Rawls, The Difference Principle, and Equality of Opportunity

   Rawls's Second Principle of justice requires that if some people in society have more wealth, income, and/or power than others, then first, those goods are the rewards for social positions they occupy that are open to all under the terms of "fair equality of opportunity," and second, giving the occupants of those positions greater benefits is in the long run better for the worst off members of society. The second part of this principle is called the "difference principle" (DP). Let's take a closer look at it.
   According to DP, an inequality in the distribution of wealth or income is unjust whenever it doesn't benefit the poorest members of society. DP requires a *system* of distributing wealth and income that *over time* is in the best interests of the worst off members of society. Suppose there are only three people, and they have to choose between the following distributions of yearly income:

	Carol	Ted	Bob
1.	110	100	90
2.	100	100	100

Both the principle of equality and the difference principle say that 2 is better than 1. However, suppose that the choice is not between 1 and 2, but 1 and 3, where 3 is:

	Carol	Ted	Bob
3.	87	86	85

The principle of equality tells us that 3 is better, because it's more equal.   Here DP disagrees, telling us that 1 is better, because Bob, the worst off person under both distributions, is better off under 1 than 3. A rationally self-interested Bob should prefer 1, because he's better off under it than he is under 3. The fact that Carol and Ted have a lot more wealth under 1 shouldn't bother him. If it does, then he is motivated by something other than self-interest, namely, envy.
   Is it likely that in the real world we ever face the choice between distributions like 1 and 3? Why think that letting Carol have a lot more is likely in the long run to be good for Bob?

   i) Suppose that Carol, Ted, and Bob jointly own the tools in some business, and they are its only workers. They agree to share the business's profits at the end of the year. Carol wants a bigger share of the profits than Ted or Bob. Suppose that she is most talented, productive worker among them. If Ted and Bob agree to let her keep a larger share, she has an incentive to work as hard as she can and be maximally productive. If they don't agree, she will produce no more than they do. They see that they are better off each getting 20% of a very large pie, than a third of a much smaller one, so they agree to let her have a 60% share.

   ii) Suppose that Carol has inherited a lot of money, while Ted and Bob are employed at McDonald's. If profits are taxed at a very low rate, then Carol will start a business that employs Ted and Bob at higher wages than they receive from McDonald's, and the business will probably make her very wealthy. If profits are taxed at a high rate, Carol will keep her inheritance in a money market fund. It's in Ted's and Bob's interests to have an economic system which lets capitalists get

very rich, if that system grows the economy and creates higher paying jobs for Ted and Bob. When Republicans defend lower taxes on capital gains for the wealthy, on the grounds that it will free up more money for investment which will grow the economy and benefit the working class, their defense of "tax cuts for the wealthy" is consistent with DP.

Rawls has basically two arguments for DP: i) it would be chosen by rationally self-interested contractors under conditions (the "veil of ignorance") which guarantee that their choice is fair to everyone concerned, and ii) a more straightforward moral argument to the effect that it is superior to both meritocracy and an "equality of opportunity" that accepts the Lockean principle of self-ownership and thus makes false assumptions about what we do and do not deserve.

Let's begin with the first argument. If envy is an "external preference" that is inconsistent with pure self-interest, then the assumption that the contractors are self-interested implies that they are free of envy. If they are free of envy, then they cannot prefer the principle of strict equality to DP when the two conflict (as they do in comparisons of distributions like 1 vs. 3 above). But why should the contractors in Rawls' original position be so concerned with how the worst off person under a distribution of wealth would fare? Imagine that someone proposes to the other contractors in the original position that they adopt a system of slavery in which 90% are slave owners, 10% are slaves, and slavery dramatically improves the standard of living of the slave owners. (Notice that the utilitarian must support this slavery system under these assumptions, because it maximizes total utility). Of course a vote for this system is risky: if the proposal is adopted, a contractor might discover after the veil is lifted that he was born into the slave class. But the odds are 9 in 10 that one won't turn out to be a slave. With odds that favorable, it might seem rational to gamble and support slavery. But Rawls holds that it is not rational to take such a risk. A rational person would regard the plight of the slave as so bad that no matter how small the probability that he would end up as one of the slaves, he must vote against any principle that calls for some people to be slaves. Rawls assumes that not only would rationally self-interested contractors be free of envy, but they would use the maximin rule of rational choice. Maximin requires that when choosing between two alternatives, one compares the worst outcome possible under each and then opts for the alternative with the better worst outcome. If Rawls is right in claiming that rational contractors behind the veil of ignorance would use the maximin rule to guide their choice of principles, then he is right in claiming that they would choose DP.

Let's now consider the other argument that Rawls gives for DP. It holds that DP is superior to its main rivals, including both pure meritocracy and meritocracy together with equality of opportunity (EO).

