Tsekung asked, "Is there one word that can serve as a principle of conduct for life?" Confucius replied, "It is the word shu--reciprocity: Do not do to others what you do not want them to do to you."

"[F]or political writers, although they have excellent ideas, are often unpractical. We should consider, not only what form of government is best, but also what is possible and what is easily attainable by all."
Aristotle

"It has been said that democracy is the worst form of government except all the others that have been tried."
Sir Winston Churchill

University of Alberta

The Practice of "Justice as Fairness": An Interpretation

by

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Abstract

John Rawls was the main liberal theorist of the past half-century. Rawls's central question was this: *what is the most appropriate conception of justice for a democratic society marked by moral disagreement [pluralism] among citizens conceived as free and equal*?

Most of the critiques of Justice as Fairness examine the adequacy of the theory. In my view, Justice as Fairness is adequate as a theory. This thesis, however, considers how Rawls's *theory* of Justice as Fairness could be advanced in *practice.* The main claims of this work are as follows:

- Citizens were defined by Rawls as "normal co-operating members of society," this obscures the identification of society's least advantage in practice.
- Rawls's theory considers the means to freedom (*primary goods*), but ignores the extent of freedom by assuming "citizens" have the capacities to be normal co-operating members of society.
- *Functional capabilities* are advanced in concert with primary goods to address questions of the means to freedom and its extent.
- Rawls's discussions of people's "goods" is through the concept of life plans. The life plan is to rationally structure what one values and render these values consistent. This is neither always desirable, nor possible in practice.

- *Reasonable* citizens will focus the *basic structure* (society's main institutions) on the development and maintenance of functional capabilities in order to advance fair life chances.

The main difficulty in practically implementing Justice as Fairness is related to the rational structure of the theory and its strong assumptions regarding citizens' capacities. In the practice of Justice as Fairness, it is more important that people be *reasonable* then it is that they be *rational.* The practical implementation of Justice as Fairness sacrifices some of the rational coherence of the theory. I hope to show, however, that the central goals of Justice as Fairness—to develop free and equal people and advance a fair equality of opportunity are practically realisable.

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Dedication

Whatever I am or am not, I owe to others. I cannot single out one of them to dedicate this work to. To Russell for illustrating the difference opportunity makes to life, and for seeing what I could be before others did. I went in the front door and back out the front door-three times. Would you have ever guessed that? To Laura, for reminding me who I was when I had forgotten. And, to my parents for always believing in me.

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Chapter 1: Freedom & Equality in Liberalism

John Rawls was the main liberal theorist of the past half-century. Rawls's central question throughout the years that he published was this: what is the most appropriate conception of justice for a democratic society marked by moral disagreement [pluralism] among citizens conceived as free and equal? As Samuel Freeman writes:

> John Rawls is the most significant and influential political and moral philosopher of the twentieth century. His work has profoundly shaped contemporary discussions of social, political, and economic justice in philosophy, law, political science, economics, and other social disciplines.[1]

Rawls is understood to have re-vitalised the field of political philosophy by publishing a treatise on justice. *A Theory of Justice* has been translated into twenty-seven languages. A mere ten years after *Theory's* publication (1971), it had been cited in over 2,500 books and articles.[2] Rawls's theory "Justice as Fairness" was the catalyst for a wide ranging debate from 1970s through to the present among liberals and others regarding appropriate conceptions of justice for pluralistic societies.

Most of the critiques of Justice as Fairness examined the adequacy of the theory. This is not my political point of departure. Rather, I consider how Rawls's *theory* of Justice as Fairness could be made to inform the *practice* of liberal democracy—how actual democracies might advance Justice as Fairness. I will argue that it must be altered in order to be practically implemented. The reason for this is that

Rawls was committed to an abstract view of rational capacity among citizens in the theory. This assumption becomes problematic when attempting to apply the *theory* of Justice as Fairness to the *practice* of liberal democracy.

By way of correction, I will argue that Rawls's theory requires some emendations in order to be practically implemented. In particular, I argue that:

- Rawls placed too much emphasis on the *rational* capacity of citizens. (In practice, it is more important that citizens be *reasonable*)[3]; and
- The *primary goods* of Rawls's theory must be supplemented by attention to *functional capability* development as advanced by Amartya Sen.

These are the main claims of this work. Of course, I appreciate that these claims (and the terms used to state them) cannot convey much in so brief a statement. In the remainder of this chapter, I will explain these claims and the alternations they necessitate when moving from the theory of Justice as Fairness to its practical implementation.

As stated above, Rawls's central question was "what is the most appropriate conception of justice for a democratic society marked by moral disagreement [pluralism] among citizens conceived as free and equal?" In answer, Rawls argued that a political as distinct from a comprehensive conception of justice, Justice as Fairness, was required. Rawls imagined a hypothetical initial situation designed to yield rational principles of justice subject to reasonable constraints. Rawls's principles of justice are as follows:

> 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
>
> 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).[4]

The fact of democratic pluralism means that people will disagree on questions of the good, which we can understand as questions of value. Justice as Fairness is silent in regards to which conceptions of value are good. Rather, it specifies that all permissible conceptions of the good must be reasonable, or not in violation of the principles of justice. My concern is to show how Justice as Fairness might work in practice.

In moving from the theory of Justice as Fairness to its practice, it becomes necessary to re-consider several of Rawls's theoretical assumptions as well some questions of a more practical, or political nature. We should consider, for example, how individuals could be assured of the means necessary to pursue their ends. What can be done to help people convert these "means" into the achievement of their ends? What is required on the part of the state to reasonably ensure that people have equal opportunities to pursue lives they think will be fulfilling, or good?

Justice as Fairness is concerned with fairly treating those who are in the least favoured social and economic positions in a pluralistic democratic society. This led

Rawls (and many of his critics) to develop indices for inter-personal comparisons to arrive at an understanding of "advantage." Rawls's understanding of advantage can become problematic when attempting to implement the theory of Justice as Fairness.

The positing of citizens as fully capable in the hypothetical "original position" allowed Rawls to (generally) consider "advantage" in terms of the primary social goods a citizen held, such as income and wealth. I will argue that this results in poverty and disadvantage being conflated at the "constitutional" stage of the argument. After the constitutional essentials and the principles of justice are rendered, however, philosophy gives way to politics. That is, further considerations regarding the amelioration of disadvantaged positions are to occur at the "legislative" stage where citizens are to vet their reasonable claims. I will argue that at the legislative level reasonable citizens would see the development of functional capabilities in concert with the fair distribution of primary social goods as a reasonable way to establish fair life chances. Amartya Sen defines functional capabilities as follows:

> *Functionings* represent parts of the state of a person—in particular the various things that he or she manages to do or be in leading a life. The *capability* of a person reflects the alternative combinations of functionings the person can achieve, and from which he or she can choose one collection.[5]

In order to mobilise the theory of Justice as Fairness for the practice of democratic politics, one must consider the real differences among people in regards to their

capacities to be free and equal. By focusing public policy on the development of capacities relative to freedom, equality, agent-specific ends, and relative to the goals of Justice as Fairness—the practice of democratic politics would be much improved as it would identify society's least advantaged members, attempt to establish a fair equality of opportunity, and substantially help people to experience their lives as worthwhile and good.

Rawls held, and I agree, that primary goods should be fairly distributed to improve the least favoured social and economic positions in a society characterised by Justice as Fairness. I will argue, however, that the identification of the least advantaged positions (and how to improve these), is more complex to work out in practice than Rawls's theory suggests. Identifying society's least advantaged members in practice requires a consideration of why some are disadvantaged in the first place. I will argue that Sen has a better answer than Rawls here. Society's least favoured are not simply those with inadequate means, they are also those who cannot make effective use of the means they do have.

Before any policies to develop functional capabilities are identified or pursued, a full and open debate ought to take place. This debate should focus on two issues, namely, what are the basic functional capabilities normally required by members of the society, and what levels of them are normally desirable. The appropriate venue for such a debate (at the legislative stage) is the "basic structure", understood as society's main social, political, and economic institutions because

these are viewed as legitimate by citizens, and function to both regulate society and generate, and criticise public policy.

This is consistent with Rawls's theory because he also held that functional capabilities were of primary importance, but that their identification and development should be only come into play at the "legislative stage", after the principles of justice have be chosen. Though I think a public policy focus on functional capability development is crucial to realising Justice as Fairness in practice, this does not exhaust the changes required to practically implement this theory.

In theory, Rawls argued that free, equal, and reasonable citizens would rationally order their lives, through their plans of life. Rawls's use of rationality; however, becomes problematic in practice. Rawls assumed too much of citizens. The concept of "life plans", for example, contains a clear preference for consistent ends. This may not always be possible or desirable.

To re-iterate, the *theory* of Justice as Fairness indicates that one's ends (what one values) are to be rationally consistent. The *practice* asserts that this is neither always possible, nor desirable. The *theory* also leaves the impression that rationality indicates value. Indeed "goodness as rationality" states that what is good for someone is satisfaction of that person's rational and reasonable desire.

Rawls's was well aware that rationality alone could not indicate what people held to be fundamentally valuable, or good. We must also reference, Rawls said, "the

relevant features of their situation" and their "self-knowledge". Instead of discussing these through rationality, I think it more natural to discuss them in relation to one's identity. By discussing the relevant features of one's situation and self-knowledge as part of identity rather than rationality, the practice of Justice as Fairness is able to recognise that all of what one values is not always rationally consistent--this is simply part of the angst of human life.

In addition to these concerns, it is not clear that Rawls's neutral state could recognise capability development as a focal point of public policy. The practice of Justice as Fairness likely requires a different conception of the state than is articulated in the theory.

A perfectionist state could identify capability development as valuable by relating this to the idea that developing peoples' potentials is intrinsically good. The problem with this is that Rawls argued that a perfectionist understanding of the state could not be made consistent with Justice as Fairness. Thus, I argue that a different idea of the neutral state is preferable.

Rawls's neutral state advances several normative claims. I wish to add another normative claim: namely, that citizens would find functional capability development to be good, or minimally to be reasonable. They could thus use the institutions of the basic structure to publicly consider whether capability development would extend fair life chances, and what the state's role in this ought to be.

In practice, I argue that a society characterised by Justice as Fairness will ensure, as far as possible, that all citizens will be capable of pursuing their reasonable and rational goals. It will ensure the basic *needs* of societal members are met; it will fairly distribute *primary goods* (which make people well-off and often act as means), and it will seek to ensure that as many societal members as possible have the *functional capabilities* necessary to pursue their meaningful goals.

This chapter is an introduction to the main problems encountered in considering how Justice as Fairness might be mobilised for the practice of democratic politics. I begin with a very brief consideration of how contemporary liberal theorists have discussed freedom, equality, and pluralism. This brief foray quickly shows that the meanings of freedom and equality are contested within liberal theory. In practice, it is also readily observable that the meanings and relations of freedom and equality shift over time. I then introduce the Rawlsian understandings of these and their relation (reasonableness). Finally, I attempt to show how and why the practical implementation of Rawls's Justice as Fairness requires that the aforementioned aspects of the theory be amended.

1.1: "Liberal" views of Freedom, Equality & Pluralism

As a political theory, liberalism has many variants. What unites the various theories is the attention they pay to liberalism's core concepts (including, for example, equality, freedom, individualism, and pluralism). Liberals fundamentally depart from the ancient Greeks, for instance, in shifting the purpose of civil

society. Society is no longer to be primarily concerned with making good people, as this was and is a source of great controversy—it became a private, ethical concern. Rather, the purpose of civil society was to make its members secure. Several rights were asserted as a rationale for the government's responsibility to enable people to live peaceful, secure, and free lives.

What of the good life, and does liberalism have a version of it? Liberalism has never posited a robust sense of the good life; rather, it has sometimes discussed what it thinks one requires.[6] Liberalism's values of freedom and equality have often shaped and informed ideas of what individuals require to happily arrange their lives and what the political community's responsibilities are in relation to this.

Liberalism is hesitant to assert what might be good for people to express and be, in part because this appears to run counter to some ideals of individual liberty, and in part because of the positing of human fallibility. Liberals will tend to assert that a free life is a necessary component of a good life. Liberals also posit that human beings are of equal moral worth.

Liberalism initially paid most attention to issues of liberty. More recently, however, liberalism has become increasingly egalitarian. One difficulty with this is that liberals disagree amongst themselves what the positing of equal moral worth means in relation to freedom, and what this necessitates on the part of the state. Should governments, for example, actively create conditions of freedom and

equality as the welfare liberals envision, or will people experience more freedom under a very limited state—such as advanced by the classical and later libertarian liberals? The answers to these questions are dependent on the meaning and relation between the core values that various liberals have posited.

Ronald Dworkin, an 'egalitarian liberal', for instance, argues that the liberal version of equality is premised on the idea of a just distribution of resources. Equality is reached when the same resources have the same value to different people. In brief, equality is achieved when no one would prefer to trade the resources one controls for those of another (the envy test). A problem arises at this point. Some resources, natural talents, for example, are a matter of luck and cannot be redistributed. Thus, liberalism often advances strategies for compensation due to such arbitrary inequalities.[7]

For Dworkin, an egalitarian society is also a free one. Liberty serves equality in terms of opportunities for the community's members, and in terms of members being able to fully participate in the society in social, economic and political spheres. People are to be roughly equal in their resources, but retain responsibility for their personal goals. Two people may hold the same resources, but one's life might be considered better than another's because of differences in well-being, or personal choices.[8] For Dworkin equality would appear to obtain in citizens having equal resource bundles.[9] Liberty is obtained in having similar rights and opportunities among citizens. The state has a re-distributive role.

Echoing Locke, Robert Nozick, a 'libertarian liberal', states that freedom in one's person and property must be the fundamental liberal value. For Nozick, freedom is the only moral right an individual has. The state is to be minimal—it is to ensure that exchanges are voluntary, and that its members are secure.[10] Freedom trumps all other supposed moral claims including equality. There appears to be an indifference to personal ideals of the good life. Nozick asserts that people are self-interested and naturally free. Equality would appear to only extend to democratic rights.[11]

Within liberal theory, it is readily apparent that the relations between the core concepts, freedom and equality in this case, are matters of dispute. These disputes are difficult to resolve without reference to substantive truth claims or foundational principles—which most liberals have been reticent to assert.

William Galston, a 'perfectionist liberal', criticises many liberals and their critics alike while attempting to give a thorough defence of liberalism based in its truth claims. He asserts pluralism as a social fact. He then constructs an argument regarding how liberalism should view the good. The state cannot be "neutral" in its understanding of the good because the community itself would lose social cohesion. Citizens must have shared values, and a public morality.

Most liberals, says Galston, have tried to defend liberalism based on its supposed neutrality. The idea behind liberal neutrality is that the state should not interfere with the individual's freedom to decide what to express and pursue so long as this is consistent with others doing the same. Moral truths are disputed and cannot be

demonstrated—theories of toleration are advanced accordingly, rights are asserted, and state neutrality is often adopted. Summarising Galston, J. Brian Benestad explains that: "Without some moral convictions about the good, people will not have any solid reason to respect human rights or other ways of life."[12] Quoting Galston, Benestad adds "Full scepticism about the good leads not to tolerance, not to liberal neutrality, but to unconstrained struggle among different ways of life, or struggle in which force, not reason, is the final arbiter."[13]

Galston believes that liberalism relies on a triadic view of the good, though most liberals either do not see, or acknowledge it. That triadic view is first a view that says human lives are intrinsically valuable. Second that the fulfilment of human purposes is good. And third, that rationality is the main constraint on human actions. Galston holds that liberalism ought to make this explicit rather than "covert". Moreover, a liberal society can provide for many things, which are experienced as good by its members. Benestad states:

> Galston justifies the liberal state on the grounds that it promotes a number of goods: social peace; the rule of law; the recognition of diversity by providing opportunity for all to develop their talents and pursue their life plans according to their conceptions of the good; "the tendency to treat steadily increasing percentages of their members as full and equal citizens"; reduction of wanton brutality and desperate poverty; affluence for many people; equality of opportunity created especially by means of universal education; approximate justice through response to need-based claims in the political arena and desert-based claims in the economy; openness to

> truth through such instruments as universities, the press, and political institutions... [14]

Galston holds that not only does liberalism have a theory of the good, when made explicit—it is defensible.

Many liberals, (especially Rawls) have asserted that the state should be "neutral"; it should be impartial towards competing claims of its members for reasons of freedom and equality. This has become increasingly problematic in light of the social fact of pluralism. For if Galston is correct in arguing that liberalism makes several truth claims and is not value neutral, then it would appear that liberalism must limit the extent of pluralism more than is generally acknowledged. Yet, it is likely that consensus on what values the state should advance is not forthcoming in light of wide pluralism.

Richard Bellamy argues that although value consensus may be practically impossible to realise, this does not negate the liberal project. Rather, the goal can be shifted from consensus to political compromise on questions of fundamental value. If liberalism holds that the practice of politics permits of legitimate disagreement among citizens conceived as similarly free and equal, then the desire for consensus appears too strong. Bellamy states: "compromise is sometimes portrayed as inimical to a principled liberalism. Theoretically, however, it can indicate a laudable and liberal willingness to see another's point of view, thereby showing a decent respect for pluralism."[15] This does not mean that there are not limits to the cultural diversity, for example, that liberalism can support. It rather

means that values can be negotiated and "neutrality" is not as impartial as many liberals have claimed:

> [T]he aim of a good compromise is to integrate the various interests and ideals in play, and to reach solutions that are mutually acceptable and embody equal concern and respect for those involved. The art of compromising is negotiation. By engaging with others, individuals and groups are led to take an enlarged view of a situation... Such negotiations have to be carried in a spirit of reciprocity, within which each acknowledges an obligation to participate on an equal basis with others in the framing of joint decisions. Demands that are incompatible with such conditions go beyond what can be legitimately compromised with.[16]

Liberalism holds pluralism to be a social fact. That being the case, it must propose some mechanisms that can identify and work out moral disagreements—not ignore them by claiming "neutrality". Not all moral positions can be accommodated by liberalism—this much is clear. What is less obvious is the extent and kind of moral disagreement, which is inherent in the idea of pluralism that liberalism can accommodate, or negotiate.[17]

Liberalism relegates most substantive truth claims to the realm of private belief. These substantive truth claims invariably assert what living well means—they attempt to provide a portrait of the good life. Liberalism does not assert what *the good life* is. Rather, it tends to discuss what the pre-conditions for *good lives* are. Liberalism allows for multiple answers to political philosophy's central question – what is a good life? Liberalism allows for these multiple answers because it

acknowledges the contemporary fact of democratic pluralism, which indicates the breath of disagreement regarding questions of the good, which are centrally questions of value.

How then can a society be organised in such a way as to secure consent for the regime from people conceived as similarly free and equal, who hold differing beliefs about the nature and purposes of humanity? The fullest treatment of what liberal freedom and equality mean, as well as the most sustained discussion of the extent of moral disagreement that liberalism can accommodate is found in John Rawls's theory, "Justice as Fairness".

1.2: The Liberalism of John Rawls

Rawls's central question was this: what is the most appropriate conception of justice for a democratic society marked by moral disagreement among citizens conceived as free and equal? Rawls was attempting to find a philosophic basis for democratic institutions to develop a conception of *political justice*—Justice as Fairness. Rawls posited that certain 'fundamental ideas' would give an overall structure to Justice as Fairness. The first such idea is that of *social co-operation*, which has three features. Rawls explained that:

> (a) [S]ocial co-operation is guided by publicly recognised rules and procedures which those co-operating accept as appropriate to regulate their conduct...

(b) Fair terms of co-operation specify an idea of reciprocity, or mutuality: all who do their part as the recognised rules require are to benefit as specified by a public and agreed-upon standard.

(c) The idea of co-operation also includes the idea of each participant's rational advantage, or good. The idea of rational advantage specifies what it is that those engaged in co-operation are seeking to advance from the standpoint of their own good.[18]

Two complementary ideas enter into social co-operation. These are the *rational* and the *reasonable*.[19] The rational yields an account of the individual's good. The reasonable states that those engaged in social co-operation are, Rawls explained, "equals in relevant respects".[20] The distinction between the rational and reasonable is central to Justice as Fairness as a political, rather than a comprehensive conception of justice. This distinction shall be revisited; however, it may be more helpful to briefly state the main contours of the Rawlsian project before considering it further.

Rawls argued that his political conception of justice was highly Kantian in nature. Paraphrasing Rawls, Freeman states:

> According to this conception, justice generally requires that basic social goods - liberty and opportunity, income and wealth and the bases of self-respect – be equally distributed, unless an unequal distribution is to everyone's advantage. But under favourable social conditions a special conception, Justice as Fairness, applies; it requires giving priority to certain liberties and opportunities via the institutions of a liberal constitutional democracy.[21]

Within the contract tradition, Rawls imagined an "original position" where

citizens' reciprocally situated representatives could reach at least a hypothetical agreement on democratic principles of justice. These principles would regulate society's main institutions, the basic structure. The basic structure would then regulate the society. If citizens found the basic structure to be just, then Justice as Fairness would be realised.

A Theory of Justice was, Rawls explained: "to generalise and carry to a higher order of abstraction the traditional doctrine of the social contract."[22] Given some of the criticisms raised against *Theory*, Rawls thought it necessary to clarify one point in particular. In *Theory* (1971), he had not made a clear distinction between moral and political conceptions. The scope of Rawls's theory appeared wider than he had intended. In *Political Liberalism* (1993), Rawls wanted to demonstrate that one could hold a comprehensive moral doctrine that differed from the views of one's fellow citizens and remain a full, free and equal member of the political community.

Rawls asserted that democratic societies are marked by the fact of reasonable pluralism. Reasonable pluralism means that democratic citizens will hold publicly justifiable, but incompatible comprehensive doctrines, (such doctrines posit something is right, true, or good—they are belief systems). "Reasonable" takes on a moral character in that it specifies relations of reciprocity and justification. By reciprocity, Rawls meant that citizens would have a willingness to propose and accept fair terms of social co-operation. Comprehensive doctrines are to be reasonable, which means they must be publicly justifiable. Public reasons are

required for justification; one cannot reference one's own (controversial) comprehensive doctrine in justifying one's political views and preferences to others.

