

Summary of (most of) my criticisms of John Rawls

Author: Terence Rajivan Edward. *Date:* 21st June 2024.

The fallibility objection. In his original position thought experiment, Rawls asks us to consider which societal principles self-interested individuals who lack biasing knowledge would agree to, because such principles would be fair. The individuals are to treat the agreement as final and not make an agreement they would break under appropriate circumstances. Although no individual knows their sex, skin colour, talents, wealth, etc., they do have general knowledge of human nature. In which case, they know that they are fallible: they might make a mistake. In which case, they will not agree to anything, because they cannot be confident of keeping the agreement, because their fallibility might have led them to make a mistake. (An objection loosely inspired by a Joseph Raz footnote.)

See: 2019, The fallibility objection to the original position. Available on *PhilPapers*: <https://philarchive.org/rec/EDWJRF>

Why not freedom from arrest? Rawls argues that individuals in the original position would agree to a set of basic liberties, including freedom from *arbitrary* arrest. But since they are assumed to be perfectly compliant with the laws they agree to, why would they not simply agree to freedom from arrest, because arrest usually makes it impossible for an individual to pursue their life plan and there is no compensating gain for them?

See: 2023, Banned in the US? Freedom from arbitrary arrest and right to a fair trial as basic liberties. Available at *academia.edu*: https://www.academia.edu/98395627/Banned_in_the_US_Freedom_from_arbitrary_arrest_and_right_to_a_fair_trial_as_basic_liberties

Real equal freedom of movement. The individuals in the original position agree to an equal freedom of movement right. But is not the easiest way to give equal freedom of movement to give each individual the same sized patch of land to move in, beyond which they are not allowed to venture?

See: 2023, Faux Nozick: in defence of unequal freedom of movement? Available at *academia.edu*: https://www.academia.edu/99883965/Faux_Nozick_in_defence_of_unequal_freedom_of_movement

Unequal freedom of movement if... Why would individuals in the original position not agree to an unequal right to freedom of movement if it means that the lowest amount of freedom of movement one might get is higher than under an equal system, analogous to what they agree on regarding wealth?

See: 2023, Faux Nozick: in defence of unequal freedom of movement? Available at *academia.edu*:

https://www.academia.edu/99883965/Faux_Nozick_in_defence_of_unequal_freedom_of_movement

Freedom of movement and the difference principle. In Rawls's system of principles, the basic liberties given by the first principle are not to be sacrificed for realizing the second principle. One basic liberty is freedom of movement. Now suppose a person draws up a plan of their movements in a day, not taking into account the second principle. They then find that the only way to be in line with the second principle is to alter their plan to make time for filling in tax returns. The second principle can only be realized, in many societies, by some restriction of freedom of movement.

See: 2022, Are Rawls's principles consistent? Available at *academia.edu*:

https://www.academia.edu/102167725/Are_Rawls_principles_consistent

Rawls versus utilitarianism: the subset objection. One of Rawls's arguments against utilitarianism is that it does not take into account the separateness of persons: that each person is a distinct being with their own life to lead and ought to be treated as such. Utilitarianism treats individuals in society as if they were mere parts of an organism. Just as an individual might remove a part (a tooth, say) for the good of the whole, so utilitarianism allows things to be done to an individual if there is an overall gain in happiness in society. Let's grant here that this is a good argument. Another argument, or set of arguments, is that utilitarianism would not be chosen in the original position. But the original position method is justified by reference to the separateness of persons, so we can just take a subset of the many premises involved in such an argument and argue against utilitarianism like that. The original position arguments seem pointless. (In broad outline, this line of criticism was earlier conceived by T.H. Irwin, but not pursued by him.)

See: 2016, Rawls versus utilitarianism: the subset objection. *E-Logos* 23 (2): 37-41. Available at:

https://e-logos.vse.cz/artkey/elg-201602-0004_rawls-versus-utilitarianism-the-subset-objectio-n.php

And: 2022, "What is the difference between your subset objection to Rawls on utilitarianism and T.H. Irwin's commentary?" Available at *PhilPapers*:

<https://philpapers.org/archive/EDWWIT-5.pdf>

"Nozick's" secret macro-micro objection to Rawls. I call it Nozick's because it is entailed by propositions scattered in Robert Nozick's book *Anarchy, State, and Utopia*, but Nozick does not himself make it. It begins with these propositions. (a) John Rawls objects that utilitarianism does not take the distinction between persons seriously. (b) The full justification for taking the distinction between persons seriously involves micro-analysis: attending to small-scale situations and drawing conclusions from them. (It is wrong to do that to a person for greater societal happiness.) (c) When we assess one of Rawls's principles of

justice by reference to small-scale situations, he implies that we should not do that, rather we should focus on the whole – we should engage in macro analysis. The objection is that Rawls commits himself to macro analysis as the way to assess principles of justice, but then he cannot make his separateness-of-persons objection to utilitarianism, because it depends on the legitimacy of assessing principles of justice by micro analysis.

