extra effort was not valued. They resolve not to do the same thing in their next class, and they subsequently get average grades. Is this desirable?

This may be a trite example included only to illustrate a simple point. In contrast, Rawls' distributive theory that says distribution should be determined by fairness and need and not merit per se (Raphael, 2001). However, Rawls does argue that those entitled to distributive justice must be in a position where they can work or seek work (Banerjee, 2005). Still, the reason that Rawls rejects a strictly meritocratic account as a sound basis for who gets what is that merit and effort are often the result of factors that are arbitrary to the person, and therefore, the results that people seek to claim benefit from are not entirely of their doing or deserving. For example, Sasha grows up in a very wealthy family—a family whom has lots of connections in the law fraternity—and Sasha gets access to a good private schooling and goes to

study law at a top university. Upon graduating, Sasha immediately lands a job in a prestigious law firm. Amelie grows up in a low-income family, none of whom have ever been to university, and she lives in a neighbourhood with a disadvantaged and struggling school. Amelie is truant a lot due to being bullied, and she falls behind and does not succeed very well in school. Amelie ends up with limited employment prospects. Sasha may claim that she is entitled to her job in a prestigious law firm because of her merit and effort, but many of the background factors that resulted in this situation are not of her doing. Likewise, Amelie is unemployed due to factors that are not especially of her doing or choosing, and so she is not entirely deserving of the poverty that comes with being unemployed. Rawls thinks that a society and a political structure built purely on principles of merit and effort as the arbitrating factors of who gets what is not one that we would consider fair once we consider factors that are arbitrary to questions of moral desert. It is not fair that Sasha can claim all the benefit as a moral entitlement, while Amelie is blamed for her situation as a moral failure on her part.

The Primacy of the Individual

Social work tends to come down on the side of Rawls' focus on fairness and need, and given that so much social work practice takes place at the level of working with individual needs, this is often expressed intuitively in social work discourse, rather than through a fully formulated philosophical framework. One problem with an intuitive account of justice is a lack of clarity in how to resolve conflicting principles (Raphael, 2001). For example, should justice be about the welfare of the common good (a largely utilitarian view that social work subscribes to), or should it be about the principles of rights for individuals (a largely deontological view that social work also subscribes to)? In practice, social work may have to defend both simultaneously, but these positions may be working at odds.

Rawls' theory elevates the interests and needs of individuals above utilitarian ends, but in doing so, he has been criticised for his individualism. On one hand, this assumes that individuals can be thought of as possessing unfettered autonomy and agency, which they can put to use in service of reasoning and deliberation about questions of justice, among other things (Kukathas & Pettit, 1990). Poststructural thinkers such as Foucault and feminists would be sceptical of this claim, and social work generally may have an uneasy stance on such an individualist ontology, because social work tends more towards a social-structural and somewhat deterministic view of the person as product of social, cultural, economic and historical forces—the person is not an autonomous island, but utterly dependent on and shaped by relations with others (see Chap. 9, this volume).

But Rawls is referring to individuals not individualism in the sense of a culture or ideology of self-interest and consumerism. Rawls gives primary importance to individuals as moral agents and his theory states that individual interests should not come at the expense of greater interests (Fleischacker, 2004), which may be arbitrary from

a moral point of view (as mentioned, economic efficiency for example, is a morally arbitrary end that frequently guides institutional practice). This specific connotation of individuals as moral agents may be more concomitant with social work's view of social justice, and can be understood as moral individualism (not consumer or capitalist individualism). By moral individualism it means that the individual is of primary moral concern. His view of the person is Kantian, emphasising "autonomy, freedom of choice, and action as the vital constituent of the person" (Raphael, 2001, p. 204). It follows then, that any socio-economic system worth its salt must advance and protect the interests and moral value of those who live within it and under it—it must be a system (such as a state) that is essentially good *for* people (Kukathas & Pettit, 1990).

This position may have more of an affinity to social work's *telos*, which is, in part, to work to build environments that are essentially good *for* people. Although, as Banerjee (2011) points out, Rawls' conception of least advantaged is largely limited with a focus on able-bodied people who work or desire to work by cooperating with a system of mutual responsibility, and his theory expunges considerations of inherent moral worth as the arbitrating criterion for meeting the need. In this respect, we can see the limits of Rawls specifically. A social work interpretation, however, would seek to advance a social and political system that is good for people—one that preserves and values their inherent moral dignity and worth, and promotes self-determination. In following, we should be wary of moral justifications for the greatest good, particularly if in practice, the most vulnerable are deemed expendable to meet such ends. In seeking to value an individual's inherent moral worth, social work has included attempts to expand individual choice and autonomy through principles such as empowerment and self-determination.