The need for public justification of the political conception becomes paramount if one wishes to avoid reference to controversial doctrines in affirming the political conception. Rawls explained that:

> [T]he aim of political liberalism is to uncover the conditions of the possibility of a reasonable public basis of justification on fundamental political questions. ... In doing this, it has to distinguish the public point of view from the many non-public reasons and to explain why public reason takes the form it does.[23]

Political liberalism, Rawls argued, does not lend itself to identifying any moral truths. It does not even hold that Justice as Fairness is true. It is concerned that comprehensive doctrines be reasonable. It holds that Justice as Fairness is reasonable. Political liberalism concerns itself with political values.

Rawls's principles of justice are the result of a rational construct (the original position) subject to reasonable constraints (public reason and reciprocity). The principles generated will support reasonable (political) judgements. By sharing a reasonable political conception of justice—Justice as Fairness, citizens have a shared basis for public discussion.

Rawls thought the account of political liberalism given in *A Theory of Justice* (1971) was correct for the most part, but misunderstood. Rawls believed the idea of political liberalism was initially misunderstood because he had not adequately

explained certain ideas in the work. Rawls was not satisfied with the revisions made in *Political Liberalism (*1993). Several substantial essays were published to further elaborate how Rawls's views had changed, and several were concerned with providing answers to various critics. It became "difficult to find a clear and consistent"[24] view of Rawls's work as a whole. This difficulty gave rise to Rawls's final work, *Justice as Fairness: A Restatement* (2001). Rawls indicated that the restatement contained three changes to the overall idea of Justice as Fairness. First, the formulation and content of the principles of justice were revised. Second, the organisation of the argument for the principles in the original position was re-worked. Finally, Rawls re-iterated that Justice as Fairness must be viewed as a political conception, not dependent on any particular comprehensive view. Rawls's final statement of the principles of justice reads as follows:

> 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
> 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).[25]

The first principle remains prior. In addition, the principle of fair equality of opportunity is understood to be prior to the difference principle. By priority Rawls meant, "prior principles are assumed satisfied". The main changes pertain to the

first principle. It is now to be understood as a principle of liberties, rather than liberty.

In *Political Liberalism*, Rawls argued that not all plans could be reasonably justified to others. Individuals are constrained by the principles of justice in forming and expressing their plans of life. Liberty of conscience and thought are endorsed in the private sphere, however, the state is to be neutral vis-à-vis life plans in the public sphere.

There are limits, however, to state neutrality. Rawls argued that it was reasonable to repress comprehensive views, which could not be publicly justified to others given the principles of justice.[26] "Life plans" are to be developed in reference both to the individual (good as the satisfaction of rational desire), and the society (reasonableness). Rawls stated:

> We criticise someone's plan, then, by showing either that it violates the principles of rational choice, or that it is not the plan that he [or she] would pursue were he [or she] to assess his [or her] prospects with care in the light of a full knowledge of his [or her] situation.[27]

Rational plans of life are open-ended. The main feature of a rational plan of life is that it attempts to achieve "...the fulfilment of the more permanent and general aims..." of the individual.[28]

What is valuable to the individual is encompassed by that individual's most rational plan of life given the principles of justice.[29] Rawls argued that:

> If this conception of plans is sound, we should expect that the good things in life are, roughly speaking, those activities and

> relationships which have a major place in rational plans. And primary goods should turn out to be those things which are generally necessary for carrying out such plans successfully whatever the particular nature of the plan and its final ends.[30]

Rawls then, identified things of value encompassed by his conception of a rational plan of life. These are good activities, good relationships, and primary goods. Primary goods are defined as:

> ...things which it is supposed a rational man [or woman] wants whatever else he [or she] wants. Regardless of what an individual's rational plans are in detail, it is assumed that there are various things which he [or she] would prefer more of rather than less.[31]

Specifically, Rawls identified rights, liberties, opportunities, power, income, wealth and the social bases self-respect as primary goods.[32] People's basic needs were also assumed to be encompassed by primary goods.[33] The use and understanding of primary goods is straightforward with the exception of the social bases of self-respect, which requires some explanation. Rawls defined self-respect as including:

> ...A person's sense of his [or her] own value, his [or her] secure conviction that his [or her] conception of his [or her] good, his [or her] plan of life, is worth carrying out. And second, self-respect implies a confidence in one's ability, as far as it is within one's power, to fulfil one's intentions.[34]

Self-respect is about what is worthwhile. It can only be attained if one sees value in doing one's projects. To determine what is "valuable", individuals require what Rawls referred to as "moral powers". Rawls asserted that people have two moral

powers. The first is that one has the capacity for a sense of justice. The second is that one has the capacity to form a conception of the good.[35]

The exercise of moral capacities requires a number of related capacities. People must be capable of rational thought and judgement. Individuals must be able to form a conception of the good, which can be interpreted by a reasonable doctrine. Finally, people are assumed able and willing to co-operate with other members of their society.[36]

Rawls argued that citizens would be "reasonable" in two senses. First, citizens would have reasonable comprehensive doctrines. This is to say, they would have doctrines that would be publicly justifiable in light of the principles of justice. Second, Rawls assumed citizens would be "reasonable". Citizens would be reasonable because they accept the principles of justice as fair, and that those principles shape and constrain their public activities in a number of ways.

Reasonable citizens, Rawls posited, would be ready to engage in fair terms of co-operation. They would also recognise that some comprehensive doctrines could not be publicly justified. Citizens would also want to be recognised as normal and co-operating members of society. Finally, Rawls asserted that citizens would have a reasonable moral psychology.[37]

"Reasonable moral psychology" was understood by Rawls to include a number of rational capabilities. These include "object-dependent desires" which are independent of moral conceptions. "Principle-dependent desires" which require reference to either reasonable or rational principles. The citizens will adopt the

most effective means of attaining their ends. The ability to select probable alternative life plans and sub-plans and to prefer the greater good are also part of Rawls's assumed moral psychology. Implied by the preceding capabilities and explicitly included by Rawls is the ability to prioritise one's ends. Finally, Rawls's moral psychology included "conception-dependent desires" which are those things most important to the individual and can be described by reference to the individual's principles. These principles, which are elements of one's "plan of life", help one to determine appropriate ways of acting from settled convictions in particular situations.

Rawls's main ideal was citizenship characterised by "Justice as Fairness". Citizens are to be reasonable, rational, free, and equal.[38] Rawls argued that:

> Justice as Fairness connects the desire to realise a political ideal of citizenship with citizens' two moral powers [sense of justice and conception of the good] and their normal capacities, as these are educated to that ideal by the public culture and its historical traditions of interpretation.[39]

My contention is that the procedural notion of Justice as Fairness Rawls articulated is theoretically adequate, but *unrealisable in practice* because it cannot properly identify society's least advantaged members, and because it fails to differentiate between the means to freedom and the extent of freedom. Both these issues are obscured in practice because of the strong assumptions Rawls made regarding citizen's capacities in theory.

1.3: Differences between the Theory and Practice of Justice as Fairness

I will argue that the *practice* of Justice as Fairness cannot assume as much as the *theory* in regards to citizens' capacities. If citizens differ substantially in regard to their abilities to convert Rawls's means (primary goods) into their ends (conceptions of the good), then the *practice* of Justice as Fairness will require more than an account of the means to freedom, it will also require a consideration of the extent of freedom; the extent to which citizens are able to convert their means into their ends. This leads one to consider freedom and equality and "advantage" in different ways than Rawls did.

Rawls's account of freedom was generalised and abstract. Citizens were to have equal liberties so that they could express their rational and reasonable goods. Rawls account of equality is less abstract; it is concerned with raising the expectations of society's least advantaged members and establishing a fair equality of opportunity. The problem is that without considering freedom relative to concrete people's cognitive and other capacities, society's least advantaged members may not be properly identified in practice, and this would negate a "fair equality of opportunity". That is, Rawls assumed that the least advantaged would be those with lower levels of income and wealth (two primary goods). This, however, conflates "poverty" and "disadvantage". The practical implementation of Justice as Fairness must employ a broader conception of disadvantage because it cannot assume as the theory does, that citizens will have the requisite capacities to

convert "means" (Rawls's primary goods) into their ends (conceptions of the good). In order to mobilise the theory of Justice as Fairness for the practice of democratic politics, one must consider the real differences among people in regards to their capacities to be free and equal. By focusing public policy on the development of capacities relative to freedom, equality, agent-specific ends, and relative to the goals of Justice as Fairness—the practice of democratic politics would be much improved as it would identify society's least advantaged members, attempt to establish a fair equality of opportunity, and substantially help people to experience their lives as worthwhile and good. The project of mobilising Justice as Fairness requires that several issues be examined.

- One must consider how and why people *value* what they do.[40]
- Concrete understandings of freedom and equality must be further developed, and the relation between these must also be examined.[41]
- One must question as Rawls did what a good political arrangement for pluralistic democratic societies might be.

Rawls in particular, but also liberalism generally, has tended to discuss people primarily as self-interested individuals who make rational choices. This has obscured the question of how much diversity a liberal society can or should accommodate because it neglects to connect the individual to her moral background. Without this connection, the individual appears atomistic, and questions of value are not considered in relation to their social and moral

underpinnings—they appear to merely be matters of individual choice. What one considers to be a "good life" is closely related to what one values. Rawls's "thin theory of the good" obscures questions of value by positing that people will simply value things, which are rational for them to value.

Rawls discussed freedom in terms of equal liberties and opportunities—and this on a formal/procedural level. Rawls's "thin theory" of the good—goodness as rationality states that people will desire things which are rational for them to desire. People will want to maximise their bundles of "primary goods"—a class of goods everyone has reason to desire because they are thought to be means to other goods. The problem is that Justice as Fairness, when organised this way, cannot deliver equal liberties and opportunities because primary goods neglect to distinguish between the means to freedom and the extent of freedom.

Justice as Fairness is a mode of distribution that allows for a pluralistic value neutral state in theory. Justice as Fairness yields an abstract account of value and "the good"—one which is rational. Yet, "reasonableness" is introduced as a restraint on rationality, perhaps indicating some ambivalence on Rawls's part in relation to "rationality's" function in identifying "the good," and expressing this in a morally diverse society.

One's sense of the good is dependent on what one values. Rawls's thin theory of the good (goodness as rationality) is abstract and generalised (rational). In practice, what we value is more important to concrete people than abstract notions of

rationality. Emphasis must be placed on the idea that one's ends are valuable, not necessarily that they be rationally consistent.

Rawls argued that one's "good" was to be found in the satisfaction of rational desire (goodness as rationality). In *A Theory of Justice* Rawls saw a close connection between rationality and value. Later, in *Political Liberalism*, Rawls argued that another concept; "reasonable" was required so that one's good became the satisfaction of one's reasonable and rational desire. The difficult practical problem is this: many, perhaps most, people do not conceive of what they value in this way.

Instead of discussing what people value exclusively in relation to (individual) rationality, "value" could be fruitfully discussed through the concept of identity, which indicates social aspects of the person. I will argue that Rawls may have been correct in arguing that one's good can be understood as the product of one's reasonable and rational desire, but Charles Taylor's account of identity shows that it is most often the case that what one values is socially determined—it is not simply a matter of individual (rational) choice.

Rawls discussed a specifically public aspect of the person, the person as a generalised citizen. The difficulty is that Rawls's citizens are presented as having developed the two moral powers he asserts, capable of converting primary goods (the means Rawls asserted) into their ends, and being fully co-operating members of society. In practice, these assertions are too strong because they would have the effect of obscuring the identification of society's least favoured members. In

practice, "identity" offers a more natural way to discuss what people value than does rationality because of its appreciation of the social feature of human existence. By considering what people value through Taylor's concept of identity, two difficulties with the practical implementation of Justice as Fairness become apparent. First, discussing what people value as the product of rationality appears artificial. Second, the social bases of self-respect (a primary good) are others finding value in one's person and projects. This suggests that liberal pluralism must be limited more than is generally acknowledged because those who do enjoy self-respect will likely turn out to be society's least advantaged members.

If one considers the ideas of "good", "reasonable" and "identity" together, the limit of liberal pluralism is clarified. One's sense of what is "good" indicates what one fundamentally values. I will argue that what one values is more naturally discussed through the concept of identity, than it is through rationality. "Reasonable" indicates a fluid political sense of value. What may be counted as reasonable (publicly justifiable) is matter for political and legal debate and discussion. What any society may include as publicly justifiable can and does change over time, as previously marginalised people become included in political, social, and economic processes. Moral diversity, or more generally, pluralism is limited to what is publicly justifiable (reasonable) to fellow citizens in Justice as Fairness. This is the case because without the "reasonable criterion", freedom, equality and the social bases of self-respect become unstable. Without self-respect, a person cannot live a good life according to liberal or most other standards. The

need for self-respect will curtail the type and extent of freedom for people who are conceived as similarly equal.

Freedom is understood to be central to the idea of having a good life. Rawls discussed freedom in terms of "primary goods"—things that all have reason to rationally desire because they are thought to be the means to varied ends. Rawls focused on the means to freedom. This is related to his discussing persons as generalised citizens who are assumed to have all the necessary abilities to be fully co-operating members of society capable of expressing their reasonable and rational goods. That is, Rawls assumed all citizens would be able to convert the means (primary goods) into their ends (conceptions of the good). At this juncture, a crucial difference between the theory and the practice of "Justice as Fairness" becomes evident. The *theory* assumes more in terms of citizen capacities than the *practice* can.

In theory, Rawls was able to coherently assume the varied use of primary goods to pursue one's reasonable and rational good. In practice, however, not all people have the requisite capacities to do this. This prompted Amartya Sen to articulate a distinction Rawls had not made. This was to distinguish between the means to freedom and the extent of freedom.

Sen argues that freedom is best gauged by considering the extent to which a person is actually able to express and pursue her ends. He does this through his concept of "functional capabilities". The practice of Justice as Fairness ought to follow this distinction as well. This is because assuming all citizens can convert their means

into ends is empirically untenable. If the distinction between the means to freedom and the extent of freedom is not carried through in practice, then society's least advantaged members cannot be properly identified—something Justice as Fairness requires, among other things, to advance a "fair equality of opportunity".

The problem is that the assertion of moral equality, the positing of equal rights, and a fair distribution of primary goods (means) in theory does not translate into equal opportunities, or what I call fair life chances in practice.

Fair life chances are far more likely to occur when public policy focuses on the development and maintenance of functional capabilities. As stated above, Sen defines functionings and capability in the following way:

> *Functionings* represent parts of the state of a person—in particular the various things that he or she manages to do or be in leading a life. The *capability* of a person reflects the alternative combinations of functionings the person can achieve, and from which he or she can choose one collection.[42]

The development and maintenance of functional capabilities is a reasonable way for a liberal democracy to pursue substantive notions of freedom and equality. The aim of raising the level of those who have low levels of functional capabilities is to increase their freedom to pursue what they imagine they will experience as good. Put differently, by developing functional capabilities as a matter of public policy, a liberal state could enable its members to pursue their reasonable and rational goods to a greater extent than is currently the case. In so doing, the state would also

advance fair life chances for its members. By developing functional capabilities among its members, substantive freedom and equality are extended.

One of the difficulties in attempting to advance freedom and equality in concrete and meaningful ways is that the meanings of these, their priority, and relations are matters of disagreement. Liberals use these concepts in several ways. Freedom and equality are not merely theoretical terms; they are ideas that fundamentally inform the practice of democracy. The practical application of these ideas obviously changes over time. The liberal notions of freedom and equality are often in a state of flux. Freedom and equality are often bound up with several understandings of social appropriateness.

For example, liberals would accept Mill's "harm principle" as a legitimate limitation on individual freedom. What this means, however, is not always clear because people disagree on what constitutes harm. As ideas of what "harms" others change, so do ideas regarding what people are free to do. Alternatively, Rawls's reasonable criterion also yields a relation between freedom and equality—but what counts as "reasonable" changes over time. Freedom and equality are not static concepts in liberalism, but continue to evolve as liberal theory and the practices of liberal democracies evolve.

One should expect that as the practice of "Justice as Fairness" evolves so too will the understandings of equality, freedom, and how these relate to one another (reasonableness). Justice as Fairness and the concepts that inform it are not static or utopian, but rather, are dynamic and socially conditioned.

I argue that the Liberal/Rawlsian project (of considering what people, who disagree on the nature of the good, require in order to live good lives and remain full members of the same society) must clarify several subsequent questions. These are:

- How should we discuss people and what they value?
- What type of equality is most relevant to democratic, pluralistic societies?
- What type of freedom is most relevant to pluralistic democratic societies?
- What can liberalism count as a good life?
- What role(s) should the state play in enabling people to live free, equal, and good lives?

In regard to these questions, I have found it helpful to consider certain groupings of concepts together.

"Value" and "identity" are considered together to show that the abstract nature of Rawls's "goodness as rationality" appears artificial when moving from theory to practice. In practice, "identity" offers a more natural way to discuss what people value—to assert that our values are socially conditioned and not simply matters of rational, self-interested choice.

"Rationality" and "reasonableness" are then examined in light of the preceding discussions of value and identity to draw a contrast between Rawls's full and "thin theory of the good"—goodness as rationality. (In practice, "reasonable" is the important moral category and "rational" is de-emphasised and conditioned as it relates "goodness").

"Functional capabilities" will then be discussed as meaningful ways of advancing "freedom" and "equality". Finally, I argue that in order for functional capabilities to be the main focus of public policy, either a weak "perfectionist" state, or a neutral state which makes more normative claims than Rawls's version, may be desirable in practically implementing Justice as Fairness. This is because these alternative liberal conceptions of the state could consider functional capability development as intrinsically good—something Rawls's neutral state could fail to recognise.

I begin with an examination of Rawls's "original position". The original position may be understood as a hypothetical rational construct subject to reasonable constraints, intended to model fair bargaining between citizens' representatives. There are two concerns with this. First, it appears to many that Rawls gave an unrealistic account of the person in the original position. In fact, he did not give an account of the person. He only discussed people as generalised citizens. Second, the positing of the thin theory of the good, which states a person's good is the satisfaction of her rational desire, has had the effect of obscuring questions related to how and why people come to value things.

Liberalism has often viewed the good life as an outcome of expressing one's ends or goals. There is often a discrepancy, however, between having some hierarchy of desired ends and achieving these ends, (alternatively, between forming a conception of the good and actually achieving it). Rawls's "primary goods," part of the thin theory of the good, neglect to distinguish between the means to freedom

and the extent of freedom. This results in "thin", procedural understandings of freedom and equality.

In order to develop more robust notions of freedom and equality, one must consider several related questions. These are:

- How can individuals be assured of the means necessary to pursue their ends?
- What can be done to help people convert these "means" into the achievement of their ends?
- What is required on the part of the state to reasonably ensure that people have equal opportunities to pursue lives they think will be fulfilling?[43]

Understanding both freedom and equality in terms of functional capabilities allows for a fuller account of freedom, and also has the effect of making equality more meaningful in a practical context because it extends fair life chances.

Rawls has been criticised by a group of philosophers often collectively called communitarians who hold he had fundamentally over-stated certain individual abilities and had ignored the social constructs of humanity.[44] Of these writers, I believe Charles Taylor is the most persuasive. What Taylor does that Rawls did not do, is show how a person comes to view some ends as worthwhile and others not. He does this through an account of identity formation.

Some argue that Rawls's conception of the individual was too "atomistic" or separate from others and that he assumed the individual to be logically prior to her constitutive attachments. I think this particular criticism can be overcome by understanding Rawls's original position as a device of representation meant only as

an heuristic exercise designed to help people think about a fair system of social co-operation. A more general criticism of Rawls in the communitarian literature is that Rawls under-emphasised the ways in which others influence what we come to think of as valuable. I do not think that Rawls would have disagreed with Taylor, in particular, in regards to how important social contexts are in developing human identity. Rawls more or less assumed this position, but it is not developed in his work.[45]

Rawls's "political" conception of the person (person *qua* citizen) was that persons be both reasonable and rational. "Rational" may be understood in two ways. In the first sense, Rawls used "rational" to assert information. It asserts that a person's good will be the conception that the person would choose as his or her good if he or she had full knowledge of the consequences of that choice. Rawls also used "rationality" as a principle of efficiency. That is, one acts rationally if one efficiently pursues one's good.

"Reasonableness" also had a dual meaning for Rawls. In the first sense, "reasonable" means publicly justifiable. In the second sense, "reasonable" includes a moral psychology that functions to explain certain human motivations, but also includes a strong sense of toleration given modern plurality. The "reasonable criterion", necessarily limits the range of options a person may pursue as his or her good. Non-reasonable options are not permissible in a society characterised by Justice as Fairness. This clearly limits the range of plurality a liberal society can accept.

Rawls's state neutrality was not, in fact, neutral *vis-à-vis* all conceptions of the good. It was rather, to be neutral between reasonable conceptions of the good. What counts as "reasonable" will not only depend on what kinds of rights people have, but also on what they think is valuable. What counts as reasonable will also change over time. The implications of Rawls's "reasonable criterion" cannot be fully worked out without an account of how people come to see some states, objects and activities as valuable and not others. Rawls did not give a full account of this; however, he indicated that valuations are social constructs when he discussed the importance of his primary good of self-respect.

1.3.1: Value, Identity & Self-respect (Taylor)

In adapting Taylor's considerations of "identity" to this project, I argue that the social bases of self-respect (a primary good) require that citizens' values (both political and moral) significantly overlap. That is, the social bases of self-respect can be identified as others seeing value in one's person and pursuits. This, in addition to the "reasonable" criterion, further limits the range of options an individual may pursue. "Reasonable" is a moral concept that states the relation between freedom and equality within Justice as Fairness. Both "reasonable" (society's understanding of the range of worthwhile values), and "identity" (encompassing the individual's understanding of what is valuable) will have the effect of limiting pluralism. When considered together with the individual's

psychological need for self-respect, it becomes apparent that liberal pluralism must be limited more than is often acknowledged.

Taylor persuasively argues that a person's identity is a social construct developed in concert with and struggle against the values held by 'significant others' in our lives. Who we are and what we value as individuals is not simply a matter of our choosing.