See: 2022, Nozick's "secret" macro-micro objection to Rawls. Available at *PhilPapers*: <https://philpapers.org/archive/EDWNSM.pdf>

Rawls, Nozick, and the worst off family. John Rawls's difference principle recommends the economy which is best for the worst off group. If the worst off group in economy A is worse off than the worst off group in economy B, then the principle recommends B. But Nozick asks, why focus on groups rather than individuals? Now in the qualified original position, the self-interested individuals are all heads of families, so "What's the worst position my family could be in? Is it worse in economy A or B? If A, then prefer B," is how they would think it seems. The difference principle should be explained in terms of the worst off family.

See: 2023, Rawls, Nozick, and why not the worst off individual? Available at *ResearchGate*: https://www.researchgate.net/profile/Terence-Edward/publication/371563612_Rawls_Nozick_and_why_not_the_worst_off_individual/links/6489e8e99605ba270e44c4fb/Rawls-Nozick-a-nd-why-not-the-worst-off-individual.pdf

Head of families and veil of ignorance not needed. To achieve fairness, Rawls asks us to imagine self-interested individuals who are behind a veil of ignorance: each individual does not know their sex, skin colour, talents, wealth, and more. Otherwise an individual will try to tailor principles to their own case, e.g. "Only people with my talents can run for public office." But he also asks us to imagine that these individuals are heads of families, who care about their children's futures, so that the constitution they agree on is not short-term. However, then why do they need the veil of ignorance to avoid bias? They can avoid bias from maximin reasoning and worrying about their children's futures: "What if my child lacks a talent I have or marries someone of another skin colour or falls out of our wealth class?"

See: 2023, The heads of families assumption: no need for the veil of ignorance? Available at *academia.edu*: https://www.academia.edu/96254889/The_heads_of_families_assumption_no_need_for_the_veil_of_ignorance

Rawls as a system of hypothetical imperatives? Rawls faces a dilemma when it comes to addressing the talented who think they can make more money under an alternative system of principles. Either he tells them to endorse his system because that is the moral thing to do, regardless of their desires, which is consistent with his Kantianism but looks ineffective motivationally. Or he tells them to endorse his system because it is better for realizing their desires - other systems will prove unstable - which looks motivationally effective if

well-argued, but is inconsistent with his Kantianism; his system can instead be understood as a set of hypothetical imperatives - rational requirements if one has the appropriate desires.

See 2023, Rawls as a system of hypothetical imperatives. Available at *academia.edu*: https://www.academia.edu/98739788/Rawls_as_a_system_of_hypothetical_imperatives

Reflective equilibrium, simplicity, and hesitation. Rawls asks us to take our moral judgments from non-hesitant states of mind and build a theory which fits with them. Let's suppose that we take 20 judgments, J1 to J20, but have two theories which fit equally. T1 fits with J1 to J19 and T2 with J2 to J20. In this situation, Rawls thinks we should choose the simpler theory. But why not turn to hesitant moral judgments to decide between the two, rather than an aesthetic consideration?

See: 2022, Its many varieties: does liberalism merely alternate between ethics and economics?. Available at *PhilPapers*: <https://philarchive.org/archive/EDWIMV>

Ought-implies-can, reflective equilibrium, and the original position. Rawls recommends a reflective equilibrium procedure in which one tries to ensure that general principles entail moral judgments about specific situations. But should one consider only actual situations, or hypothetical ones as well. Rawls opts for the latter but while conceding that it is impossible to consider them all. So he seems to be rejecting ought-implies-can. We ought to consider judgments in response to all hypothetical situations even if we cannot. However, his original position procedure is committed to ought-implies-can. The self-interested individuals are to use a general knowledge of human nature when assessing principles, because it is only the case that we ought to implement the principles they select if we can.

See: 2022, Ought-implies-can, reflective equilibrium, and the original position. Available at *PhilPapers*: <https://philpapers.org/archive/EDWOTO.pdf>

Considered moral judgments and the dubious witnesses problem. Rawls thinks we should only enter judgments from some states of mind into his reflective equilibrium procedure. Judgments only made outside these states, or this state, are likely to be erroneous. He lists being hesitant, frightened, and upset as examples of risky states to make moral judgments in. Suppose a certain judgment is made in only one of these states, only when frightened say. And now suppose instead that it is made in all of the states judged risky, but not in the ones judged non-risky. Rawls seems to assume that the probability of its being erroneous stays the same. But why assume this? An alternative approach is to say that if the judgment is made in enough risky states, its probability of being wrong reduces and it can be entered into the reflective equilibrium procedure. (Is it not like a set of dubious witnesses who converge in their description of an event?)

See: 2022, Moral philosophy and psychoanalysis: a point of convergence. Available at *PhilPapers*: <https://philarchive.org/archive/EDWMPAv1>