Choice and Autonomy

According to Rawls' thought experiment, what goes on behind the veil of ignorance are essentially deliberations and the making of choices (Sandel, 1998). Choice and autonomy are the moral virtues that are extolled in the theory. If justice is being defined in advance by an appeal to predefined ends, or some utility principle, then the capacity for individuals to enter into a contract with each other at their choosing and uninhibited from considerations of utility is compromised, because the terms and conditions of justice are already set—in the utilitarian case, the terms and conditions are defined by utility and the greatest good for the greatest number. Furthermore, utilitarianism makes the error of lumping individual preferences together even while being fully cognizant that this process of aggregation might actually be harmful at the level of individuals (Farrelly, 2004). For example, while economic efficiency might make utilitarian sense when calculated at the level of society, its attainment could cause many harms and injustices to individuals along the way. In this example, efficiency is placed as good superior to justice as a right, which Rawls thought was a mistake (Farrelly, 2004).

Rawls' thought experiment seats the justification for a principle of justice in the choices and agreements that individual actors make about questions of justice. Like Kant argued, this means that individuals are the legislators of their moral universe without recourse or appeal to externally provided terms and conditions—be those specified by appeals to ends, tradition, external authority, religion and so on. For Rawls, a principle of justice is the result of rational choices and contractual agreements that different actors with competing interests and outlooks can make with each other. If we can arrive at a hypothetical position of justice that rational actors would consent to from behind the veil of ignorance, then this proves promising for a theory of justice that promotes cooperation and something that people would be very likely to assent to in practice. However, this still begs all kinds of questions even in a hypothetical sense—let alone in actual practice—about the role of reason and choice in developing principles of justice. Who deliberates, who chooses and what moral presuppositions and a priori considerations influence the conception of justice?

Cooperation

Finally, Rawls' theory suggests that social and political cooperation is likely, because the principles of justice that underpin institutions promote fairness, and are publically articulated and rationally acceptable principles. This level of clarity and consensus allows for relations of trust and cooperation to emerge. A just society is at the same time a fair society, and a fair society promotes cooperative relations between citizens. There are three key points about this. First, cooperative relations emerge from clearly articulated and rationally acceptable rules of conduct that provide reciprocal benefits. These rules of conduct are not derived from some essentialist nature, or hierarchies, or from autocratic or religious dogma (Rawls, 1996). Cooperation loses its meaning if it is forced upon people, and so consent and autonomous input into how principles of justice are derived, articulated, discussed and debated promote cooperation. Second, and relatedly, there must be a degree of freedom and equality among citizens for cooperative relations to emerge and be sustained. This includes the freedom to conceive of oneself as a political person, one who can participate and express through dialogue with others what a reasonable and reasoned account of what is good and what is just might look like. Third, there must be some form of political structure, what Rawls refers to as a "well ordered society" (Rawls, 1996, p. 35), which conveys a shared and publically declared notion of justice, that is satisfied and delivered by social and political institutions. A well-ordered political structure provides people with a basis to adjudicate their own conduct and the conduct of others, including the conduct of institutions. Held (1999) contends that this form of liberalism is based on the social contract tradition designed to mediate relations is a stranger society. This is important for institutions but it needs restraint in areas involved in care relations. For example, we might want fairness and impartiality in social institutions that calculate our tax but we may not want impartiality when we are accessing care when we are vulnerable.

Conclusion

Rawls' theory of justice is a distributive theory that has had a significant influence on social justice thinking, particularly in relation to what role the modern state could play in shoring up liberties, whilst creating a political and social structure that advantages the least advantaged. As a theory of distribution, it is limited by its focus to liberties, opportunities and the difference principle. For social work, this limit presents some problems, notably that Rawls' focus of the claims of need for justice are all citizens who are disadvantaged in regards to work and income, but it does not single out specific group for special attention where other serious questions of justice may be found (Banerjee, 2011). This begs questions about what else could be subject to fair and reasonable principles of justice, such as land rights; access and inclusion to public spaces; opportunities to develop one's capabilities; self-respect, status and esteem; political and cultural recognition; and even the distribution of genetic technology (Fleischacker, 2004). And, furthermore, should considerations for distribution be extended beyond the borders of the nation-state, into the global arena, to include non-citizens or stateless peoples? (Fleischacker, 2004). Social work certainly engages in all of these issues in various ways in the pursuit of social justice. Rawls' theory of distributive justice is deontological and liberal egalitarian. It owes a debt to Kantian conceptions of the person and the public use of reason as central to reasoned deliberations about social justice. Part of the way that social work has engaged with social justice is concomitant with questions of fair distribution and meeting the needs of the least advantaged, and so Rawls distributive theory of justice offers a framework for critical analysis of the distributive aspects of social justice as evident in social work theory, ethics and practice.

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