The communitarian critiques lead many to conclude that Rawls over-stated the degree to which a state can be neutral *vis-à-vis* life plans. They also indicate that Rawls over-stated the ability of individuals to choose a plan of life. That is, on the level of the state, only reasonable life plans can receive "neutral" treatment. On the level of the individual, one can only pursue the range of life plans that fit well with one's core beliefs about what is valuable. What is valuable is, at least in part, socially determined. Moreover, one cannot express what one values without self-respect, which is socially dependent.

The liberal pre-occupation with individual choice has obscured considerations of

Individual choice is not the only important, perhaps not even the most important, consideration in thinking about how people conceptualised as free and equal can live lives that they find to be good. Yet, Justice as Fairness can accommodate these concerns by considering how "goodness as rationality" might work in a social context. In practice, people are not merely citizens, nor is everything they value a result of rational deliberations. Moreover, what may be valued is limited to what is "reasonable."

In considering how Justice as Fairness could be practically implemented, I will argue that much of the rational structure of the theory requires a social context. In practice, less emphasis should be placed on the "rational" capacities ascribed to citizens, and more on the "reasonable", which is socially dependent. Simple observation shows that liberalism can accommodate irrational people, but the same cannot be said of unreasonable people. What a person values, her good, must be reasonable, or even Rawls's neutral state will prohibit the carrying out of her "life plan."

The ability to choose a conception of the good, or even to have a conception of the good that may not have been "chosen", is distinct from the ability to actually arrange one's life in ways that one finds meaningful and significant. This distinction leads one consider what sorts of things, generally, people will require to carry out their life plans. Rawls's answer was "primary goods". Amartya Sen, however, argues that Rawls's primary goods cannot do the job of enabling people to articulate and pursue their conceptions of the good.

Sen argues that primary goods are (instrumentally) good things, but people are not equally capable of using them. This leads Sen to consider what people need in order to pursue their goods. He argues it is not necessarily primary goods, but rather, basic human functional capabilities.

1.3.2: The Capability Approach to Human Well Being

Sen argues that social arrangements, particularly within liberalism, most often accord with a fairly specific notion of equality. Some say people should have equal incomes, others say equal welfare levels, and still others say equal rights. This prompts Sen's original question "equality of what"? The "what" depends upon what a given school of thought takes as central to humanity. Equalities in one respect often entail inequalities in another. What, then, is the most relevant kind of equality when considering people's abilities to articulate and pursue their conceptions of the good?

Sen directs his readers to consider functional capabilities because these not only take account of the relevant type of equality as regards people's conceptions of the good, but they also make a distinction between differing kinds of freedom. Through his discussions of functional capabilities, Sen is able to discuss both freedom and equality in terms of well-being.

In light of human diversity, Sen argues that Rawls misstated the kind of freedom and equality people require to actually express their goods. Sen focuses on the "extent of freedoms" and argues that Rawls focused on the "means to freedoms". Sen's critique of Rawls is that by focusing exclusively on the means to freedom (primary goods), he neglected to consider whether people are equally capable of using these means to achieve their ends. This apparent disagreement can be overcome by appreciating that Rawls assumed citizens had adequate levels of capability in the theory of Justice as Fairness. Sen's concern is a practical critique, which asserts that concrete people do not have the capacities Rawls assumed of

citizens in his theory. When one considers how Justice as Fairness might be practically implemented, it becomes apparent that Sen is correct; many people do not have the capacities Rawls assumed of citizens in theory. It is therefore necessary in the practice of Justice as Fairness to consider how disadvantaged people could develop these capacities. I will argue that Sen's account of functional capabilities is a reasonable way to develop the capacities necessary to be "a normal co-operating member of society" (Rawls's terminology). Sen's egalitarianism invites a public policy focus on developing and maintaining basic levels of human functional capability.

Sen understands "functionings" as things various individuals value, but more generally, "basic human functions" are those that all have reason to value—(this is not entirely unlike Rawls's reasoning for people valuing primary goods). Sen views various human functionings as "achievements." These achievements are also diverse. Sen states: "The functionings included can vary from most elementary ones, such as being well-nourished... to quite complex and sophisticated achievements, such as having self-respect..."[46]

All people have reason to value "well-being achievements." All people also have reason to value other objectives relative to their particular ends. Sen's focus is on well-being achievements, or functionings. He judges inequality in terms of this freedom. Thus, Sen thinks the capability approach is concerned with the equal opportunity of persons to express their aims. "Equality of opportunity" has come to have a number of connotations. The main problem Sen sees in the equality of

opportunity literature is that equality of opportunity has almost exclusively been discussed in terms of the "means" to pursue one's objectives. Sen agrees that means are important, but he thinks one will arrive at a more accurate assessment of both equality of opportunity and well-being by taking the "extent" of freedoms exercised as primarily important.

Sen invites his readers to consider a person's "actual achievements", but also to consider a person's "freedom to achieve." Sen states: "Achievement is concerned with the *real opportunity* that we have to accomplish what we value."[47] Means (say, primary goods) will generally increase a person's freedom to achieve what he or she values. "Freedom to achieve", however, is still not the "actual achievement". Thus, a consideration of the "extent" to which something valued is achieved must also be included. People have differing capabilities to convert "means" into "freedoms".

Sen argues that a person's set of functionings "are constitutive of [that] ... person's being, and an evaluation of well-being has to take the form of an assessment of these constitutive elements."[48] "Capability" is "the freedom to pursue well-being". "Capability" represents the various sets of "functionings" a person could pursue.

Sen asserts that "capability" is the freedom to achieve functionings constitutive of well-being.[49] Sen wants to shift emphasis from the "means" to freedom (primary goods) to the extent of freedom (capability). The reason for this is that raising the level of a person's primary goods will not necessarily raise the level of his or her capability—that is, they may not raise one's level of well-being. In order to extend

the extent of a person's well-being freedom, that person's capability set must be increased.

The capability approach to well-being can be made to fit with a Rawlsian political framework. Rawls was, after all, concerned with "fair equality of opportunity" and the "society's least advantaged" members. Instead of characterising society's least advantaged members as the least well-off, (which emphasises one's means—particularly political and economic means), they should be characterised as those with the lowest levels of well-being (which emphasises one's capability set). If "equality of opportunity" and "advantage" are defined in reference to well-being (capability), then a society characterised by Justice as Fairness could logically focus public policy on the development and maintenance of basic human functional capabilities.

1.4: Main Steps of the Argument by chapter

Given the contemporary fact of democracies becoming increasingly pluralistic, it is desirable to find a way to arrange them such that citizens who substantially disagree on questions of value can, nonetheless be treated as similarly free and equal, and have the opportunity to pursue goals that think they will experience as worthwhile and good. Mobilising Justice as Fairness in practice could do this, but some alterations to the theory are required. They are as follows:

- Citizens were defined by Rawls as "normal co-operating members of society". This, however, obscures the identification of society's least advantaged members by assuming that they already have the cognitive and other capabilities required to advance their reasonable and rational goods.
- Rawls's understanding of "advantage" becomes problematic because in practice it is obvious that many do not have the requisite capacities to effectively use Rawls's means (primary goods) to express their ends. Rawls's theory considers the means to freedom, but ignores the extent of freedom by assuming "citizens" have the capacities to be normal co-operating members of society.
- Both the means to freedom and the extent of freedom must be considered when thinking about one's "advantage". Functional capabilities are advanced in concert with primary goods to address questions of the means to freedom and its extent.
- Rawls's discussions of people's "goods" is through the concept of life plans. The life plan is to rationally structure what one values and render these values consistent. This is neither always desirable, nor possible in practice.
- Reasonable citizens will wish to focus the basic structure (society's main institutions) on the development and maintenance of functional capabilities.

Rawls's main ideal was citizenship characterised by Justice as Fairness. Citizens are to be reasonable, rational, free, and equal. Rawls stated:

> Justice as fairness connects the desire to realise a political ideal of citizenship with citizens' two moral powers [sense of justice and conception of the good] and their normal capacities, as these are educated to that ideal by the public culture and its historical traditions of interpretation.[50]

Within the concept of "citizen" are several strong assumptions regarding people's abilities. Citizens are ascribed two "moral powers". This is problematic in practice because the ability to form a conception of the good is distinct from the capacity to actually realise that conception. Rawls could coherently avoid this distinction in theory by asserting citizens have the requisite capacities to be free and equal. In practice, however, the assertion is too strong.

"Goodness as rationality" asserts a class of goods, primary goods, such as income and opportunities. It asserts that all have reason to desire maximal amounts of primary goods because these are thought to be means to whatever goals a person may have.

The problem is twofold. First, the assumption that people will be normal co-operating members of society over a complete life (Rawls's definition of "citizen") is too strong. In practice, this assumption obscures the identification of society's least advantaged members by assuming they already have the cognitive and other capacities required to be free and equal members of society. Second, Rawls's primary goods will not act as means for everyone because some will not have the ability to convert these means into their ends.

In chapter two, I begin to put Justice as Fairness in a social context. I argue that Rawls's primary social good of self-respect requires more than tolerance; it requires the social recognition of value by others in society. To recognise value in the person and projects of another, one must have a moral framework that allows one to see these as valuable and worthwhile. Rawls's concept of reasonableness will limit the extent of pluralism in a liberal society. Moreover, it must do this if it takes the importance of self-respect, as this relates to a person's good, seriously.

Thus, I argue that the social bases of self-respect (a "primary good"), indirectly helps to define what is reasonable. The idea of "primary goods", however, is still problematic.

Primary goods are advanced as part of Rawls's "thin theory of the good", goodness as rationality. It states that one's good is found in the satisfaction of rational desire. This may be true for some, but a consideration of the concept of "identity" shows that it is unlikely for all to perceive their goods in this way. Justice as Fairness presents an overly rational understanding of how and why people come to value things. Moreover, citizens in practice are not equal in their abilities express these values.

In chapter three, I argue that Rawls had increasingly placed emphasis on his concept of "reasonableness", often at the expense of his other main cognitive category, "rationality." I agree with this shift because if one does not rationally order one's life—then this may well have negative consequences for that person.

If, however, one does not reasonably order one's life, then this may well affect the ability of others to do the same.

I further argue that rationality alone is incapable of directing the individual toward her good. It must reference what Rawls called the "relevant features of one's situation," and one's "self-knowledge". These are best understood as social features of a person, which are informed by one's identity—not necessarily by one's rationality.

In chapter four, I argue that the theory of Justice as Fairness equated being well-off with well-being because of Rawls's assumptions regarding citizens' capacities. Rawls argued that equality is reached when citizens have fair distributions of primary goods such as income and opportunities. The problem in a practical context is that primary goods are a means to freedom; they are not expressions of freedom. In order for people to have roughly equal chances to arrange their lives in ways they experience as good, they must be able to convert the means to freedom into valuable functionings.

Fair life chances for citizens are better assured by focusing public policy on the development and maintenance of basic human functional capabilities; than they are by simply seeking to fairly distribute resource bundles. Justice as Fairness in practice could aim to both fairly distribute resource bundles (primary goods) and seek to ensure that people have the capability to convert these into the achievement of their goals.

Public policy should focus on the development and maintenance of functional capabilities. This would yield more substantive understandings of freedom and equality than a fair distribution of primary goods would. Developing functional capabilities and fairly distributing primary goods, would advance substantive freedom and equality further still, as this would take into account both the extent and means to freedom and equality.

There is a difficulty, however, with the state advancing functional capability development as this relates to Justice as Fairness. In chapter five, I assert that Rawls's neutral state may fail to recognise the importance of functional capabilities because it may not be able to coherently identify these as intrinsically valuable without violating state neutrality. In theory, Rawls assumed all already have adequate levels of capability. In practice, Rawls's neutral state may view the development of functional capabilities as too intrusive in the lives of its citizens.

A weak perfectionist state may be better suited to advancing Justice as Fairness *in practice* because perfectionism takes the development of human potential as intrinsically good. On this basis, it could advance functional capabilities. This, however, appears to unnecessarily invite controversy into the project of mobilising Justice as Fairness for the practice of democratic politics because Rawls consistently argued that perfectionist views of the state were not publicly justifiable.

In considering Rawls's neutral state, however, one finds that several normative claims are posited. I assert that citizens in a society characterised by Justice as

Fairness could direct public policy toward the development of functional capabilities by adding one normative claim to Rawls's idea of the neutral state. That claim is that citizens would find functional capability development to be reasonable. Citizens could be persuaded (through public reason) that functional capability development would extend fair life chances further than any distribution of "means-goods" could. Since Justice as Fairness is fundamentally concerned with advancing fair life chances for citizens regarded as free and equal, there is insufficient reason to suppose that citizens would reject capability development as a focal point for public policy. I also argue that given the reasonable criterion, this state would not limit pluralism any more than the Rawlsian state would, though it would be more capable of advancing fair life chances for its members.

I conclude by reiterating the main difficulty in practically implementing Justice as Fairness is related to the rational structure of the theory and its strong assumptions regarding citizens' capacities. In the practice of Justice as Fairness, it is more important that people be reasonable, then it is that they rationally order their lives. The practical implementation of Justice as Fairness sacrifices some of the rational coherence of the theory. I hope to show, however, that the central goals of Justice as Fairness—to develop free and equal people and advance a fair equality of opportunity are practically realisable.

Notes

[1] Samuel Freeman, (editor), The Cambridge Companion to Rawls (New York: Cambridge University Press, 2003) preface.

[2] Ibid.

[3] The distinction between the rational and the reasonable is crucial to understanding the differences between Rawls's early and later articulations of Justice as Fairness. In chapter 3, I argue that this dichotomy should be followed in considering the practical implementation of Justice as Fairness as well.

[4] John Rawls, Justice as Fairness: A Restatement, Erin Kelly (editor), (Cambridge Massachusetts:
Harvard University Press, 2001), 42-43.

[5] Amartya Sen, "Capability and Well-Being" in Nussbaum & Sen (editors), The Quality of Life, (Toronto: Oxford University Press, 1993, reprinted 1997), 31.

[6] Considering what people require to freely arrange their lives in ways they experience as good is a central concern of this project.

[7] For full theory, see Ronald Dworkin, Taking Rights Seriously (Cambridge Massachusetts: Harvard University Press, 1970).

[8]Christopher Wolfe, "The Egalitarian Liberalism of Ronald Dworkin" in, Christopher Wolfe, (editor) Liberalism at the Crossroads: An introduction to Contemporary Liberal Political Theory and its Critics, 2ed edition (New York: Rowman & Littlefield Publishers, 2003), 21-22, 27.

[9] Referencing the work of Amartya Sen and other capability theorists, I argue that liberals have generally mistakenly equated being well-off with well-being. I do not accept that equality is reached when citizens have equal resource bundles because they may not have equal functional capabilities to convert these means into their ends. .

[10] For full theory, see Robert Nozick, Anarchy, State, and Utopia (New York: Basic Books, 1974).

[11] R. George Wright, "Robert Nozick and the foundations of Political Individualism" in Christopher Wolfe, (editor) Liberalism at the Crossroads: An introduction to Contemporary Liberal Political Theory and its Critics, 2ed edition (New York: Rowman & Littlefield Publishers, 2003), 61-69.

[12] J. Brian Benestad, "William Galston's Defence of Liberalism: forging Unity Amid diversity" in Christopher Wolfe, (editor) Liberalism at the Crossroads: An introduction to Contemporary Liberal Political Theory and its Critics, 2ed edition (New York: Rowman & Littlefield Publishers, 2003), 179.

[13] Galston, "Defending Liberalism" *American Political Science Review* 76 (1982): 627. Quoted in Ibid., 179.

[14] Benestad, "Galston Defence of Liberalism" in Liberalism at the Crossroads, 180.

[15] Richard Bellamy, Liberalism and Pluralism: Towards a Politics of Compromise (New York: Routledge, 1999), 93.

[16] Ibid., 111.

[17] I argue that the Rawlsian primary good of self-respect, for example, requires effective recognition of one's person and deeds as worthwhile by fellow societal members. This necessitates that liberal pluralism be limited more than is generally acknowledged.

[18] Rawls, Justice as Fairness: A Restatement, 6.

[19] Rawls attributes the distinction between the reasonable and the rational to W.M. Sibley in "The rational versus the Reasonable," *Philosophical Review 62 (October 1953).*

[20] Rawls, Justice as Fairness: A Restatement, 6.

[21] Samuel Freeman, The Cambridge Companion to Rawls, 1.

[22] John Rawls, Political Liberalism (New York: Columbia University Press, 1993), preface.

[23] Ibid.

[24] Rawls, Justice as Fairness: A Restatement, preface.

[25] Ibid., 42-43.

[26] Rawls, Political Liberalism, 61.

[27] Rawls, A Theory of Justice, 409.

[28] Ibid., 410.

[29] Ibid., 398.

[30] Ibid., 411.

[31] Ibid., 92.

[32] Ibid., 62.

[33] Rawls, Political Liberalism, 187.

[34] Rawls, A Theory of Justice, 440.

[35] Rawls, Political Liberalism, 81.

[36] Ibid.

[37] Ibid., 82.

[38] Ibid., 84.

[39] Ibid., 85.

[40] In chapter two, I attempt to expand on the work of Charles Taylor and relate "value" to "identity" in arguing that in order for people to arrange their lives in ways they experience as good—they must enjoy the social recognition of value by others. This requirement of self-respect necessitates limitations on pluralism.

[41] In chapter four, I attempt to build on the "capability" theory developed by Amartya Sen. Agreeing with Sen; I argue that Rawls had conflated the means to freedom with the extent of freedom. This results in Rawls's re-distributive scheme being less effective at creating and promoting equality of opportunity, or what I call "fair life chances".

[42] Sen, "Capability and Well-Being" in The Quality of Life, 31.

[43] I think Rawls's egalitarian distribution of primary goods answers the first question. Amartya Sen's capability approach addresses the second concern. Finally, I propose a weak egalitarian perfectionist state, or a different conception of the neutral state would be capable of meeting the third concern (promoting the reasonable values and the functional capabilities necessary to establish fair life chances.)

[44] It is beyond the scope of this thesis to give an adequate treatment of the liberal/communitarian debate. I assert that Rawls's commitment to rationality in theory obscures important considerations regarding people's capacities and questions of value. The abstract nature of the argument sometimes appears artificial when considering how Justice as Fairness could be practically implemented. Instead of discussing what people value in terms of rationality, in practice, it is more natural to discuss this in a social content. I argue in chapter 2 that Charles Taylor's account of *identity* does this.

[45] To be clear—I am not offering Taylor's sense of identity as an account of the person. I will argue, however, that *identity* offers a more practical way to discuss value than does *rationality.*

[46] Amartya Sen Inequality Re-examined (Cambridge, Mass., Harvard University Press, 3rd printing, 1995), 5.

[47] Ibid., 33.

[48] Ibid., 39.

[49] Ibid., 49.

[50] Rawls, Political Liberalism, 85.

Chapter Two: Freedom, Pluralism & Self-Respect

John Rawls asserted that "pluralism" is an enduring feature of democratic societies.[1] He also argued that "...one practical aim of justice as fairness is to provide an acceptable... basis for democratic institutions and thus to address the question of how the claims of liberty and equality are to be understood."[2] What is not clear is the extent of pluralism consistent with liberty and equality in the practice of Justice as Fairness. Rawls's sense of pluralism was that free and equal citizens would disagree over questions of value. Rawls persuasively argued that values must be "reasonable"—that citizens' expressions of their goods (what they value) be publicly justifiable. Rawls discussed persons' goods through the framework of goodness as rationality (more specifically, through positing that individuals express their goods through their reasonable and rational plans of life).[3] Rawls argued that people would use "primary goods"—things, which are rationally desirable to all because they are considered all-purpose means to express what people value, to express their goods. One of Rawls's primary goods is "the social bases of self-respect." In considering the social bases of self-respect in relation to what people value, I will argue that the practical limits of pluralism (reasonableness) in Justice as Fairness can be rendered more vivid. The abstract nature of the argument for the theory of Justice as Fairness obscures the limits on pluralism that Justice as Fairness must impose in practice. Too wide a pluralism jeopardises the social bases of self-respect, which would negatively affect freedom and equality, as well as the attempt to establish fair life chances.

The practice of Justice as Fairness requires s a social context because "rationality" cannot always indicate what people value. A problem in regards to mobilising Justice as Fairness is that Rawls's discussions of persons as rational and reasonable citizens circumvent the issue of how closely linked one's values are to one's social environment. For example, Rawls asserted that citizens would have two moral powers (a sense of justice and an ability to form a conception of the good). To have a sense of justice is to have a public sense of right and wrong. To form a conception of the good is to have a sense of fundamental value. Where do these moral powers come from? Rationality alone cannot identify one's ends or good. One must reference, to borrow Rawls's terms, the "relevant features" of one's life and "self-knowledge". I assert that these are more naturally discussed as part of one's identity[4] than they are as aspects of rationality.

Rawls identified "the social bases of self-respect" (a primary social good), as crucially important in regards to the individual having the capacity and desire to carry out her plan of life—to express her "good". Like identity, self-respect is socially dependent—it requires the effective recognition of value in one's person and goals by others. The Rawlsian framework requires modification for the practice of Justice as Fairness because the commitment to rationality on the theoretical level leads to only a partial understanding of how people come to value and express their goods in practice. This further obscures considerations of what the bounds of democratic pluralism should be for a society characterised by Justice as Fairness.

I do not believe that the Rawlsian framework is mistaken; it is, rather, incomplete. Rationality cannot always account for things that people value. What a given person will find valuable or good is largely dependent on that person's identity, which not only

includes the likes and dislikes of the individual, but also includes core beliefs, principles of conduct and so on. Rawls did not fully discuss identity or its relation to what a person may think is good, or worthwhile. For this reason, I find helpful to rely on the work of Charles Taylor who had much to say on identity formation and its relation to standards of value. My intention is to "relax" some of the rational structure of the Rawlsian framework in order to explain the social character of value and this understanding's consequences for the practice of Justice as Fairness. What people value cannot always be understood as the product of self-interested rational choice.