Meritocracy assigns social positions to those with the attributes that make them most qualified to discharge the position's tasks. In a strict meritocracy there will be state coercion *requiring* employers to award jobs to the most qualified or even requiring people to work only at those jobs for which they are most qualified. (Otherwise some privately owned companies may give executive managerial positions to less qualified relatives over more qualified strangers; nepotism is incompatible with meritocracy). Whether or not such coercive measures are employed, meritocracy will tend (over time) toward a *social caste* system. This is a system in which one's lot in life is determined largely by the social class

into which one was born; upward social mobility is next to impossible.   Meritocracy has a tendency to create social castes, because the children of the talented will tend to be more talented than the children of the untalented. This is owing partly to genetics but primarily to a social and family environment that better nurtures the development of talent. (E.g. the children of professional parents are more likely to have stories read to them when they are young and to develop an early fondness for reading than the children of semi-literate poor parents are).

The basic motivation behind the equality of opportunity (EO) principle is this: if you can walk into a nursery and correctly make statistical predictions like "this baby because of his skin color and/or his family's socioeconomic status is likely to make $20,000 per year less when he grows up than that baby over there," then the society in which such predictions can be made is unjust and ought to be changed so that such predictions are no longer true of it. EO attempts to mitigate the effects of social caste. It requires a legal ban on racist/sexist hiring and promotion practices in the private sector, as well as state efforts to improve the educational opportunities of the poor by providing free public education, Head Start programs, etc.

EO does not forbid inequalities in wealth and power that are due to people's free choices. Suppose that I'm poor because I've chosen not to make the sacrifices necessary to develop highly marketable labor skills (I dropped out of the public high school because it bored me), or because I frittered away my inheritance from my grandmother playing Internet blackjack. You, on the other hand, have a large stock portfolio and a high paying job because you've saved and made sacrifices. EO as usually understood implies that there is no injustice in the inequality between us. I deserve my poverty and you your wealth, because they are due entirely to our choices. It is only some inequalities of outcome that EO condemns, namely, the undeserved ones that are due to unequal opportunity.

The idea that measures like banning racist/sexist hiring practice and providing everyone free, public education are sufficient to secure *equality* of opportunity between the children of the rich and the children of the poor is clearly mistaken. Affluent families can still send their children to expensive, elite private schools that provide training that's superior to what's available to the poor in public schools. Also, unlimited inheritance is incompatible with strict EO. The achievement of equal opportunity would require much more radical measures than are commonly associated with the EO idea. If we do not adopt such measures, it's because our commitment to the ideal of family autonomy (specifically, the idea that parents who've been "successful" have the right to give their own children advantages that that unavailable to the children of less "successful" parents) tempers our acceptance of EO as an ideal.

Rawls objects that the EO principle is "fraudulent." Why? Because it assumes that if we eliminate legal and private sector discrimination on the basis of race and sex, and we eliminate some social inequality (by guaranteeing decent educational opportunities to the children of the poor), then everyone's position in society will be determined solely by their choices. But that's false. EO overlooks another kind of inequality that is undeserved, not due to anyone's choices, and crucially affects people's chances of winning lucrative social positions.   That is inequality in the distribution of "natural endowments." Some people are born with various physical and mental handicaps, others are born normal, and others are born especially gifted. Intelligence and health are determined to a large degree by genetic factors and the care one received as an infant. Surely nobody deserves to be born blind, or

mentally retarded, or with a serious condition that can treated only with expensive drugs or therapy. Yet EO as commonly understood finds no fault with inequalities in the distribution of wealth and income that are due to inequalities in the distribution of "natural endowments," even though those inequalities aren't deserved or the result of anyone's choices either.

Rawls thinks that this criticism of EO supports DP. He says:

> The difference principle represents, in effect, an agreement to regard the distribution of natural talents as in some respects a common asset and to share in the greater social and economic benefits made possible by the complementarities of this distribution. Those who have been favored by nature, whoever they are, may gain from their good fortune only on terms that improve the situation of those who have lost out…. No one deserves his greater natural capacity nor merits a more favorable starting place in society. But of course this is no reason to ignore, much less eliminate these distinctions.

The reason why ordinary EO is "fraudulent" is that it assumes the Lockean principle of self-ownership, namely, that one is entitled to all of the fruits of one's labor because one owns one's own labor power. Rawls rejects the Lockean principle, because nobody deserves the talents or the handicaps that they are born with or are due to early socialization. DP, as Rawls says above, treats one's natural talents as "a common asset" rather than as one's private property. This does not mean, however, that a Rawlsian society can tell you what to do with your talents.   That would violate the "basic liberty" of "freedom of the person." It means that if you choose to use my talents in ways that create great wealth, you don't have an exclusive, private property right to that wealth.

Will Kymlicka (see his *Contemporary Political Philosophy*, Chapter 3 "Liberal Equality") thinks that Rawls' criticism of EO and Lockean self-ownership is correct, but that DP is flawed as well. One big problem with DP, as Kymlicka sees it, is that while it correctly refuses to allow one's social circumstances and natural endowments to determine how much wealth/income one receives from society, it ignores the fact that inequalities due entirely to choices are deserved. DP only recognizes "efficiency" reasons for allowing some inequality. It ignores "desert" reasons for allowing some.