Liberalism asserts that a central component of a good life is that it is be free. Liberals often discuss this aspect of freedom through the term "autonomy." To express what one values is to act autonomously, or freely. This expression of value, however, requires that the individual have the confidence to carry out her life in this way. This confidence comes from the self-respect an individual has. This is why Rawls counted the social bases of self-respect as one of his "primary social goods". Self-respect has a social character; it is dependent on the recognition of value by others. That is the social base for self-respect is finding one's person and projects valued by others. In order for others to see value in our persons and

projects, they must have similar moral frameworks to our own. If this were not the case, it is difficult to see the basis upon which people would respect one another in a strong sense.[5]

The Rawlsian concept of reasonableness goes some way towards addressing this concern. Reasonableness has several related aspects, all of which steer citizens toward respecting one another. Reasonableness asserts a "reasonable moral psychology". It says citizens' relations and attitudes towards one another should be reciprocal. Reasonableness also specifies the limits of pluralism by insisting that citizen's conceptions of the good be publicly justifiable. Finally, reasonableness could form the social basis which self-respect requires by encouraging an "overlapping consensus."[6]

Rawls advanced a Kantian view of moral autonomy, which is consistent with the project of implementing Justice as Fairness in practice. Moral autonomy is concerned with questions of right. Full autonomy, however, is an expression of value. It is concerned with conceptions of the good. What is "good" is fundamentally a question of value. What the individual will value is dependent on her identity.

2.1: Rawls on Autonomy

In the spirit of the contract tradition, Rawls began his account of autonomy by imagining an "original position", which was a hypothetical device designed to focus reflection on what the representatives of free, rational and equal citizens would accept

as principles of justice to guide their society. The "veil of ignorance" functions to hide the representatives' knowledge of the particular circumstances of the lives of those they represent. Representatives behind the veil of ignorance are thus understood as unbiased in their deliberations regarding the just principles required to regulate a free society. Rawls reasoned that the representatives of free, rational and equal citizens would choose principles of justice that guarantee their freedom and seek to maximise the advantage of the least well off, lest it be them. Rawls originally characterised the original position as a situation of fair bargaining.[7]

In his later writings, Rawls shifted his understanding of the original position from the idea of a fair bargaining situation to the idea of a model of representation. This makes imagining the original position in non-competitive terms more plausible. The reason why it is desirable to imagine the original position in non-competitive terms is that competition implies "winners" and "losers" among the participants. Rawls wanted to avoid this implication. This is why he insisted on mutual disinterest of the parties (citizen representatives) and re-characterised the original position as a model of fair representation. He argued that the original position should be understood as an heuristic, rational exercise by reasonable representatives. Actual persons become the rational deliberators when they put the "veil" in front of their own eyes to check the fairness of the deliberations. For Rawls, it is essential that a distinction be made between those in the original position and actual people. We must also be clear on the purpose of the original position.

Some early critiques of Justice as Fairness focused on the original position and the supposed Rawlsian understanding of the self attached to it. In particular, Michael Sandel argued that Rawls's conception of the person was metaphysically flawed. People in the original position were "unencumbered selves" who appeared to be constituted prior to their significant attachments (which the "veil of ignorance" hides from them). The individual appeared to Sandel to be asocial. This criticism has been recounted in several introductory texts.[8]

Though others thought the Sandel critique to be damaging, Rawls did not appear to hold this.[9] I believe that Rawls was correct—that Sandel's critique misunderstands what Rawls was trying to illustrate with the original position. Rawls was not offering a conception of the person. Rather, he was generating a view of moral autonomy—he was attempting to illustrate what rational and reasonable people understood as free and equal would accept as fair if they were unbiased in their deliberations. This is only a very specific and partial portrait of the person—it is a person *qua* generalised citizen. The original position is meant to model fair representation among citizens characterised as free and equal and morally autonomous. To be clear, the original position was not intended to offer a conception of the person. Rather, it was to give an account of what unbiased morally autonomous agents would accept as fair principles of justice to guide society.

The original position generates a view of autonomy based on Kant's formulation. Rawls stated:

> Kant held, I believe, that a person is acting autonomously when the principles of his [or her] action are chosen by him [or her] as the most adequate expression of his [or her] nature as a free and equal rational being.[10]

The view of autonomy is that it is an expression of humanity's rational nature. This understanding of autonomy is referred to as moral autonomy.

Rawls intended the original position to be concerned with situating free and equal persons so they might arrive at a fair agreement regarding how to regulate society's main institutions what he called the "basic structure". Rawls explained that: " ... the significance of the original position lies in the fact that it is a device of representation or, alternatively, a thought–experiment for the purpose of public and self-clarification."[11] Rawls then, thought of the original position as being both hypothetical and non-historical. A "reasonable moral psychology" was asserted to make agreement possible.[12] This agreement is on how to regulate the basic structure and is between artificial persons modelling morally autonomous citizens, not actual citizens.[13] What the parties are considering is a list of principles regarding the regulation of the basic structure. The principles of justice are chosen from a list of possible contenders to flesh out Justice as Fairness.[14]

That the original position is a hypothetical situation is no longer a matter of controversy. The original position offers a way for people to imagine what they would agree to if everyone were free and equal and relations between them were fair.[15] People can thus use the devices of the original position and veil of

ignorance[16] and reason whether a) the original position is procedurally fair, and b) whether the principles of justice it generates are fair. If the answer to both questions is "yes", then the criteria for the principles of a society characterised by Justice as Fairness have been met. The exercise examines whether the hypothetical, initial situation and the principles it generates are fair.

The original position cannot be said to be binding on actual persons. It is the voluntary mental exercise of assessing whether the hypothetical original position is a fair one (and agreeing that it is) that binds actual persons to acknowledge the principles of justice as fair.

Accepting the principles of justice can be said to be voluntary. Individual (moral) autonomy can be assumed once actual people agree to the fairness of the hypothetical original situation, if autonomy is understood as self-regulation according to principles they would agree to in this hypothetical situation of fairness.

Autonomy can be discussed in multiple ways and indicate various understandings of freedom and value. I will argue that individual autonomy is related to individual capability. To be autonomous is to express what one values. This requires that people can identify and articulate what they value, as well as be capable of expressing or pursuing these values. Rawls, for example, asserted that individuals would have two moral powers—a conception of the good and a sense of justice. He further argued that one's good could be understood as the product of rational desire, and that one's sense of justice must be reasonable. The difficult problem is

this: rationality does not indicate value.[17] Thus, there are two further considerations. First, what does indicate value? Second, how can the multiplicity of ends and beliefs people express be arranged so that each citizen remains autonomous? In answer, we find that one's identity encompasses what one values. We also find that Rawls's introduction of the political and moral category "reasonableness" acts to limit what the individual could count as her "good"—it must be publicly justifiable. Without the reasonable limit on pluralism, individual autonomy could be jeopardised.

2.1.1: Autonomy and the Reasonable and Rational

Liberals hold that autonomy requires personal freedoms. Establishing general conditions of liberty, however, does not suffice for Rawls's theory. Rawls intended citizens to make particular kinds of choices (rational ones) which he thought would also be good. Rawls was not only interested in the citizen's ability to choose a "plan of life", but also to choose a good one. Rawls stated:

> a person's plan of life is rational if, and only if, (1) it is one of the plans that is consistent with the principles of rational choice when these are applied to all the relevant features of his [or her] situation, and (2) it is that plan among those meeting this condition which would be chosen by him [or her] with full deliberative rationality, that is, with full awareness of the relevant facts and after careful consideration of the consequences.[18]

Non-rational plans are to be criticised and discouraged because they either violate the principles of justice, or simply would not be helpful to the individual's pursuit

of his or her good. Even plans that do not violate the principles of justice can turn out to be inferior to other possible plans on Rawls's account. Rawls stated:

[The principles of justice] do not single out one plan as best. We have instead a maximal class of plans: each member of this class is superior to all plans not included in it, but given any two plans in the class, neither is superior or inferior to the other.[19]

This "maximal class" of plans includes ones that are rational for the persons involved to have. In addition, these plans are also to be "reasonable", or publicly justifiable.

Rawls supposed that: "Someone is happy when his [or her] plans are going well, his [or her] more important aspirations being fulfilled, and he [or she] feels that his [or her] good fortune will endure."[20] A good plan is one that is rational. A good plan is also one that works- that sees the individual's important aspirations expressed.

The original position secures a particular kind of liberty. Autonomy for Rawls was not simply about "choice", but rather, it was about choosing well.[21] The original position also dictates that the freedom of citizens be reciprocal. The character of such a society is set by the public conception of justice, which has the following two features: "(1) everyone accepts and knows that others accept the same principles of justice, and (2) the basic social institutions generally satisfy and are generally known to satisfy these principles."[22] Rawls stipulated that: "...that the plans of individuals need to be fitted together so that their activities are compatible with one another and they can be carried through without everyone's legitimate

expectations being severely disappointed."[23] The principles of justice rule out certain plans, as do Rawls's assertions regarding the preference for rational plans and the need for reasonable ones.

The concepts of rationality and reasonableness act to specify moral autonomy. Rawls defined full autonomy[24] as when citizens "...act from principles of justice that specify fair terms of co-operation they would give to themselves when fairly represented as free and equal persons."[25] An individual's plan (understood as a rational and reasonable expression of one's deep aspirations) can be criticised and rendered illegitimate in two ways. A plan is poor if it is not rational given the individual's aspirations and values. A plan is ruled out if it is not reasonable (publicly justifiable).[26] Non-reasonable and non-rational plans are either discouraged, or prohibited.[27]

Rawls often used "rationality" as a way to indicate value (goodness as rationality). A person's rational plan is a good one if it accurately captures one's enduring values and aspirations and indicates an efficient way of expressing these. When moving from the theory to the practice of Justice as Fairness, Rawls's commitment to rationality becomes problematic because it is not clear that people can or do value things which are rational for them to value, and which are also rationally consistent with one another. In considering how Justice as Fairness might be practically implemented, I assert that a more natural discussion of what people value is through the concept of identity, rather than through rationality.

Rawls distinguished between two aspects of identity—public identity (the person as citizen), and the broader non-institutional (or moral) identity—capturing the person's enduring aims and commitments. Rawls explained, for example that:

> [W]hen citizens convert from one religion to another... they do not cease to be, for questions of political justice, the same person they were before. There is no loss of what we may call their public or institutional identity... There is a second sense of identity specified by reference to citizens' deeper aims and commitments. Let's call it their non-institutional or moral identity.[28]

The public identity indicates that citizens will endorse the same political values, which enables them to form an "overlapping consensus". These shared political values are to be valued as part of citizens' non-institutional or moral identities, which encompass the enduring aims and commitments of the individual. The difficulty is that instead of discussing what the individual values through moral identity, Rawls attempted to discuss this through the concept of rationality. Rationality, however, does not indicate value. Indeed Rawls found it necessary to add that we must also consider the "relevant features of one's situation", and "self-knowledge".

I argue, however, that these are better discussed as aspects of identity than they are as aspects of rationality. I have, therefore, found it helpful to reference Charles Taylor's discussions of identity. The difficulty with this is any juxtaposition of Rawls and Taylor leads into another set issues often referred to as the liberal/communitarian debate. I do not wish to enter this debate, but I must

minimally indicate how my use of Taylor's notion of identity applies to this project.

I accept the deontological premise that the "right" must take precedence over the "good" in a society characterised by Justice as Fairness. I accept Rawls's principles of justice without alteration. The difficulty is in the application of these principles in practice. My use of Taylor's idea of "identity" is on the practical, not the theoretical level. I do not use "identity" to offer a conception of the self. Rather, I argue that what people value is more naturally discussed through "identity" than it is through "rationality".

Rawls held, and I agree, that liberty and the other primary goods should be fairly distributed to maximise the least favoured social and economic positions in a society characterised by Justice as Fairness. I argue, however, that the identification of the least advantaged positions and how to improve these is more complex to work out in practice than Rawls's theory suggests. Identifying society's least advantaged members in practice requires a consideration a of why some are disadvantaged in the first place. I argue that this leads one to consider two issues related to Rawls's use of rationality.

- Primary goods (accounted for by "goodness as rationality") will not lead to fair life chances because people have differing capacities to convert these means into the expression of their goods (what they value).

- Using the concept of "rationality" to discuss value can appear artificial—in practice, "rationality" does not capture how people come to value and express their ends.[29]

My partial use of Taylor's idea of "identity" is to render another, more natural sense of how people value and express their ends in practice. In considering "value" through the concept of "identity", I hope to show that the effective recognition of value by others in one's person and projects is the social basis of self-respect. Through this consideration, I further argue that the import placed on having self-respect has the effect of limiting pluralism to what is reasonable (publicly justifiable). This is important in regards to practically implementing Justice as Fairness because those who not enjoy self-respect are unlikely to consider themselves to be free and equal, co-operating and benefiting members of society. That is, people without self-respect will be society's least advantaged members.

The theory of Justice as Fairness posits that people are free and equal and that they conceive of themselves as such. Each is assumed free to express what each values so long as these do not violate the principles of justice. The freedom to express what one values is sometimes discussed as "autonomy". Since I assert that what one values is best discussed through "identity", I shall indicate the relation between identity and autonomy when considering how to practically implement Justice as Fairness.

2.1.2: Identity's Relation to Autonomy

Rawls spoke of autonomy in Kantian terms. Rawls asserted that people are autonomous if they are free, equal, and rational. I do not take issue with the moral understanding of autonomy that Rawls presented. I accept the deontological premise that the "right" must take precedence over "good" in pluralistic societies. The "good", however, cannot be discarded or ignored. The reason for this is that full autonomy is an expression of value, what the individual thinks is "her good". Just as Rawls required a "thin theory of goodness" (goodness as rationality) to establish his principles of justice as a basis for valuing "primary social goods", a notion of goodness is also required to give an account of why people value things. The "life plan" is to express the individual's *rational* good. What of those who do not have life plans, or understandings of their good that they can express in rational terms? There is a need for a less rationally structured understanding of autonomy because of this problem. In practice, most people will not think of their freedom, or what they value in these terms.

Rawls's account of autonomy was moral. Moral autonomy is expressed through one's rational and reasonable plan of life. It specifies moral relations in terms of the right. Full autonomy, in a society characterised by Justice as Fairness must specify reasonable boundaries (the right) in order for all to have the opportunity to pursue things they value (the good). I hold that Rawls's theory of goodness as rationality, as it stands, cannot do this adequately because it cannot fully account for how or why people value different ends. An account of what people value is more naturally done through a discussion of "identity" than it is through "rationality". The reason for this

is that most people do not discuss what they value in the abstract and rational terms that Rawls used, but they often reference their goals and beliefs.

An autonomous life is one where one lives according to what one values—and this may or may not be rationally articulated. Autonomy is always conditioned by one's identity, which includes not only likes and dislikes, but principles of conduct, and beliefs about what is good, fulfilling, and worthwhile. Much of Taylor's writings centre on identity formation. A consideration of his work shows how autonomy and identity fit together. Taylor employs the concept of "strong evaluation" which involves:

> ...discriminations of right or wrong, better or worse, higher or lower, which are not rendered valid by our own desires, inclinations, or choices, but rather stand independent of these and offer standards by which they can be judged. So while it may not be judged a moral lapse that I am living a life that is not really worthwhile or fulfilling, to describe me in these terms is nevertheless to condemn me in the name of a standard, independent of my own tastes and desires, which I ought to acknowledge.[30]

By making "strong evaluations" one can, more or less, flesh out where one stands, or which principles of conduct and standards of excellence one uses in determining what is worthwhile. There will always be a personal element in this exercise rooted in one's identity which encompasses ideals and beliefs, articulated to some degree about what is worthwhile or good. This is also compatible with the liberal ideal of a morally autonomous person so long as one accepts one's autonomy is expressed through one's identity.

Taylor attempts to uncover the motivations beneath the individual's ability to articulate a good, her relation to it, and her ability to express it. He employs several concepts to do this. The *framework* is understood as a moral background. An individual's ability to define and choose what is good cannot be separated from her notions of what "good" is. The good is defined *dialogically*, or in relation to others, and thus cannot be separated from language and culture both of which are constitutive elements of one's identity.

Frameworks are shared conceptions of meaning. Taylor argues that each person does and must operate within a framework. Taylor states:

> ...doing without frameworks is utterly impossible for us; otherwise put, that the horizons within which we live our lives and which make sense of them have to include... strong qualitative discriminations.[31]

Human beings make value judgements rooted in our identities, which are informed by our moral frameworks. Taylor explains that:

> My identity is defined by the commitments and identifications which provide the frame or horizon within which I can try to determine from case to case what is good, or valuable, or what ought to be done, or what I endorse or oppose.[32]

Our identities, placed within our frameworks, orient our lives and give direction on what is worthwhile and what is not. Making strong evaluations is inescapable for us. It is also impossible for an individual to understand his or her own identity without reference to others.

In modern societies, no single moral framework is universally accepted as true or good. What is good or worthwhile is often contested. Yet, frameworks provide "...the context within which the question of meaning has its place."[33] To answer questions like "what is worthwhile" or "what is a good life" requires one have a framework of meaning and value that provides such an answer.

Taylor places emphasis on the need for a social and moral framework to direct the individual in discerning what he or she thinks is good or worthwhile. One's identity strongly shapes one's sense of worth. Autonomy is expressed through one's identity, which indicates what one values (deep aspirations), and one's confidence to express this (self-respect).

For Taylor, the ability to decide for oneself what to do, think, be and aspire to is strongly connected to one's sense of fundamental value, or good. Autonomy (a specific kind of freedom to express what one values) must be closely connected to one's sense of the good (fundamental value). Autonomy becomes centred on a person's opportunity and ability to express what she thinks is fundamentally worthwhile and valuable.[34]

We orient ourselves in relation to what we think is worthwhile and good. This is what Taylor attempts to elucidate when he writes of "strong evaluation". In essence, strong evaluation "...concerns questions about what kind of life is worth living..."[35]

Taylor argues that making strong evaluations, having a sense of what is good (and what is not) is inseparable from our sense of "where we are" in relation to that

good. Without knowledge of both of these elements in the making of significant, (some might say autonomous) decisions, an individual would suffer from a loss of meaning in his or her life. Such an individual would be "lost" because he or she would either not know what is worthwhile (for him or her), or would not know where he or she stood in relation to what is worthwhile.[36] Taylor explains:

Since we cannot do without an orientation to the good, and since we cannot be indifferent to our place relative to this good, and since this place is something that must always change and become, the issue of the direction of our lives must arise for us.[37]

We often understand our lives as an "unfolding story", or a "narrative". We are aware that our lives are "journeys", and we have an idea of where we would like to "end up".

People cannot but make qualitative distinctions, or value judgements. The qualitative distinctions we make are rooted in our moral intuitions, which are conditioned both by our identity (which encompasses our attachments) and by historical circumstance. One's good and one's identity are tightly bound together. Taylor states: "We define our identity always in dialogue with, sometimes in struggle against, the things our significant others want to see in us."[38] Taylor further states that the:

> ...crucial feature of human life is its fundamentally dialogical character. We become full human agents, capable of understanding ourselves, and hence of defining our identity, through our rich language of expression.[39]

Autonomous decisions are made within the bounds of one's framework where one's identity is understood as closely allied to one's sense of the good. Identity, Taylor states, "...is the background against which our tastes and desires and opinions and aspirations make sense."[40] Autonomy, or more generally, freedom makes no sense beyond these bounds.

Taylor has shown that one's autonomy, or one's human agency is expressed through one's identity, which includes a sense of fundamental value, or good. This, however, says nothing about what is required for someone to live an autonomous, or free life in a society characterised by Justice as Fairness. In order to answer this question, we must turn to discuss Rawls's version of self-respect in the light of Taylor's discussions concerning the importance of social recognition.

2.2: Self-Respect & and its Dependence on Social Recognition

Rawls stated, "On several occasions I have mentioned that perhaps the most important primary good is that of self-respect."[41] Rawls defined self-respect as including:

> ... [A] person's sense of his [or her] own value, his [or her] secure conviction that his [or her] conception of his [or her] good, his [or her] plan of life, is worth carrying out. And second self-respect implies a confidence in one's ability, so far as it is within one's power, to fulfil one's intentions...Without...[self-respect] nothing may seem worth doing, or if some things have value for us, we lack the will to strive for them. All desire and activity becomes empty and vain, and we sink into apathy and cynicism.[42]

According to Rawls's account, it is impossible to see value in one's projects without having self-respect. I fully agree with this, but I would add that freedom and equality may appear rather abstract and empty to those who do not enjoy self-respect. Liberalism has paid much attention to the concepts of freedom and equality, but until Rawls, it is difficult to find any reference to the import of self-respect in the liberal tradition, which has tended to discuss the need for tolerance instead. This leads to a consideration of why self-respect is crucially important to the project of mobilising Justice as Fairness, and to consider what would be required to ensure the social bases of this "primary good".

Rawls stated that there are "essentially two" supporting social circumstances of self-respect. The first entails having a plan of life of suitable complexity for one's natural and trained abilities.[43] The second is, Rawls stated, "...finding our person and deeds appreciated and confirmed by others who are likewise esteemed..."[44] Self-respect requires reciprocal esteem on Rawls's account.

Through instituting a "fair value" for "equal political liberty", Rawls believed the result would "...have a profound effect on the moral quality of civic life. Citizens' relations to one another are given a secure basis in the manifest constitution of society."[45] Rawls asserted that citizens have two moral powers. These are a capacity for a sense of justice and a capacity to form a conception of the good. Further, the exercise of these moral powers requires "intellectual powers of judgement" and so on. People are taken as having a conception of the good, and they are presented as "normal co-operating members of society". The reasonable

"moral sensibility" further asserts that citizens will be willing to propose and accept fair terms of co-operation and recognise that they must justify their public views in terms reasonable persons could accept. Rawls stated:

> Beyond this... we suppose...that not only are they [citizens] normal co-operating members of society, but they further want to be, and to be recognised as, such members. This supports their self–respect as citizens... Finally, we say ... that citizens have what I shall call 'a reasonable moral psychology'.[46]

Put differently, the realisation of self-respect requires a social recognition of value. Reasonableness itself offers a social basis for citizens to respect one another.

Self-respect is an individual's sense that her life and aspirations are worthwhile. Social recognition is the idea that society also sees the individual's life and aspirations as worthwhile. This recognition is the social basis of self-respect, and further, Rawls defined its character as thoroughly "reasonable."

One cannot live a good, or fulfilling life without self-respect. It is important that members of a society have a secure sense of it if they are indeed to relate to one another as free, equal and reasonable citizens. This will have the effect of limiting pluralism, but why this is the case is not yet fully apparent.

If seeing value in doing one's projects is crucially important to one's ability to live a good life, and if having others also recognise value in one's projects is similarly important, then a significant number of people must see value in each other's projects. One can see value in another's projects if one has a similar value system or evaluation scheme to the "other's". Since one's framework indicates one's value

system, to see value in another's projects is analogous to having at least a similar value system as the other. In Rawlsian terms, an "overlapping consensus" is required, and "reasonableness" assures this.

If others have similar frameworks, they likely have similar conceptions of the good (minimally, they must have reasonable conceptions of the good). If this were not the case, not all could enjoy the social basis of self-respect, a "primary good". Frameworks within a given society can significantly differ, they cannot, however, be radically different.[47] Again, in Rawlsian terms, citizens must have comprehensive doctrines (which provide notions of goodness) that are reasonable, and the society must have an overlapping consensus evident. If one's doctrine is not publicly justifiable, it is ruled out because it violates the principles of a "well-ordered society characterised by justice as fairness." In addition, unreasonable doctrines would not be allowed for the added reason that they destroy the social bases of self-respect. Thus, Rawls had good reasons to employ the concept of reasonableness in his later articulations of his theory, and these should be carried through the practice of Justice as Fairness as well. Others seeing value in one's person and projects is a social recognition that provides a foundation for self-respect.

If an Aboriginal Canadian, for example, enjoys the respect of others in his community or even his networks of significant others, then he likely enjoys a degree of self-respect. If, however, some others think of him as a "silly Indian" who makes funny feather hats and performs ridiculous dances in the hopes of

bringing rain, this could undermine the social bases of his self-respect—it may even make self-respect impossible for him. Self-respect requires more to be realised than simply practising toleration, though toleration would also appear to be a social base for self-respect.

This is an empirical question to be resolved by social and developmental psychologists; however, I believe that a secure sense of self-respect is variably dependent on social recognition. Some persons may have a secure sense of self-respect where the poor opinion of others may not affect this. Others, particularly those who are members of previously marginalized groups, however, may have a less secure sense of self-respect.

Self-respect requires a social foundation—a recognition of value. Without this (reciprocal) recognition, the social bases of self-respect are in peril. The range of options (moral frameworks and conceptions of the good) available in a society must overlap enough that most people see value in the lives and projects of others. Pluralism is desirable as is cultural education in regards to what matters to "others", but the pluralism that can be realistically achieved and still encourage constitutional stability and the self-respect of societal members is limited by at least what is reasonable. Put differently, reasonable pluralism is a supporting social circumstance for self-respect, which entails a social recognition of value.

In a free society, people will have different belief systems, or alternatively, "frameworks". These disputed frameworks of meaning can overlap with one another. Within each society, there appears a somewhat limited range of

frameworks. They are significantly different, but not radically different from one another. If they were radically different, it is difficult to see how they could co-exist in the same society without causing a fair degree of civil strife, or even war. In practical everyday life, the only way to respect "others" is to see value in who they are and what they do, not simply to leave them alone (which I understand as tolerance). If the other's value system, beliefs about what is worthwhile is radically different than mine, I am as unlikely to respect her, as she is me. We both think the other's life is a rather useless one because given our beliefs about what is worthy, the other's life does not hold up well.[48]

How can the above problem be circumvented? Rawls used the idea of "reasonableness" to define the limits of pluralism. Without such limits, both freedom and equality are jeopardised. Rawls also outlined the pragmatic justification for limiting liberty of conscience. Rawls stated that, "...liberty of conscience is to be limited only when there is a reasonable expectation that not doing so will damage the public order which the government should maintain."[49] Rawls argued that:

> ...the maintenance of public order is understood as a necessary condition for everyone's achieving his [or her] ends whatever they are (provided they lie with certain limits) and for his [or her] fulfilling his [or her] interpretation of his [or her] moral and religious obligations.[50]

Clearly, not all conceptions of the good are permissible in the Rawlsian scheme. The "certain limits" to which Rawls referred are that plans be rational and not in

violation of the principles of justice. Rawls argued in *Political Liberalism* that plans must also be reasonable, or publicly justifiable.

For Rawls the value of a community was connected to the community's ability to generate and maintain the social bases of self-respect.[51] That is, a community's worth is determined in part, by level of self-respect each citizen in it has. Self-respect requires a social recognition of value in one's person and aspirations by others. The range of ends that can be counted as valuable is determined by what is reasonable (which can and does change over time). Thus, within Rawls's work is a conception of a good political community that is able to secure the social basis of self-respect for its members, which further enables them to arrange their lives in ways they find worthwhile. Through the work of Taylor, we find that self-respect is dependent on the social recognition of value as this relates to a person's aspirations and ends. Since self-respect requires a social recognition of value, the pluralism that can be supported by a society characterised by Justice as Fairness is limited to what is reasonable. "Reasonable" is necessarily social in character. It is a shared standard of appropriateness, which must be linked to people's understandings of value. A society that attempts to practice Justice as Fairness requires that its members hold reasonable values, which can and do shift over time. Justice as Fairness does not advance either a stagnant, or utopian view of society, or what people may value.

Conceptions of the good and frameworks within a given society can significantly differ, but they must share much common ground. Rawls indicated this common

ground was generally limited to adherence to society's rules and acting on the premise that all human beings are worthy of equal respect and consideration. To respect the "other", the "other" must do relatively well on one's scale of evaluation of what is worthwhile. If the "other" does not fare well on one's scale of evaluation, it is difficult to see how or why one would respect the "other" in the strong sense. This goes some degree further than the standard liberal assertion that the individual is valuable in light of her humanity. It says the person and what she thinks is worthwhile are valued by her fellow citizens. Self-respect and the social recognition it requires relies on the notion of reasonableness in Justice as fairness. In practice, it is likely that not all would always hold reasonable comprehensive doctrines, such people's self-respect is jeopardised, there is little social foundation for it.

2.3: Conclusion

Rawls argued that not all plans could be reasonably justified to others. Individuals were constrained by the principles of justice. Rawls argued that it was reasonable to repress comprehensive views, which could not be publicly justified to others given the principles of justice.[52] On these points, I agree with Rawls, but also argue that Taylor shows the social basis of self-respect to which Rawls referred is the social recognition of value by others in one's enduring commitments. Rawls's own category of "reasonableness" indicates this view.

Self-respect is essential for individual autonomy. Autonomy is about the freedom and capacity to express what one values, and is always conditioned by one's identity (what one fundamentally values). Pluralism must be limited to what is reasonable so that self-respect is practically realisable for members of a society characterised by Justice as Fairness. Reasonable pluralism is a supporting social circumstance of self-respect, if it allows for and encourages the effective recognition of the values and aspirations of fellow citizens.

One cannot act autonomously without having a fundamental sense of value. What a given person thinks is valuable is part of her identity. Autonomy is, therefore, always expressed through one's identity. Further, one cannot act autonomously without having a secure sense of self-respect. Self-respect would seem to become increasingly likely when others value one's life and aspirations, when it has secure social bases. Reasonableness not only allows for, but actually encourages citizens to value one another in reciprocal terms. This then, is the social basis for self-respect in a society where people are understood as free, equal and reasonable.

The positing in theory that pluralism must limited to what is reasonable is somewhat problematic in practice. It is likely that there will always be some minority in any society that resists dominant views of what is worthwhile, valuable and good. So long as their beliefs and activities do not prevent others from expressing their ideals, these minorities ought to be left free to challenge society, to attempt to shift the bounds of reasonableness. That is, toleration can lead to changes in what is considered reasonable over time.

The question of how one might move from tolerating someone who values very different things, to respecting that person is not easily answered. Historically speaking, however, it has happened across liberal democracies in terms of gender, race, and cultural and religious difference.

Given that pluralistic democratic societies tend to have minorities in them that disagree with dominant standards of value, two points appear evident. First, these minorities will most likely shift what counts as reasonable over time. Second, members of such minority groups would appear to have a less stable foundation for self-respect than others do. The problem cannot be solved by making "reasonable" (what counts as publicly justifiable) static. It is more realistic to simply posit that some people will not enjoy as much self-respect as others because a secure social basis for it is lacking. Self-respect cannot be re-distributed in the ways that other primary goods, say wealth, can be.

What counts as good and valuable, and reasonable and respectable in a society will shift over time. During these periods of change, it is likely that some will not enjoy the good of self-respect. The goal of all members of the society having self-respect appears too high. Yet, Justice as Fairness must seek to the most inclusive degree possible, to ensure that all can enjoy self-respect because it is thought of as a necessary component of a good life. Moreover, what is the supposed value of freedom and equality if one does not have self-respect?

A society characterised by Justice as Fairness must take great care to foster self-respect and the social bases it requires. One way to encourage self-respect is as

discussed above, to attempt to limit the pluralism of values to what is reasonable. This would have the effect of helping others to see value in one's projects, though it is likely free societies will always have some (healthy) resistance to the dominant values (what counts as reasonable). Another way to foster self-respect (which requires that one have the confidence to express what one values) is to develop people's capacities as a matter of public policy.

In chapter three, I consider the emphasis Rawls's theory places on rationality. In particular, I consider three Rawlsian positions regarding rationality:

- Rawls's strong assertions regarding citizens' rational capacities;
- His understanding of one's good; and
- The emphasis placed on the structure to advance one's good, "plan of life" is examined.

I shall argue that Rawls asserted too much in terms of citizens' capacities. Rational and other capacities should not be assumed, but rather be developed as a matter of public policy in the practice of Justice as Fairness. I also argue that it is more important that citizens be reasonable, than it is that they be rational. Finally, I argue that the rational structure Rawls asserted to advance one's good (plan of life) overstates the need for one's ends to be rationally consistent.

Notes

[1] John Rawls, Justice as Fairness: A Restatement, Erin Kelly, editor (Cambridge Massachusetts: Harvard University Press, 2001), 84.

[2] Ibid., 5.

[3] In chapter three, I will argue that Rawls's use of rationality in the theory of Justice as Fairness requires social conditioning in the practice of Justice as Fairness because it appears that most people do not conceive of what they value in the abstract and rationally coherent terms that Rawls asserted. That is, people are not as "rational" as the theory suggests.

[4] I am not offering Taylor's account of identity as an account of the person. Rather, I am asserting that what people value in practice is better considered through the idea of identity than it is through the concept of rationality.

[5] Throughout I assume a distinction between respect and tolerance.

[6] I discuss "overlapping consensus" at length in later chapters. Here, I only wish to indicate that it encourages citizens to agree on substantive political and moral questions.

[7] John Rawls, A Theory of Justice (Cambridge: Harvard University Press, 1971), 139.

[8] As examples, Stephen Mulhall and Adam Swift Liberals & Communitarians (Cambridge Massachusetts: Blackwell, 1992, reprinted 1995). And Will Kymlicka Contemporary Political Philosophy: An Introduction (New York: Oxford University Press, 1990).

[9] Political Liberalism is often understood as Rawls's response to his critics. He only briefly treats the Sandel criticism in a footnote. Thus, he does not appear to believe the critique is particularly damaging to his theory. It is rather, based on a misunderstanding.

[10] Rawls, Theory of Justice, 252.

[11] Rawls, Justice as Fairness: A Restatement, 17.

[12] Ibid., 16-18.

[13] Ibid., 133.

[14] Ibid., 83.

[15] Rawls, Theory of Justice, 11-13.

[16] That is, *pretend* they did not know the actual circumstances of their lives.

[17] Though in the form of an assertion here, an argument in support of it is developed in later sections.

[18] Rawls, A Theory of Justice. 408.

[19] Ibid., 409.

[20] Ibid.

[21] Thus, I argue elsewhere that the basic structure should be directed to enable people to arrange their lives in ways they find worthwhile. I further argue that this requires that attention be paid to the development and maintenance of basic human functional capabilities.

[22] Rawls, Theory of Justice, 5.

[23] Ibid., 6.

[24] Rawls's definition of "full autonomy" is still limited to a moral understanding of autonomy. In later sections, I advance the idea that full autonomy includes this sense of moral autonomy, but add Taylor's sense of expressing value. (And this may not be articulated in strictly "rational" terms).

[25] John Rawls, Political Liberalism (New York: Columbia University Press, 1993), 77.

[26] Ibid., 61-67.

[27] Ibid., 61.

[28] Ibid., 30.

[29] The first concern is treated in the third and fourth chapters of this work. The second concern is a focal point of this chapter.

[30] Charles Taylor, Sources of the Self: The Making of Modern Identity (Cambridge: Harvard University Press, 1989), 4.

[31] Ibid., 27.

[32] Ibid.

[33] Ibid., 17.

[34] I also hold that a main goal of public policy ought to be to develop functional capabilities to better enable citizens to have these opportunities and abilities.

[35] Taylor, Sources of the Self, 42.

[36] Though he attributes the correction to Erin Kelly, Rawls clearly agrees with Taylor on this point. See, for example, Political Liberalism, pages 30-31 and Justice as Fairness: A Restatement, page 22.

[37] Ibid., 47.

[38] Charles Taylor "The Politics of Recognition" in Amy Gutmann, (editor), Multiculturalism (Princeton: Princeton University Press, 1994), 32-33.

[39] Ibid., 32.

[40] Ibid., 33-34.

[41] Rawls, Theory of Justice, 440.

[42] Ibid.

[43] This requires what Rawls refers to as the "Aristotelian Principle".

[44] Rawls, A Theory of Justice, 440.

[45] Ibid., 233.

[46] Rawls, Political liberalism, 81-82.

[47] "Significantly different" frameworks are where two or more individuals disagree over the content of what is good or worthwhile. The disagreement, however, is patched over by the shared attachments the parties concerned have. These shared attachments could be as wide-ranging as belief in the same god and commitment democratic principles and rights, for example. "Radically different" frameworks would be where the parties concerned hold visions of the good so diverse that respect between them becomes impossible. That is, each is unable to see value in what the other holds most sacred. There is the further question of whether the radically different can *understand* each other's position, even if they do not value it. This appears possible in some cases, and may lead to the possibility of a broader pluralism at some future point in time (thus a strong sense of toleration is still required).

[48] It is not just that we do not see value in the other's projects; we have disdain for them. This is a negative value.

[49] Rawls, Theory of Justice, 213.

[50] Ibid., 213, emphasis added.

[51] Ibid., 264-65.

[52] Rawls, Political Liberalism, 61.

Chapter 3: Goodness as Reasonable Rationality

John Rawls's work considered how one could hold a comprehensive moral doctrine that differed from the views of one's fellow citizens and remain a full, free and equal member of the political community. Particularly in his later works (post 1985), when Rawls discussed people, he most often did this through the concept of "citizen". Citizenship does not define a person, nor does it indicate all her values. What the concept does is set a particular kind of (public) relationship among a specified group of people. Citizens were assumed by Rawls to be "normal co-operating members of society". When moving from the theory of Justice as Fairness to the practice, it becomes evident that this assumption is too strong. The assumption is problematic because if one assumes all to have the relevant capacities and motivations to be a "normal co-operating" member of society, then those who may be below this threshold in practice will not be properly identified as society's least advantaged members. Without correctly identifying this group, Justice as Fairness cannot be realised. Rawls assumed citizens would be rational agents capable of expressing their goods. Rawls's "goodness as rationality" states that one's good is to be found in the satisfaction of rational desire. I agree with Rawls that a person's good can be rationally expressed. I argue, however, that Rawls's understanding of "good lives" is couched in excessively rationalistic terms. This impression of excessive rationality in Rawls's theory further leads to the appearance of emphasis on rationality rather than on value in his discussions of good lives. I argue that Justice as Fairness should emphasise that ends are valuable,

not necessarily that they are *rationally* consistent. For most people rationality is not nearly as important as their ends, or what they value. It is a person's ends not a person's rationality that determines what a good life for him or her might entail. The main concern here is to re-consider the relationship between a person's rational faculties and what that person values.

Rawls thought rational-deliberative faculties were essential to people's ability to express their ideas of what a good life for them might entail (their "rational goods"). Rawls introduced what he called a "thin theory" of the good—goodness as rationality, in order to introduce the guidelines for deliberation in his original position, which yields a hypothetical agreement regarding principles of justice. The "thin theory" is not meant to give any account of moral worth. An account of moral worth is found in the "thick" theory through the introduction of the concept of reasonableness. The "thick" or full theory is best understood as goodness as reasonable rationality.

The concept of "rationality" in Rawls's theory is (increasingly) instrumental. Rationality is a private conception concerned with the person's ability to efficiently express and pursue her good. The concept of "reasonableness" gives an account of social value. It is a public conception that specifies fair relations among free and equal people. I argue that the primary conceptual category in goodness as rationality is actually reasonableness, not rationality. For, if one does not pursue his good in a rational way—then this may well have negative consequences in terms of his finding his life worthwhile and fulfilling. If, however, he expresses his

good in unreasonable ways this affects others—perhaps even prevents them for expressing their goods.

By placing more emphasis on the "reasonable" rather than the "rational", I hope to overcome the impression of excessive rationality one is left with as the theory now stands. One's ends must be reasonable (a public concern), and should be rational (a private concern). This understanding is evident in Rawls's later writings. This shift, however, does not explain the relation between rationality and value. In order to understand this relation, one must enter into a discussion of identity. One's identity, in part, includes an understanding of what is fundamentally valuable to that individual. It is in the interest of the individual to pursue what she thinks is fundamentally valuable in a rational way (efficiently). It is in the collective interests of all in the society to express reasonable (publicly justifiable) values.

An aspect of Rawls's use of rationality becomes problematic when considering the notion of Life plans. Life plans express a clear preference for consistent ends. This may not always be possible or desirable.

The main claims of this chapter then, are as follows:

- The *theory* of Justice as Fairness asserts that "citizens" will be "normal cooperating members of society". The *practice* of Justice as Fairness indicates that many may not achieve this theoretical threshold. This could obscure the identification of society's least advantaged members.

- The *theory* stresses that one's ends (what one values) be rationally consistent. The *practice* indicates that this is neither always possible nor desirable. This leads us to re-consider the relationship between rationality and value.
- The *theory* leaves the impression that rationality indicates value (goodness as rationality). The *Practice* asserts that what one values is encompassed by one's identity.
- The *theory* asserts that one's good is identified by one's most reasonable and rational plan of life. The *practice* asserts that many do not have, or require a well-articulated and rationally consistent life plan that indicates their goods. It is more important that people and their values be reasonable than it is that they be rational.

3.1: Goodness as Rationality

"Justice as Fairness" is a deontological theory, and as such, it prioritises the "right" over the "good". This priority has led some to think that Rawls's use of the "good" is either only "very thin, if not purely instrumental"[1]. Rawls, however, resisted this interpretation arguing that the right and the good are complimentary, and that any theory of justice requires both. Justice as Fairness limits ideas of the good (through the concept of "reasonable"), to those that are consistent with the priority of the right. Rawls used six main ideas of "good" to develop Justice as Fairness.[2]

Goodness as rationality (the thin theory) only expresses "good" in a descriptive, "better than" sense. There is no moral content inherent in the concept of rationality as Rawls used it. Goodness as rationality expresses a thin sense of the good—"goodness" as the satisfaction of rational desire. Reasonableness expresses both ideas of (social) good and the priority of the right—it says which rational desires may be expressed (as good). Reasonableness gives moral content to the idea of goodness as rationality. Rawls explained that goodness as rationality:

> [S]upposes that citizens have at least an intuitive plan of life in light of which they schedule their more important endeavours and allocate their various resources so as rationally to pursue their conceptions of the good over a complete life. This idea assumes that human existence and fulfillment of basic human needs and purposes are good, and that rationality is a basic principle of political and social organisation.[3]

Rationality allows people to pursue and express what they think they will experience as good. For the individual, rationality encourages the efficient pursuit of her good. For the society, rationality is an organisational principle. These uses of rationality are instrumental. This does not mean Rawls only used an instrumental sense of goodness in his theory. It means one idea of goodness that Rawls used, the idea of goodness as rationality, was instrumental until he introduced a concept of moral worth—reasonableness.

Partly for this reason, goodness as rationality is presented in different ways at two levels of Rawls's argument. At the first level of argument, goodness as rationality is introduced as a "thin theory of the good". Here, "goodness" is discussed in the

descriptive, better than sense. It is not meant to contain any moral content lest it bias the deliberations of the representatives of free and equal citizens modelled in the original position. Once the arguments, deliberations, and justifications of the original position are made, goodness as rationality is discussed as a "thick" theory of the good. It becomes capable of expressing moral content through the additional concept of reasonableness. The thin theory of the good is goodness as rationality. The thick theory of the good is better understood as goodness as reasonable rationality.

The principles of rational choice, which people are to use to help them deliberate over their ends, are also instrumental. In considering relations between rationality and goodness, one further finds that rationality alone cannot express an idea of the good, beyond the descriptive sense without relying on some broader sense of value.

One's sense of value is better discussed through the concept of identity, than it is through the concept of rationality. One's identity (core beliefs, preferences and deep aspirations) will indicate a person's ends—what she values. Rationality will indicate efficient ways of expressing and pursuing these ends. Goodness as reasonable rationality, the thick theory of the good, will be experienced as good by societal members because it encourages political stability and helps establish the social bases of self-respect, both of which help enable citizens to express their reasonable and rational goods (which will also be experienced as good).

3.2: Principles of Rational Choice

The principles of rational choice may aid one in articulating and pursuing one's rational good. The extent; however, to which the rational principles are, or ought to be employed is debatable. There is room within goodness as rationality for lives that pursue rational goods with little reference to some (perhaps most) of the principles of rational choice. These lives may be understood as less rationally structured, but not necessarily irrational. Second, the structure of life plans appears overly rational. In particular, life plans strive for a consistency of ends. This is neither always possible, nor desirable in practice. *Goodness as rationality in practice can and should allow for a range of rationality both in the structuring of the rational pursuits and in the level of consistency among those rational pursuits.*

To be clear on what goodness as rationality can entail, we must re-visit what life plans are and what they can and cannot do. In considering this, we find that the Rawlsian concept of life plans relies on principles of rational choice, which are to aid people in making decisions regarding their ends. We then find that the principles of rational choice can help people in making evaluative decisions, but ultimately, we must also consider the "relevant features of one's situation" along with a kind of "self-knowledge" that specifies the intensity of our desired ends. These relevant features and self-knowledge vary from person to person, and are better understood as aspects of identity than they are as aspects of rationality.

For Rawls, a plan of life was to specify a person's conception of the good. It is to be reasonable (implying a capacity for justice and a willingness to exercise this

capacity reciprocally in a system of fair social co-operation.). Life plans are also to be rational (implying a capacity for forming and pursuing a conception of good in an efficient manner). Life plans see the two moral powers that Rawls asserted practically realised.

Rawls also argued that a plan of life "establishes the basic point of view from which all judgements of value relating to a particular person are to be made and finally rendered consistent."[4] Plans are to make one's ends consistent. This makes sense in terms of being a rational argument. It is; however, intuitively problematic because many people do not have consistent ends, and there is insufficient reason to suppose that this precludes their ability to express their reasonable and rational goods, (to live good lives).

People make evaluations based upon knowledge of their own preferences. A plan only establishes the relevant point of view for individuals to make evaluations if it accurately captures their preferences in regards to all the varying ends they wish to express. A life plan can be understood as a quick reference that rationally articulates a kind of self-knowledge. The "self-knowledge" a plan draws on is the known intensity of one's ends—one's "value identity".

In asking where the relevant point of view from which individuals make evaluations concerning their ends is, one must consider both how and why individuals make evaluations. The "why" is straightforward, individuals make evaluations concerning their ends and potential ends because they want to pursue things they think are worthwhile. People try to arrange their lives in ways they

think will make them happy. We know intuitively that we cannot pursue everything and we also know that we do not wish to pursue just anything. We want to pursue as many as those things we think will lead to our happiness as we can. We use our rational faculties to figure out how to achieve our most valued ends.[5]

How we should use our deliberative capacities is a more difficult question. Rawls intended our deliberations to be based in reason. We are to use principles of rational choice to help us through these deliberations. Rawls stated: "a person's plan of life is rational if, and only if... it is one of the plans that is consistent with the principles of rational choice when these are applied to all the relevant features of his situation..."[6] (This invites two questions, what are the principles of rational choice and what are the relevant features of a person's situation?)

Rawls supposed that the first principle of rational choice in the short-term context of a plan of life is that of **effective means**. He explained that "given the objective, one is to achieve it with the least expenditure of means whatever they are); or given the means, one is to fulfil the objective to the fullest extent possible."[7] This is a straightforward principle of efficiency when there is only one objective. If, for example, my objective is to walk to the corner store to buy a loaf of bread, I will choose the shortest route unless additional objectives are specified. Perhaps my objective not only involves purchasing a loaf of bread, but also involves getting some exercise in the process. Then, the route I take may not be quickest route; I may choose a more strenuous route and so on.

Rawls asserted that: "The second principle of rational choice is that one (short-

term) plan is to be preferred to another if its execution would achieve all of the desired aims of the other plan and one or more further aims in addition."[8] This is a principle of **inclusion**. If my objectives are to buy some bread and get some exercise, it could be rational for me to think of a way to do both. It would be rational for me, in this case, to walk to the store instead of driving because in walking both my objectives are achieved, while in driving, only one is. Note that rationality does not dictate that there is only one course of action. It is perfectly rational to drive to the store and then go to the gym to "work out". I still achieve both objectives in an efficient manner.

A third principle of rational choice advanced by Rawls is that of **greater likelihood**. Here, if two short-term plans can achieve roughly the same ends, one should choose the plan that has a greater likelihood of success. If, for example, it is more likely that I will get adequate exercise at the gym than by walking to the store, it is rational for me to drive because it is a) *efficient*, b) *inclusive*, and c) has a *greater likelihood* of achieving my objectives. The short-term or counting principles lend themselves as rational guidelines in decision-making.[9]

There can be a conflict between the rational principles themselves. The principle of greater likelihood, for example, will not always lead one to pursue the same ends that the principle of inclusion would. Rational principles then cannot always, by themselves, help a person to make decisions regarding their ends. Rawls partially overcame this problem by asserting a basic principle of motivation, the Aristotelian

principle, and conditioning the application of the principle with one's self-knowledge.[10] According to Rawls, the Aristotelian principle states:

> Other things equal, human beings enjoy the exercise of their realised capacities (their innate or trained abilities), and this enjoyment increases the more the capacity is realised, or the greater its complexity... of two activities which ... [a person] performs equally well, [that person] prefers the one that calls upon the greater number of more subtle and intricate discriminations. Thus, the desire to carry out the larger pattern of ends which brings into play the more fully developed talents is an aspect of the Aristotelian principle.[11]

Is it the case that people will prefer to perform the "more subtle and intricate discriminations"? Say, for example, that I like to drive fast cars. I am equally good at operating manual and automatic transmissions. The Aristotelian principle indicates that I will be motivated to prefer to drive manual transmissions because they involve more subtle and intricate discriminations. I could, without being irrational, say, however, that *I actually prefer* driving cars with automatic transmissions. Why the Aristotelian principle does not motivate me in the way it seems it should is because the principle, by itself, takes no account of relevant facts beyond that I am equally good at doing two similar things. This circumstance, I believe, is covered by the qualified nature of the Aristotelian principle conveyed in the phrasing "other things equal". The Aristotelian principle states a motivational tendency, not a "law". The Aristotelian principle is limited and conditioned by a given individual's self-knowledge of preferences.

Rawls addressed the concern indicated above. He argued that the counting principles (some of which are indicated above) can "focus our judgements and set up guidelines for reflection ... [but] we must finally choose for ourselves in the sense that the choice often rests on our direct self-knowledge not only of what things we want but also of how much we want them."[12] Our choices are to be based in self-knowledge. I know I prefer automatic to manual transmissions, so the Aristotelian principle, a motivational tendency, does not motivate me to prefer the more complex activity in this instance. The Aristotelian principle is meant only as general principle of motivation, and, therefore, must be tempered by one's self-knowledge.

Rawls introduced the idea of "deliberative rationality" in his discussions of principles of rational choice and goodness as rationality. Deliberative rationality indicates that:

> [A] person's future good on the whole... [is] what he [or she] would now desire and seek if the consequences of all the various courses of conduct open to him [or her] were, at the present of time, accurately foreseen by him [or her] and adequately realised in imagination.[13]

Rawls then argued, "the rational plan for a person is the one (among those consistent with the counting principles and other principles of rational choice once these are established) which he [or she] would choose with deliberative rationality." [14]

People obviously do not have full deliberative rationality. This means a person's "choice [of plans] may be an unhappy one, but if so it is because his [or her] beliefs are understandably mistaken or his [or her] knowledge insufficient, and not because he [or she] drew hasty and fallacious inferences or was confused as to what he [or she] really wanted."[15] Deliberative rationality tries to match our subjective good (what we think is our best plan) to our objective good (the plan we would choose in full deliberative rationality). It further supposes that people have a good idea of the consequences of their actions, that they are aware of the risks involved.

We see that the principles of rational choice are to help guide our deliberations concerning how best to achieve our ends. There are, however, a few questions that must still be clarified because the application of the principles are tempered by the "relevant features of our situations" and our "self-knowledge".

3.3: The "Relevant Features of One's Situation" and "Self-Knowledge"

Rawls argued that rational principles are to "focus our judgements and set up guidelines for reflection", but what we pursue "often rests on our direct self-knowledge not only of what things we want but also of how much we want them."[16] Our "direct self-knowledge", not necessarily rational principles, will *indicate our ends and their intensity.* It will indicate our *value* and *beliefs* systems (value identity). Goodness as rationality never operates free from the constraints that particular, concrete lives place on it. For this reason, we must be clear on what

these "constraints" are. Discussing the "relevant features" and "self-knowledge" that Rawls asserted inform our plans should help flesh this out. These refer respectively, to our life circumstances and our known preferences.

The meaning of the "relevant features of one's situation", or one's life circumstances is twofold. First, they describe things about me. They describe my capacities and motivations. Second, they describe things about my society, whether it is free, provides for equal opportunity and so on. Each is important because each can result in poor life circumstances.

My life circumstances can indicate everything *about* my life, except my *self-understandings*. To know what my self-understandings are, my self-esteem, what I believe is possible for me, what I value and so on, one must ask me. Only I know my deepest aspirations, and the near infinite preferences I have, unless I share them, in part, with others. This is my value identity. My self-understandings imply my ends (what I value) and their intensity (relative value). It is this understanding of the intensity of one's ends that Rawls referred to as "direct self-knowledge".

What is not yet clear is how our life circumstances and self-knowledge are connected to life plans. Since Rawls indicated that our plans are to be made with reference to our life circumstances, it is clear that life circumstances and plans are distinct. It cannot be correct to argue that our self-knowledge is part of our plans. This is because our self-knowledge is far more detailed than any plan we can articulate. The broader category is self-knowledge. Our plans are part of our self-

knowledge because plans rationally articulate the intensity we feel for our various ends.

Plans rely on three aspects of self-knowledge. Self-knowledge specifies what one cares about; it indicates one's ends. Self-knowledge will indicate how much one cares about one's varying ends; it accounts for the intensity we feel for our ends. Finally, self-knowledge also indicates some self-understandings that may affect one's ability to achieve one's ends.[17]

We do not rely solely upon self-knowledge to make evaluative decisions regarding our ends. We may rely on the application of rational principles. We may also invoke standards of judgement where, in the words of Charles Taylor, "...discriminations of right or wrong, better or worse, higher or lower, ... are not rendered valid by our own desires, inclinations, or choices, but rather stand independent of these and offer standards by which they can be judged." [18] Where do these standards of judgement come from?

For Rawls, the answer was derived from the assertion of humanity's two moral powers, which are a capacity for a sense of justice and a capacity to form a conception of the good. People will be reasonable; we will both propose and accept standards of fair social co-operation. "Reasonable" is to imply reciprocity among equals.[19] Moreover, one's plan is to be interpreted by a reasonable comprehensive doctrine, which indicates some coherent moral view. Another aspect of reasonable comprehensive doctrines is that they are associated with traditions of thought that

act to prioritise certain values. The standards of judgements will be those, which reasonable and rational people can accept. In this, I agree with Rawls.

One's self-knowledge is logically part of one's identity. One's identity includes the principles or beliefs that one has about what is good, worthwhile and so on. In this sense, one's core beliefs (part of one's identity) also help one to make evaluative decisions.

Self-knowledge is part of one's identity (the known commitments an individual has and the relative intensity that person feels for them) and a plan, at best, is a rational articulation of part of one's self-knowledge. A plan is a sort of quick reference for a rational articulation of part of one's identity. In particular, it specifies one's ends and how intensely one values them.

One makes evaluative discriminations in developing and deciding on one's plan. A plan, then, can be understood as the product of discriminative evaluations. Rawls often referred to the act of deliberation in this way. Once the plan is developed to the point where it *accurately captures* one's *one's enduring commitments (and their intensity)*, however, the plan itself becomes a tool with which to make subsequent evaluative discriminations. That is, it offers a "point of view" from which one can assess potential ends.

Plans, arrived at through the application of rational principles in accordance with the relevant features of one's life and self-knowledge, articulate one's rational good, and offer a point of view from which to make (future) discriminative evaluations. Plans are highly rationalised in their structures. I take issue with

Rawls's strong preference that plans are also to make one's ends rationally consistent. Rawls's desire for rational consistency of ends makes it appear as though those who do not have a thoroughly consistent set of ends cannot express their rational goods. This, impression, however, is incorrect. One may well have inconsistent ends and still express one's rational and reasonable good. For many people (perhaps most), everything they value cannot be rendered consistent.

3.4: *Rationality & Value*

It is not clear that people do, or could choose "plans" that rationally express their "goods". Rationality does not indicate value. Rather, rationality indicates efficient ways to express or pursue values. Rawls argued that: "The rational plan for a person determines his [or her] good."[20] It is incorrect to argue that the things I value (my ends) are determined by a "plan" which "encourages and provides for" my ends. The value precedes the plan in the case of many ends. I cannot know what the most rational plan for me is without knowing what at least some of my more important ends are. The "plan" does not determine the ends. Rather, the ends determine the plan. If one's more important ends change, one's plan must be altered to reflect this. Rawls most often discussed this relation the other way around because he saw life plans as offering a point of view from which evaluations should be made. He said, for example, ends that do not fit the plan should be "weeded out".

Rawls argued that; "a rational plan of life establishes the basic point of view from

which all values relating to a particular person are made and finally rendered consistent."[21] This argument is problematic because one's identity provides the basic standpoint from which discriminative decisions are made. What one values determines what one's plan will be. The problem is that the relationship between rationality and value is not as clear as it might be within the theory of goodness as rationality.

3.4.1: Expressing Rational Values

Rawls relied on the notion of human beings having adequate rational faculties, which we are to use to determine our goods (through the choice and pursuit of our rational plans of life). I disagree with Rawls in regards to how we use our rational faculties in relation to expressing our ends. In particular, the problem with "life plans" is that Rawls argued that people would express plans which are rational for them to pursue. Our intuitions and common experiences, however, indicate that people often never express a plan at all, and have ends that are not rationally consistent.

People often value ends they have not chosen, but Rawls argued they are to fit their ends into a single rational plan, which they are to choose. Instead of attempting to explain human actions and values through a quasi-economic theory of rational choice, I think it is more helpful (and realistic) to show that rational choice and the things people come to value (their ends) often have little or nothing to do with one another. Goodness as rationality need not entail “rational choice”.

Imagine, for example, a ten-year old child (Emma) sitting with her grandfather. Emma's grandfather tells Emma he has something very special to give her. He produces an old tarnished pendant. He tells Emma the pendant is not worth much money, but that it is very valuable to him. He gives it to Emma explaining that it had belonged to his mother and he wanted her to have it. Emma accepts the gift and cherishes it. The pendant becomes Emma's most valued possession.

Emma never chose her most valuable possession. The reason why the pendant was Emma's most valued possession was precisely that she did not choose it. Her grandfather gave it to her. One of the striking things about human beings is our relationships with our "significant others." Emma did not choose who her grandfather would be, and it is difficult to see how any such relationship would be chosen by a child. It is counter-intuitive to say Emma would choose to pursue the relationship because she thought it would be a valuable thing. Rather, Emma continues the relationship because she values it—she likely has never even considered the relationship as a matter of personal choice. The "value" precedes the expression of a rational plan.

Emma did not express a plan that enabled her to value the gift on rational grounds, or to value her relationship with her grandfather. Simply put, Emma does not care about having rational grounds for valuing the pendant, or her grandfather. Moreover, she has no need for a plan that provides for her valuing these. What matters to Emma is that her grandfather gave her a gift that he and she both valued.

Rationality does not determine value. It does not make sense to assert that this is what is meant by goodness as rationality.

This is not the only problem the impression of the rational choice model encounters in this context. People often pursue ends when it is not rational for them to do so. Consider, for example, "Jeff". Jeff values his relationship with his family above all else. He works hard at his job, and is promoted. Jeff accepts his promotion. Jeff's new job monopolises his time. In choosing to pursue his promotion and the new challenges it offers, Jeff is left with much less time to spend with his family. Given that Jeff values his family above all else, it was not rational for Jeff to accept his promotion or to continue in his new job. Yet, this is what Jeff has freely chosen. Common experience tells us that people make these types of "rational miscalculations" all the time. People often pursue things that are not rational for them to pursue given the relevant features of their lives. This does not mean people are inherently flawed, it means rational choice is a poor way of explaining them.

Goodness as rationality holds that one's good is found in the satisfaction of rational desire. People rationally desire things they think they will experience as good. People (Emma, for example) often value things they have not chosen. There is nothing irrational about this.

Given one's life circumstances and identity, one will come to value a number of things like significant relationships that are not necessarily chosen. How then, can they fit everything they value into a single plan, which they are to "rationally

choose"? Rationality is nearly indispensable to any individual seeking to live a good life; however, the idea of expressing a rational plan of life that renders one's ends consistent does not always fit with how most people behave. In the context of living well, rationality functions to indicate efficient ways of pursuing and expressing ends. In the context of goodness as reasonable rationality, this centres on the idea of deliberation.

The act of deliberation does not give the ends value; they are already taken to be valuable. Why would anyone deliberate over a potential end that she does not already think is, or could be worthwhile? One could sensibly argue that deliberation is about relative value. That is, one could consider the things one values and deliberate over which of these is most important and why. Once a person has developed a rough priority of his or her ends, one must still consider how best to pursue or express them—this may also involve the use of rational faculties.

3.5: Rationality Prescribes Efficient Ways of Achieving Ends

Individuals will have different ends, and this will influence how they act. What is rational for a given person to do is dependent on what that person values (his or her ends). This leads to a consideration of two questions:

- How does rationality function to prescribe efficient ways of achieving one's ends?

- Why is what is rational for a given person to do dependent on what that person values?

Taking the second issue first, consider, for example "Joe", is confronted by a mugger, who tells him to "hand over" his wallet. What is a rational response for Joe? The answer depends, in part, on what kind of person Joe is and what he values. If, for example, Joe places a high value on personal property, then he may decide to fend off the mugger. Given Joe's beliefs and values, this is a rational action for Joe.

Alternatively, recall Jeff, in the same situation. Jeff values his relationship with his family above all else. When the mugger confronts Jeff, he simply gives up his wallet and reports the incident. Jeff's actions are also rational because he has acted in a way that ensures, as far as the situation allows, that he will return home to his family. If one were to continue with this example, one would see that different people would confront the mugger, others would run, still others would give the mugger their wallet, and so on. What makes these actions rational or not is dependent on their (possible) consequences as these relate to their varying goals and their abilities to pursue them.[22]

Not only will good lives vary significantly because what people value varies, but the ways in which people pursue and express their ends will also vary because people will often act differently in similar situations. Rationality's connection to the good life is indispensable. What the above examples show is that *rationality*

does not make good lives the same, nor does it make the pursuit of ends necessarily similar.

Rationality does not indicate valuable ends to the individual. Rather, the individual deliberates over the best (most efficient) way to pursue the ends that the individual already values. Notice, however, that the most efficient way for Joe to realise his end may not be to confront the mugger. This indicates that rationality is not the only thing at work here. Joe *believes* that he must respond to aggressive situations in particular ways. This is part of Joe's identity. The use of rational faculties is always *conditioned* by one's identity in making decisions concerning how to act in given situations. Goodness as rationality must take identity into account for this reason.

What rational-deliberative faculties do is indicate varying ways to pursue one's ends.[23] What a given person's ends are is partially dependent on that person's identity. One's identity (core beliefs and aspirations) will generally indicate the doings and beings (ends) a given person believes are valuable; believes will be experienced as good. One's identity will indicate what one's sense of goodness or fundamental value is. "Rational choice" then, is minimally conditioned by one's identity.

Many of the things we value in life are not always "chosen". This becomes problematic in relation to Rawls's concept of life plans. The reason for this is that plans of life are to render one's ends consistent. If, however, one does not always

choose what one values, then consistency among one's ends may not always be possible.

3.6: Whether Plans can or should make One's Ends Consistent

Rawls argued that a plan of life: "establishes the basic point of view from which all judgements of value relating to a particular person are to be made and finally rendered consistent."[24] An "end" is something that has a positive value for someone. The idea that our ends should be consistent is problematic.[25] It is conceivable that people will have inconsistent ends, but are either unwilling or unable stop valuing them. The strong Rawlsian preference for consistent ends is a point in regards to the *rational structure* of the plan itself. It is to have a dominant theme to aid in discriminative evaluations. Yet, it is possible for one who has inconsistent ends to still pursue his or her rational good. Consistent ends are a requirement of the (overly) rational structure of life plans. They are not necessarily a prerequisite to the ability of one to pursue or express one's rational good.

Goodness as rationality states that one's rational good is to be found in the rational pursuit of one's (reasonable) conception of the good. The rational structure of life plans must be distinguished from the pursuit of one's rational good. Moreover, reasonable has priority over rational. It is the reasonable that specifies a basic moral view.[26]

Rawls over-stated the need for people to hold consistent ends. Imagine, for example, "Ellen" who was recently accepted into medical school, something she

thought she wanted more anything else. Ellen, however, also became pregnant. The options known to Ellen are the following. 1) She can give the child up for adoption and go to medical school. 2) She can have an abortion and go to medical school. 3) She can keep the child and withdraw from medical school. 4) She can try to keep the child and go to medical school. What will Ellen do? We *cannot* know this until we know more about Ellen and what *she values*.

Ellen believes abortions can be psychologically damaging, she does not wish to pursue option "2". Ellen has strong family values. She wanted to have children; she does not think she can forgive herself if she were to give up her first-born child. Option "1" is out of play. Ellen is entirely uncertain whether she can simultaneously be both a good mother and a good student. Given her beliefs and situation, it seems she will withdraw from university to bear and raise the child. That is, "option 3" will render her ends consistent. She might also try to do both (option "4"). Let us work out both scenarios.

(Option 3), Ellen withdraws from university, thus giving up a highly valued end. Ellen has made some difficult decisions, but has "rendered her ends consistent", as Rawls suggested. Ellen has not decided that she would not like to be a physician. She has decided that she cannot follow this pursuit at this time given her life circumstances.

The other option, have the child and go to medical school, (option "4"), is not so straightforward. Given that Ellen desperately wants to become a physician, she decides she cannot just give up on her dream, or set it aside for some unspecified

amount of time. Given her beliefs, she has also decided to have and raise the child. Her ends are not rendered consistent, but her decisions are still based in her value identity.

In attempting to pursue inconsistent ends, Ellen runs the risk of failing to become the physician and mother she wants to be. She does not believe she can give up either, so she must try to do both. Note that Ellen has satisfied the requirements of deliberative rationality. She has accurately assessed the risks involved in her choice of pursuits.

In either of the scenarios, Ellen has great difficulty making her ends consistent. In the first scenario, the way she renders her ends consistent is to "weed out" the one she thought she wanted more than anything. She had to do this because she did not choose to have a child at this point in her life, but she felt she could not opt for either an abortion or adoption. The price of making her ends consistent is giving up the thing she most wanted to do with her life. Rawls would seem to support this option because of his preference for consistent ends.

There is a problem, however, with the consistent ends scenario and its compatibility with goodness as rationality. If part of Ellen's rational conception of the good is to be a physician, rendering her ends consistent means either postponing or making impossible the realisation of her rational good. Put differently, Ellen will not be happy (*and she knows it*) if she does not at least try to become a physician. Yet, the consistency of ends requirement of life plans makes this difficult to the point of being unlikely to occur.

In the second scenario, Ellen decides to risk losing both ends by pursuing both ends. If Ellen is unwilling to postpone either end (and whatever that might entail), then she has no choice. The unforeseen pregnancy results in inconsistent ends. This would mean her plan of life, if she had one, could not perform one of the functions Rawls said it should, namely, make her ends consistent. Ultimately, Ellen's decision will be based in what she thinks will lead her to be best off in long run subject to the constraints that her beliefs and judgements of value place on it. There is no way for anyone else to know which scenario would lead to Ellen's being happy with her life.

In the first scenario, Ellen can make her ends consistent and regret this for the rest her life. She may become bitter and unhappy and in so being, make her child unhappy as well. Alternatively, she may find that she has no regrets whatsoever. She may even pursue becoming a physician later in life. In the second scenario, she may try to be a physician, raise her child, and fail at both. She will be utterly unhappy. Alternatively, she may be successful at both. She might be happier than she ever thought possible when she made her decision. Both scenarios can work out happily or not for Ellen. Whether her ends are consistent does not impinge on this in any way. Her "odds" for happiness are roughly even in each scenario. That a "plan" should "render" our ends consistent appears to be setting the "rationality bar" too high. Ellen can pursue her rational good having inconsistent ends. Indeed, this may be *the only way* Ellen can realise her rational good.

Perhaps because of criticisms like the one outlined above, Rawls moved to increasingly relax his desire for structured rationality in regards to pursuing one's good. Rawls stated:

> [M]any citizens may not hold well-articulated comprehensive doctrine at all. Perhaps most do not. Rather, they affirm various religious and philosophical, associational and personal values together with the political values expressed by the political conception. These political values are not derived within any overall, systematic view.[27]

Rawls then, clearly held that not all people would have reasonable and rational plans of life. The moral weight is on the reasonable category because it specifies what citizens may not pursue. Rawls had relaxed the rationality requirement in two ways. He asserted that our own considered judgements normally conflict. He asserted that one might pursue one's good without necessarily having a rational structure to guide discriminative evaluations.

Occasionally people do pursue inconsistent ends. This is not always because people act irrationally. Sometimes it is because people do not choose what they value; and sometimes it is because they do not want to make the mistake of "closing doors". There is nothing irrational about putting a decision off because more information about the options is thought to be required. In this, I believe Rawls and I agree.[28]

Rawls explained that: "... individuals find their good in different ways, and many things may be good for one person that would not be good for another."[29] Note two

kinds of individual variations that Rawls recognised. What is good for one person may not be good for another. Plans are always conditioned by self-knowledge of our ends and their intensity as well as our differing life circumstances. People will find their goods in different ways.

Rawls further argued that there is "... no necessity for an agreement upon the principles of rational choice. Since each person is free to plan his [or her] life as he [or she] pleases..., unanimity concerning the standards of rationality is not required."[30] There is more than one way to arrange one's life in order to pursue one's rational good. What then would goodness as rationality, or more broadly Justice as Fairness, view as a good life?

3.7: *Good lives*

What a good life can be is dependent on two types of considerations. First, an individual will value particular things because she thinks she experiences these values or will experience these values as good. Second, a political community will generally limit what the individual can pursue and express. Rawls did this through the reasonable criterion. When thinking about good lives one must consider both what individuals value and what the political community values, or at least allows. A person's ends are values that that person believes will be experienced as good. Such beliefs are part of one's identity. Thus, I find Rawls's neglect of a full discussion of identity problematic.

Borrowing from Aristotle, we might further say a good life is a happy life. That is, a good life is one that is experienced as worthwhile and fulfilling. In general, goodness as rationality holds that what a person will find worthwhile and fulfilling is dependent on the satisfaction of that person's rational (and reasonable) desire. In other words, people are to use their rational faculties to arrange their lives in ways such that they might rationally assume they are progressing towards doing and being things they believe they will experience as good. How this might be done can vary.

Rawls indicated that people should develop rational plans of life that prioritise their ends and render them consistent. Life plans are rationally structured and consistent vehicles thought to advance one's rational good.

A person's good may be expressed through her plan of life. I argue, however, that most people do not have such a plan. Rather, what many have is some collection of values or goals they think are worthwhile. I argue that goodness as rationality could be expressed through less rationalised structures than life plans to take account of this.[31] I emphasise that ends are valuable, not necessarily chosen on rational or other grounds. This is to assert that goodness as rationality does not depend on a model of a rational actor that sees the agent rationally decide the value of various ends, choose their ends, or render them consistent.

In practice, a society characterised by Justice as Fairness will view citizen's lives in three ways depending on whether they are reasonable, worthwhile, and

have adequate levels of functional capability.[32] Thus, a person could have an *unreasonable* life, a *reasonable but poor* life, or a *good (worthwhile)* life. A good life from the standpoint of Justice as Fairness is a) reasonable and b) fulfilling for the person who leads it.[33] Why discuss and distinguish between other lives from the standpoint of goodness as reasonable rationality? The reason why Justice as Fairness should take some account of unreasonable lives is that by making such a distinction, one expresses the limits of reasonable pluralism. It is necessary to do this because if the pluralistic society allows for the practice of unreasonable lives, then this can jeopardise other people's chances of living a good life. (It is also important given the necessity of having self-respect in expressing one's good).[34]

It is also desirable to consider what reasonable but poor lives entail. The reason for this is that it indicates where and why public policy should be directed. For example, a person could have a reasonable but poor life simply because that person has low levels capability. Public policy could be directed to increase the levels of capability for such a person, and thus give that person the opportunity to have a good life.

3.7.1: A Good Life is not always a matter of Individual Choice

One way of considering whether a given life is a good one is to examine it in its own terms. In assessing whether a person has a good life, one should begin by asking that person whether he or she thinks it is and why he or she thinks this.

Before considering the person's reasonable collection of ends, four factors that can be beyond the individual's control must also be considered:

- Anyone can have his or her chances of living a good life destroyed by *bad luck.*
- People must have the *means* to pursue their ends.
- People must have adequate levels of *capability* in order to articulate and pursue their ends.
- Finally, people must have enough *confidence* to pursue their ends.[35]

Suppose, for example, there is young man, (Mike) who shows intellectual promise and wishes to become an engineer. Becoming an engineer is one of Mike's main goals in life. Now suppose that Mike is shot while driving to university in a random act of violence. Mike is not responsible for this act in any way. Mike suffers severe brain damage and his goal becomes impossible. Bad luck has ruined his chance of leading the reasonable and good life he had hoped for himself.

Mike cannot pursue his end because the random act of violence perpetrated against him (his *bad luck*) has devastated his *capabilities.* Mike's capacities were so damaged that he cannot do and be what he could have done and been.

Suppose this tragedy did not happen to Mike. Suppose instead, that he comes from a (very) poor family. By the time Mike graduated secondary school; his family sorely needed more income. Mike could have pursued his goal of becoming an engineer by accepting a scholarship. He decided not to do this because he could help his family more in financial terms, in the short-term, if he worked full-time.

Mike simply did not have the *means* to pursue his goal and help his family. He had to decide between two valued ends.

Now imagine that Mike comes from a verbally abusive family. Imagine he has been called "stupid", "moron", "idiot" and the like his whole life. This results in his having very low self-esteem. Even though Mike has the potential ability to become an engineer, he does not have the *confidence* to even try.

Even when these factors do not harm one's chances of leading a fulfilling life, it is not necessarily the case that people will live well. Three general categories of lives are possible. An individual could lead an *unreasonable life,* a *reasonable but poor life,* or a *good life.*

3.7.2: Unreasonable Lives

An unreasonable life is one that is not publicly justifiable. In a society characterised by Justice as Fairness, there is freedom of conscience and religion. As Mill rightly noted, however, acts cannot be as free as thoughts. Imagine that I decide to practice a cult religion that tells its adherents to sacrifice the blood of children in some purification ceremony. I can believe whatever I like, but I cannot act on beliefs that will harm others. Such acts are not publicly justifiable in a democratic (reasonable) society. In this case, my life becomes unreasonable when I act on my beliefs.[36]

3.7.3: Reasonable, but Poor Lives

A reasonable, but poor life is one that the person living it finds unfulfilling. Individuals could find they are unhappy with their lives for a number of reasons. They may have too low of levels of functional capability to articulate and pursue things they may have found fulfilling. There may be no rational connection between their ends and their daily pursuits, so it is unlikely that they will end up doing and being what they want. They may not have the means available to pursue their ends. Some people are frustrated in their pursuits by bad luck. Still others have low self-esteem and so do not even have the confidence to try to work out what they might find meaningful.

An example may serve to better illustrate the meaning of a reasonable, but poor life. "Betty" is a Christian and her stated ideal is to be Christ-like. This is what she thinks will be best for her; she thinks she will find further meaning in her life by striving for it. Betty, however, does not act Christ-like, nor does she attempt to change her behaviour in order to pursue the ideal that she thinks will make her feel most fulfilled. Betty will not move closer to her ideal, nor is she that close to start with. Betty's life is reasonable, but not good. This is because it fails to provide Betty with meaning and fulfilment because she can (assuming that she is correct in thinking she will find being Christ-like to be fulfilling) never have a good life *on her own account*. For Betty to have a good life she must either be lucky[37], or change her behaviour so that she makes progress towards her ideal. Finally, Betty may think that she was wrong and will not find being Christ-like fulfilling. She can now articulate a new ideal that better suits what she wants to do and be. In this

sense, a poor life can become a good one if the agent re-assesses it and either alters his or her behaviour, or ends.

A person with permanently damaged functional capabilities may also lead a reasonable but poor life. If a person's functional capabilities are so damaged, that he or she cannot do or be things that he or she will find meaningful and fulfilling, then such a person can lead a reasonable life. He or she, however, cannot have a good life. The reason for this is that the opinion that matters most in examining whether a given life is a good one is that of the person whose life is being considered. *If this person does not think his or her life is a good one, it is not.* The reasons why it is not a good life may be entirely beyond the control of the individual in question, but this does not alter the fact that the person does not find his or her life fulfilling, or have reason to think his or her life will be fulfilling.

3.8: Concluding Remarks

Rawls over-emphasised the need for a highly rational structure (plan of life) to realise one's conception of the good. Some people may realise their rational goods through their life plans. The concept of a plan of life strongly indicates that people should "weed out" inconsistent ends. This, however, may not always be possible, or even desirable. People may pursue their conceptions of the good in a number of different ways.

There is no need to assume a model of the rational actor who deliberates over the value and choice of ends in order for goodness as rationality to be operable. A

person may well hold inconsistent ends. Holding inconsistent ends does not necessarily make a person irrational. It may make that person's pursuit of his or her rational good more difficult.

Rationality can be understood to be instrumental in the sense it has been used here. Rationality does not give an end value. It indicates efficient ways of expressing and pursuing one's ends. The central idea of goodness as rationality is that one's good can be expressed through the satisfaction of one's rational desire. Not all rational desires will be considered good. Thus, Rawls introduced a moral category, reasonableness, to limit the kinds of rational desires that may be acceptable in a society characterised by Justice as Fairness. Justice as Fairness holds that one's good must reasonable (interest of society) and ought to be rational (interest of the individual). The "thin" theory of the good at play in Justice as Fairness is "goodness as rationality". The full theory of the good, however, becomes "goodness as reasonable rationality." In practice, "reasonable" becomes the more important category. Justice as Fairness can tolerate irrational people, but it cannot easily tolerate unreasonable people.

In chapter four, I consider how a fair equality of opportunity (what I call fair life chances) could be advanced in the practice of Justice as Fairness. I argue that Rawls conflated poverty and disadvantage. Similarly, he conflated the means to freedom (primary goods) and the extent of freedom (functional capability). These must be separated in practice. In practice, one cannot assume that citizens will have

the requisite capacities to convert primary goods into valuable functionings. Thus, I argue that fair life chances are better assured by focusing public policy on capability development and the fair distribution of primary goods, than it is by simply distributing primary goods.

Notes

[1] John Rawls, Justice as Fairness: A Restatement (Cambridge, Mass Massachusetts: Harvard University Press, 2001), 140.

[2] They are goodness as rationality, primary goods, and conceptions of the good, political virtues, well-ordered society, and society as social union.

[3] Rawls, Justice as Fairness: Restatement, 141.

[4] John Rawls A Theory of Justice, 409.

[5] Rawls usually indicates the importance of ends by referring to their "priority". I think the use of this terminology is related to Rawls's view that one's ends ought to be "consistent". I argue, however, that one's ends will not always be consistent and so prefer to refer to the relative importance of a person's varying ends as a matter of "intensity", rather than "priority".

[6] Rawls, A Theory of Justice, 408.

[7] Ibid., 412.

[8] Ibid.

[9] One could continue discussing all the principles of rational choice in a similar fashion. The basic idea is that the principles of rational choice when properly applied can indicate to an individual varying courses of action that could lead to the individual's realisation of her rational and reasonable good.

[10] For reasons that are unclear, Rawls's final statement of justice as fairness does not discuss the A.P. directly. Rather, Rawls says he uses the A.P. in Theory to work out his "reasonable moral psychology". Rawls states: "We regard citizens as having the two moral powers, and the basic rights and liberties of a constitutional regime are to ensure that everyone can adequately develop these powers and exercise them fully over the course of a complete life as they so decide... [T]he well-ordered society of justice as fairness is a good in two ways. In the first way it is a good for persons individually, and this for two reasons. One reason is that the exercise of the two moral powers is experienced as good. This is a consequence of the moral psychology used in justice as fairness." [Footnote 21 states:] "In *Theory* this psychology uses the so-called Aristotelian principle; other views might adopt different principles to reach much the same conclusion." John Rawls Justice as Fairness: A Restatement, Erin Kelly, editor. (Cambridge, Massachusetts: Harvard

University Press, 2001), 200. Rawls is silent in regards to what these other principles might be.

[11] Rawls, Theory of Justice, 414.

[12] Ibid., 416.

[13] Ibid., 416-417.

[14] Ibid., 417.

[15] Ibid.

[16] Ibid., 416.

[17] I have in mind things like low self-esteem and so on.

[18] Charles Taylor, Sources of the Self: The Making of modern Identity (Cambridge: Harvard University Press, 1989), 4.

[19] John Rawls, Political Liberalism (New York: Columbia University Press, 1993), 49-50.

[20] Ibid., 408.

[21] Ibid., 409.

[22] Of course, people cannot know with certainty what the consequences on their actions will be, but they can reason what they might be. Bad luck can also play a role damaging people's goals or their ability to pursue them.

[23] I disagree with Rawls that rational-deliberative faculties *identify* one's ends. I argue that what one comes to value as ends is bound up with one's *identity*, not, strictly speaking, one's rational capacities.

[24] Rawls A Theory of Justice, 409.

[25] Rawls has consistently relaxed this criterion of rationality. In his final statement, for example, Rawls stated, "Considered judgements are those ... under conditions where we seem to have the ability, the opportunity, and the desire to make a sound judgement... Many of our most serious conflicts are conflicts within us. Those who suppose their judgements are always consistent are unreflective or dogmatic..." Rawls, Justice as Fairness: A Restatement, 29-30.

[26] Ibid., 82.

[27] Ibid., 33.

[28] Rawls, A Theory of Justice, 409ff.

[29] Ibid., 448.

[30] Ibid., 447.

[31] For example, one could discuss one's rational good through the concepts of "goals" and "ideals". One does not require a rational and reasonable plan of life to pursue one's rational and reasonable good. One simply needs to be rational and reasonable.

[32] Amartya Sen states: "*Functionings* represent parts of the state of a person—in particular the various things that he or she manages to do or be in leading a life. The *capability* of a person reflects the alternative combinations of functionings the person can achieve, and from which he or she can choose one collection." Amartya Sen, "Capability and Well-Being" in Nussbaum & Sen (editors), The Quality of Life, (Toronto: Oxford University Press, 1993, reprinted 1997), 31. Functional capabilities are the main topic of chapter 4.

[33] I think Rawls would have viewed this chapter as consistent with his over-all theory. It is the impression of excessive rationality I am arguing against here. I hold that when people are conceived as free, equal, and rational, there goods may be rationally expressed. In his later works, Rawls relaxes some of the rational structure of life plans. His introduction of the moral category "reasonableness" also serves to limit what may count as one's rational good.

[34] See discussion regarding the social character of "self-respect" in chapter two

[35] See above.

[36] Societies are not static. What is a reasonable and unreasonable change over time. Harming others, however, can never be publicly justifiable in a democratic (reasonable) society.

[37] The sense of "luck" I mean is for Betty to achieve her goals and ideal even though there is no rational connection between her actions and her goals and ideal.

Chapter 4: Fair Life Chances, An Equality Concern

Justice as Fairness is to establish a fair equality of opportunity, or fair life chances for its members who are regarded as free and equal. Equality of opportunity has often entailed a re-distributive scheme in liberalism. Equality of opportunity within liberal theory is generally discussed as requiring the determination of principles, or procedures to be used in distributing general "means-goods" such as income and wealth in the society. These may be called "means-goods" because they have no intrinsic value. They are means to realising various ends, and they are "general" insofar as they can be used to realise a wide range of possible ends. Rawls exemplified this by treating the question of distributive justice principally in terms of the distribution of "primary social goods" such as income and wealth.

This understanding of the problem of social justice is theoretically adequate, but too narrow in practice. In theory, Rawls posited that citizens would have developed moral powers (a sense of justice and a capacity to form conception of the good), would view each other as similarly free and equal, and be normal co-operating members of society. In practice, these assumptions regarding citizen capacities are too strong; and have the effect of conflating *poverty* with *disadvantage*.

Building on the work of Amartya Sen and Martha Nussbaum, I argue that prior to, and in addition to questions of general means-goods, the problem of social justice requires attention to the development and maintenance of basic human functional capabilities. The reason for this is that "primary social goods" define a person's

advantage in terms of being "well-off", rather in terms of "well-being". To put it briefly, it does not matter how many "means-goods" a person has if that person does not have the functional capability to use these kinds of goods to express their (reasonable) ends.

Justice as Fairness holds that citizens are both free and equal. Rawls stated:

> Let's say they are regarded as equal in that they are all regarded as having to the essential minimum degree the moral powers necessary too engage in social co-operation... [T]hat is, since we view society as a fair system of co-operation, the basis of equality is having to the requisite minimum degree the moral and other capacities that enable us to take part fully in the cooperative life of society.[1]

> [W]e say that citizens are regarded as free persons in two respects. First, citizens are free in that they conceive of themselves and one another as having the moral power to have a conception of the good... A second respect in which citizens view themselves as free is that they regard themselves as self-authenticating sources of valid claims. That is, they regard themselves as being entitled to make claims on their institutions so as to advance their conceptions of the good...[2]

The freedom and equality of persons in the theory of Justice as Fairness is premised on the assertion that citizens in such a society would have developed certain cognitive and moral capacities, which Rawls described as "moral powers." Having asserted the moral powers and the capacity to be a fully cooperating member of society, Rawls then advanced "primary goods" as means to citizens' reasonable and rational conceptions of the good.

Primary goods, Rawls explained are,

[V]arious social conditions and all-purpose means that are generally necessary to enable citizens adequately to develop and fully exercise their two moral powers, and to pursue their determinate conceptions of the good.[3]

Rawls then connects the discussion of freedom and equality of citizens to a consideration of advantage. Rawls stated:

> The two principles of justice assess the basic structure according to how it regulates citizens' shares of primary goods... [T]he inequalities to which the difference principle applies are differences in citizens' (reasonable) expectations of primary goods over a complete life. These expectations are their life-prospects... [T]he least advantaged are those belonging to the income class with the lowest expectations.[4]

This is not problematic in theory because of the prior assertions regarding citizen capacities and because of Rawls's idealised "well-ordered society", which further asserts that basic rights, liberties and opportunities are secured. In practice, however, if one assumes citizens' capacities are developed, the least advantaged will be misidentified.

Certainly part of the least advantaged class will be those with the lowest income levels, but this does capture all who may be disadvantaged. This is because in practice one cannot assume that all citizens can convert primary goods into valuable functionings (or, their ends, including conceptions of the good). That is, the assumption of adequate capability development is too strong in practice; it conflates poverty with the broader category of disadvantage. It further conflates

considerations of the means to freedom (primary goods) and the extent to which something valued is actually achieved (functional capability).

4.1: Functionings & Capabilities

We begin with an outline of the capability approach, as developed by Amartya Sen and Martha Nussbaum. For Sen, "The capability approach to a person's advantage is concerned with evaluating it in terms of his or her actual ability to achieve various valuable functionings as part of living."[5] Sen defines functionings and capability in the following way:

> *Functionings* represent parts of the state of a person—in particular the various things that he or she manages to do or be in leading a life. The *capability* of a person reflects the alternative combinations of functionings the person can achieve, and from which he or she can choose one collection.[6]

"Functionings" relate, in a general way, to what a person actually does. "Capability" indicates what a person could do. Combining the two into "functioning capabilities" leads to understanding well-being in terms of both what a particular person does in pursuing his or her goals, but also what that person could do in pursuing, or altering his or her ideal(s). The lower the level of one's functioning capabilities, the more that person's agency is restricted. Those with lower levels of functional capability will not be able to pursue as many alternative goals as others. In this sense, those with lower levels of functioning capability have a diminished opportunity to identify and pursue possible goals compared to those with higher levels of functional capabilities.[7]

4.1.1: Nussbaum and Basic Human Functional Capabilities

Martha Nussbaum has developed a general conception of the human being based on Sen's work. Functioning capabilities, on a general level, may be understood as those activities that are characteristically human. They can involve both natural and trained abilities. Nussbaum's list of *basic human functional capabilities* is as follows:

1) To have a normal life span.
2) Good health including adequate nourishment
3) Avoidance of "non-beneficial pain" and ability to have pleasurable experiences.
4) Free expression, ability to think, imagine, and reason.
5) To love others and be loved.
6) Ability to critically reflect on one's goals and life.
7) The capacity for both justice and friendship.
8) To live in balance with other creatures and plants that inhabit the planet.
9) To laugh, to play, to enjoy recreational activities.
10) Guarantees of non-interference with certain personal choices.
10a) "[G]uarantees of freedom of association...integrity of private property"[8]

For Nussbaum, the list of capabilities is intended to outline the essential requirements of a good life for all human beings. All people who are not otherwise disabled are presumed to have the potential for these capabilities. Capability development is presumed to be a requirement for a good life. Needless to say, then, the list is controversial especially in respect of its "universalist" and "essentialist" aspects. I do not pursue these issues here. I have cited Nussbaum's

list of capabilities only for the purposes of illustration, to give one example of a capabilities approach. The task here is to show the importance of developing functional capabilities, not to identify these particular capabilities or defend any list of them.

4.2: Developing Scales to Identify Levels of Functioning Capabilities

That said it will be clear that capabilities will only be useful if the development of functional capabilities can be at least be partially measured. Two practical considerations arise out of the capability approach. First, what levels for which functional capabilities are normally desirable for individuals? Second, how can individual levels of functional capability be assessed? Dan Brock, for example, relates health to well-being. He defines health as "...a state of complete physical, mental, and social well-being."[9] He further agrees with Sen that a "plurality of independent vectors" should be assessed in judgements concerning what constitutes a good life.[10] Brock thinks biological, physical, social, and mental health are components of a good life.[11] Each "component" of well-being that relates to functional capabilities can be partially gauged by considering where particular individuals "fit" on scales that express what normal levels of capability are. This would be followed by an assessment of what levels of functional capability particular individuals have in relation to the norm. Public policy could then be directed to raising individual low levels of functional capability in order to

improve not only individual levels of well-being, but also people's opportunities to express what each finds significant and worthwhile.

4.2.1: Assessing Physical Well-being in determining levels of Functional Capability

Physical health is taken as an important consideration in quality of life indicators. Dan Brock develops scales and definitions for "functional levels" of human activity. Brock's *mobility scale* is an example of how physical health can be assessed in relation to having a high quality of life. The scale is as follows.[12]

Scale	Step	Definition
5	Travelled freely	Used public transportation or drove alone...travelled as usual for age.
4	Travelled with difficulty	(a) Went outside alone, but had trouble getting around community freely, or (b) required assistance to use public transportation or automobile.
3	In house	(a) All day because of illness or condition, or (b) needed human assistance to go outside.
2	In hospital	Not only general hospital, but also nursing home, extended care facility, sanatorium, or similar institution.
1	In special unit	For some part of the day in a restricted area of the hospital such as intensive care, operating room, recovery room, isolation ward, or similar unit.
0	Death	

The basic premise behind scales of this kind is that as a person's capacity to perform a normal human function becomes diminished, so too, can that person's quality of life, or well-being. Similar scales could be developed for all human functions including gender specific ones.[13]

As Brock points out, however, not everyone derives the same levels of fulfilment from the same functions. Not only are basic functional capability levels to be assessed, the individual's preference for exercising particular functional capabilities must also be taken into account. To accommodate this Brock develops a notion of "agent-specific functions".[14] What he means by this is that I, for example, might accord more significance to my capacity to see the beauty of nature than would, say a pianist. A pianist, however, may accord more importance to having limber fingers and a keen sense of hearing. These subjective determinations are made in relation to specific lives, not a good life generally. Agent-specific functions will always be given relative weight by the agents. This is why an account of the good life can never be fully objective. It is also why one cannot tell another what *the good life* is. One can only tell another one's own version of it.

Agent-specific functions will generally bear on what levels of functional capability are normally desirable. Scales like Brock's *mobility scale*, however, can assess functional capabilities by making inter-personal comparisons that show that particular individuals have low levels of functional capability in relation to the norm. If these individuals cannot pursue what they find worthwhile because of

their low levels of functional capability, then the capability approach requires that their functional capabilities be improved as much as possible to increase their opportunities to actually achieve their ends.

4.2.2: Emotional Well-being in relation to Functional Capability

As much as physical well-being can bear on one's functional capabilities, emotional well-being may be even more crucial to the development and maintenance of functional capabilities. On a common sense level, we can briefly articulate the importance of emotional well-being in relation to living a good life.[15] Two aspects of identity are crucial to the positive emotional development of an individual. The first is on a personal level. How does the person think of him or herself? The second is on a societal level. How does the society think of this particular person and people like him or her?

A good life is impossible without self-respect. The foundation of self-respect is social. One must find acceptance in one's family, then peer group(s), then society generally. If any of these are missing in a person's life, then the foundation for self-respect is minimally "cracked"; and likely unstable.

One must have the opportunity to do those things that one finds fulfilling. This is one point among many, we suppose, where emotional and intellectual well-being converge. The abilities required to think, evaluate, imagine and express are central components of a good life. Those of us who cannot do these things, or whose

natural capacity has been somehow diminished by disease, accident or otherwise, are less able, in general, to have a high quality of life.

4.2.3: Intellectual Well-being in relation to Functional Capability

Intellectual well-being is also an important component of the good life and this requires the development, use, and the stimulation of cognitive abilities. The human brain can be understood as analogous to our muscles. They both require regular and challenging use or they become "out of shape" and less capable of performing their functions well. A 'good life' is impossible without this basic human ability functioning properly.

We have considered general and specific accounts of functional capabilities, and indicated how they might be measured. We must now consider why the primary goods approach, which incorporates an account of fair distribution of resources, will not satisfactorily address concerns regarding fair life chances.

4.3: Primary Goods

The main theoretical example of general means-goods are primary goods as developed by Rawls. "Primary goods" were most often defined by Rawls as those "things that every rational man [or woman] is presumed to want. These goods normally have a use whatever a person's rational plan of life."[16] Rawls broadly categorised primary goods into "natural", "social".

The "social" primary goods are liberty, opportunity, income, wealth and the social

bases of self-respect. Primary social goods are to be regulated by the society's "basic structure", or the institutions through which the society regulates itself.

There are also "natural" primary goods, which are those traits and abilities one is born with such that if developed would help one pursue one's vision of the good. Intelligence is an example of a natural primary good. Presumably, the more intelligence one has, the more successful one will likely be in realising one's ends. Yet, this natural primary good can be greatly enhanced or diminished by the basic structure. This is because educational institutions are part of the basic structure, and the quantity and quality of one's education will affect the development of one's intelligence.[17] Similarly, every natural primary good can be greatly enhanced or diminished by the society's basic structure.

For Rawls, natural primary goods are undeserved. They are due to arbitrary luck, in that no one chooses the family or genetic codes they will have, nor does anyone choose the society or time into which they will be born. This being so, Rawls argued further that inequalities resulting from unmerited advantage ought to be subject to the "principle of redress". Rawls stated:

The idea is to redress the bias of contingencies in the direction of equality. In pursuit of this principle greater resources might be spent on the education of the less rather than more intelligent, at least over a certain time of life, say the earlier years of school.[18]

I agree with Rawls that the disadvantages an individual has that are due to "inequalities of birth" are unfair and ought to be redressed.

In Rawls's theory, the social development of natural primary goods – and any redress for inequalities in the initial distribution—is covered by the difference principle, which states, "... 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."[19] Rawls further argued that; "All social primary goods—liberty and opportunity, income and wealth, and the bases of self-respect—are to be distributed equally unless an unequal distribution of any or all of these goods is to the advantage of the least well-off."[20] There are two ideas here. First, any development of natural primary goods and/or redress for inequalities in natural primary goods is covered by the difference principle. Second, is the idea that people who ordinarily would earn more because of superior natural (developed) ability will not under this scheme except as covered by the difference principle.[21]

4.3.1: Primary Goods as indicators of Advantage

Rawls used primary goods in a number of ways. One of them is as an indicator of a person's advantage. After examining how Rawls used primary goods as an indicator of one's advantage, I will argue that the capability approach better indicates one's advantage than does the primary goods approach. If advantage is easier seen, then so too will be disadvantage. Once disadvantaged positions are identified, it becomes possible to direct public policy to ameliorate the disadvantages.

Rawls argued that primary goods are means to differing ends. Rawls argued that once the least advantaged position is identified "only ordinal judgements of well-being are required from then on."[22] Society's institutions are to be judged from this position and changes in the basic structure can be made if required to improve the position of the least well-off. Rawls argued that: "... comparisons are to be made in terms of expectations of primary social goods."[23]

A person's expectations for primary goods are Rawls argued, "greater than another's if this index for someone in his [or her] position is greater."[24] So the better one's social position, the more primary goods one can expect.

Rawls argued that primary goods would act as the means to differing goals, and visions of the good. The theory of the good he articulated, goodness as rationality, states that "...a person's good is determined by what is for him [or her] the most rational long-term plan of life given reasonably favourable circumstances...To put it briefly, the good is the satisfaction of rational desire."[25]

A person's bundle of primary goods is to be used to express one's (rational and reasonable) vision of the good. Through the work of Amartya Sen, however, we find that any distribution of means-goods will not lead to fair life chances for those with low levels of functional capability. The reason for this is that people minimally require the functional capability to convert the means-goods into ends.

4.3.2: Sen's Criticism of Primary Goods as Indicators of Advantage

Amartya Sen asserts that there is a "connection between what a person regards as valuable and the value of the person's well-being".[26] Since peoples' well-being differs, there is a problem with Rawls's primary goods approach to issues of social justice. The problem is that primary goods take "little note of the diversity of human beings."[27] Since people's needs can be quite different, indexing primary goods will not lead to the fair judging of advantages. Sen uses the example of a physically disabled person to make his case. Sen states:

> The Difference Principle will give him [or her] neither more nor less on grounds of his [or her] being a cripple. His [or her] utility disadvantage will be irrelevant to the Difference Principle.[28]

People's actual needs in their particular lives are so diverse that the primary goods approach will not be the best way to judge their relative advantages. Sen argues that this is because, "Rawls takes primary goods as the embodiment of advantage, rather than taking advantage to be a *relationship* between persons and goods."[29] Rawls understood *primary goods* to be *means* to differing ends. The more "means" one has, the more likely one will be successful in pursuing one's goals. This is only true, however, if one can, in fact, make use of the "means." If one has low levels of functional capability, one may not be able to make use of the means and, therefore, not gain advantages because of them.

Taking "advantage" to mean "beneficial situation", Sen argues that Rawls understood "primary goods" to be the expression of favourable circumstances. Sen inverts this and asserts that favourable circumstances are comprehensible only in reference to a person's functional capabilities. Rawls argued that a person's good

could only be pursued if that person had access to primary goods, which were to act as the means to the person's ends. Sen's point is that the same means (primary goods) cannot act to help everyone achieve their ends because of the diversity of people and their ends. Our needs and goals are too different to have common means to achieve them.

Personal variations must be taken into accounts of well-being because even those of us who have no disabilities whatsoever will require different things. Sen states:

> [I]nterpersonal variations in 'transforming' goods into functionings is extremely common. Take, for example, the consumption of *food*, on the one hand, and the functioning of *being well nourished*, on the other. The relationship between them varies with (1) metabolic rates, (2) body size, (3) age, (4) sex, (and if a woman, whether pregnant or lactating), (5) activity levels, (6) climatic conditions, (7) presence of parasitic diseases, (8) access to medical services, (9) nutritional knowledge, and other influences.[30]

Thus, given the multiplicity of ways people can vary from one another in converting (means) goods into basic human functionings, the primary goods approach is too narrow in its focus for interpersonal variations.

Sen states that, "the central feature of well-being is the ability to achieve valuable functionings." Important functionings need to be identified and given "valuations" (these will vary from person to person and culture to culture). Only a "partial ordering in the comparison of well-being" is possible.[31]

One must start at an investigation of people's "functionings" when considering well-being. A person's "capability set" (those doings and beings a person *could*

choose) is also relevant. This raises questions not only concerned with what a person could do or be, but also what that person has an opportunity to do or be. One should "[see] well-being in terms of functioning vectors and the capability [and opportunity] to achieve them."[32]

Two types of freedom are relevant to discussions of well-being. Sen explains that:

> [T]he well-being aspect of a person calls for dual accounting—in terms, respectively, of freedom and achievement. The significance of the distinction relates to the agency aspect of a person...Well-being freedom...concentrates on a person's capability to have various functioning vectors and enjoy the corresponding well-being achievements...A person's 'agency freedom' refers to what the person is free to do and achieve in pursuit of whatever goals or values he or she regards as important.[33]

For Sen, *'well-being'* is to indicate a person's relative 'advantage'; it indicates *capability,* what a person could pursue and achieve. *Agency* refers to the freedom to pursue one's specific ends (*functionings*).

Freedom is represented by a person's capability set, not simply the primary goods he or she holds. Primary goods do not convert into capabilities equally for all.[34] Sen states: "It is important to see the distinction both (1) between freedom and the means to freedom, and (2) between freedom and achievement."[35]

In Political Liberalism, Rawls defended his approach against Sen's criticism by agreeing that people do have unequal capacities, but insisted they have the "essential minimum degree...that enable them to be fully co-operating members of society over a complete life." Rawls stated, "I agree with Sen that basic capabilities

are of first importance and that the use of primary goods is always to be assessed in light of assumptions about those capabilities."[36] Rawls's assertion that citizens would be "normal co-operating members of society" avoids these concerns in theory, by further asserting adequate capability development. In practice, the difficulty is that it is readily observable that many people do not meet Rawls theoretical "essential minimum". It becomes necessary to think of advantage in other terms.

In his final work, Justice as Fairness: A Restatement, Rawls essentially conceded Sen's objection to his use of primary goods. Rawls stated "it should be stressed that the account of primary goods does take into account...basic capabilities; namely the capabilities of citizens as free and equal persons in virtue of their two moral powers."[37] Rawls argued "...the basic structure is arranged to include the... institutions of background justice so that citizens have available to them the general all-purpose means to train and educate their basic capabilities..."[38] Finally Rawls argued that assessing capabilities is a "...matter to be decided at the legislative stage" where information about illness, for example, is known.[39]

To summarize, Rawls assumed adequate capability development by asserting the two moral powers of citizens. Rawls did not require an account of functional capabilities to identify or establish the principles of justice in the original position. When; however, we consider the *application* of the principles of justice, we find that an assessment of functional capabilities is relevant in identifying the least advantaged positions in society. Thus, I argue that functional capability

development, as a focal point for public policy fully compatible with Justice as Fairness.

Accepting Sen's criticism, primary goods remain desirable. Primary goods may not act as means to some disadvantaged people's ends because they cannot convert these means into an achievement of their ends. Minimally, however, primary goods will still act to make one more well-off, even if this does not improve such people's well-being. So of two disadvantaged persons, one with access to primary goods and one without, the one who has primary goods, will generally have a higher quality of life than the one who does not.

The problem with the primary goods approach, Sen explains, is that it "...is concerned with good things rather than with what these good things *do* to human beings."[40] Sen thinks a theory of "basic human capabilities" will indicate how to achieve meaningful equality. The capabilities approach does this by considering what people need to have the level of well-being that allows them pursue their goals. An individual's ability to perform characteristically human acts at some basic level must be incorporated into discussions concerning equality.

Thus far, we have assumed, along with Sen and Rawls that functional capabilities are of first order importance in evaluating both one's well-being and in identifying social positions. Why this is the case is still unclear. We now turn to this argument.

4.4: Fair life chances: Goods versus Capabilities

What does it mean to say someone has a high level of well-being? What is required for higher levels of well-being to occur? Well-being is different from being well-

off. An understanding of well-being can be arrived at by considering, in general, what is characteristically human – those things that "normal" human beings are capable of doing and being. Those who are not, or cannot achieve these doings and beings thought to be characteristically human may not enjoy as high of levels of well-being as those who can and do. Considering whether someone is well-off, however, is to evaluate the goods that person has. A person who is well-off does not necessarily have high levels of well-being and *vice-versa*. This raises the question of whether the aim of social policy should primarily be to fairly distribute goods, or to raise functional capability levels.[41]

In considering this question, it is helpful to imagine two societies. Both societies aim to ensure the conditions (fair chance) of a good life for their members. The first society, the *Goods Society*, tries to do so by fairly distributing "means-goods" along Rawlsian lines. The second society, the *Capability Society*, tries to do so by raising the functional capability levels of its members to "basic" levels for human beings along the lines Sen indicates.

4.4.1: Goods Society

Imagine two women, Mary and Anne. Mary has never been taught or otherwise developed the ability to think critically about her life, to reason what would be enjoyable and fulfilling for her. Anne thinks about what she would like her life to be like and has some idea of what she needs to do to enjoy her life and find it fulfilling.

The Goods Society will give both Mary and Anne a fair allotment of means-goods to be used in the pursuit of their ends. Anne will use her means-goods to pursue her goals, but these are not well articulated, nor are their consequences imagined. Unlike Anne, Mary has not developed any idea of what she would really find worthwhile to guide her pursuits. Other things equal, Anne is more likely to arrange her life in ways she finds worthwhile.

The Capability Society does not offer Anne anything more than the Goods Society did because she has at least the minimum level of functional capabilities required to pursue that which she finds meaningful. The Capability Society offers Mary development and practice of the capabilities that she needs to properly identify and pursue those things that she will find meaningful and worthwhile. The Capability Society better ensures adequate levels of well-being, and thus offers a broader opportunity for fair life chances than does the Goods Society.

Now imagine two men, Bill and Fred. Bill and Fred are equal in intelligence and motivation. Bill frequently suffers from severe migraine headaches that confine him to his bed; Fred is "normal". Bill and Fred are equally well-off in terms of the goods they hold that are to act as means to their ends.

Bill and Fred are equally free in a legal sense to pursue their goals. Yet, Bill frequently cannot pursue his ends because of the painful disruptions his headaches cause. At these times, Bill is unable to make effective use of his means-goods. Although Bill and Fred are equally well-off in terms of the collections of goods they hold, their well-being differs considerably because Bill's headaches cause him

such pain that he is unable to pursue his goals, for any prolonged period. Fred is unhampered by any such impediment.

Do Bill and Fred have equal life chances? In one sense, they do because they are equally well-off in terms of the means-goods they hold. In another sense, however, they do not have an equal chance to pursue the things they each find meaningful and worthwhile, because Bill is unable to make use of the so called means to his ends, while Fred is free to do so. The Goods Society does not ensure the conditions of a good life for Bill. Does the Capability Society fare any better?

4.4.2: Capability Society

The Capability Society seeks to ensure that people are able to do and be those things human beings are normally capable of doing and being. What can the capability society offer poor Bill that the Goods society cannot?

Recall that Bill is unable to pursue his goals because his frequent and severe headaches have him bedridden. The Goods Society offers little help to Bill because he is unable to make use of the goods that it provides as the supposed means to his ends.

The Capability Society does not seek to make Bill well-off. It seeks to ensure that he has adequate levels of functional capabilities to pursue what he finds worthwhile. It seeks to increase his well-being.

From the capability perspective, all Bill needs is the proper care and medication to dull his headaches to the point where he is free to leave the confines of his bed and

engage his pursuits. The Capability Society readily recognises this need and seeks to meet it. While the Goods Society, *strictly speaking*, could not offer Bill care and medication to ensure his ability to pursue his goals because it does not consider Bill's functional levels of capability, *it only considers the means-goods he has.* Once Bill's functional capabilities are raised to an adequate level, he is able to pursue his goals just as Fred is. Thus, fair life chances have been extended.

In the examples above, Bill had an *impaired capability*, and was therefore, unable to pursue his goals to the same extent as Fred. Mary had an *undeveloped capability*, and was therefore unable to identify and pursue (her) meaningful goals to the same extent as Anne. Having either impaired or undeveloped capabilities will reduce a person's chances to identify and pursue worthwhile goals. The examples above show that the *Capability Society* ensures fair life chances across a broader range and more equally than does the *Goods Society.*

4.4.3: Capability Approach better Ensures Fair Life Chances than does Goods Approach

The Goods Society only offers people goods which act as means to various ends. It assumes that all people will be above some minimum level of functional capability, and then seeks to fairly distribute certain goods to act as means to ends. It does not allow for the possibility that such goods may not act equally as means, or fail to act as means at all for some people. The Goods Society does not seek to

raise functional capabilities to some basic level, but rather assumes everyone is already at or above that level.[42]

Conversely, the Capability Society seeks to identify those who do not, or cannot, enjoy characteristic human pursuits, and it attempts to raise the level of their well-being so that they can, in fact, pursue these.

This is not to say that means-goods are undesirable. Rather, the point is that distributing means-goods will not always lead to adequate levels of well-being, and fair life chances because those with low levels of functional capabilities will be unable to use them effectively.

The capability approach cannot offer high levels of well-being and fair life chances for all. Some people's functional capabilities may be so damaged that they can never be raised to the level of "basic". The capability approach; however, addressees the conditions for fair life chances for a wider range of people than does the goods approach precisely because it aims to raise the functional levels of those who fall below the normal level.

Well-being is not a collection of means-goods. Means-goods remain important because they make people well-off. Goods can be fairly distributed in the capability society. What the preceding examples indicate is that a fair distribution of goods will not establish fair life chances across as broad a range of people as raising functional capabilities will.

4.5: Using the Basic Structure to Develop Functional Capabilities

The basic structure can be made to focus public policy on the development of basic human functional capabilities. The preceding discussion shows that from the point of view of fair life chances, it is desirable to develop functional capabilities across as wide a range of people as is possible. This is fully compatible with the practical aims of Justice as Fairness. It is also desirable to direct the institutions of the basic structure to fairly distribute mean-goods (as Rawls did with primary goods). Rawls envisioned the basic structure of society as:

> [T]he way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social co-operation. By major institutions, I understand the political constitution and the principal economic and social arrangements.[43]

Rawls further explained that the basic structure is governed by distributive principles and accounts for various positions in society, as well as people's expectations in regard to social position. The basic structure gives an account of social co-operation.[44]

It is important to now recall two points argued against Rawls. First, Rawls understood primary goods to be the embodiment of *advantage*, or more precisely, the expression of favourable circumstances. Sen sees *advantage* (or favourable circumstance) as best understood as a relationship between a person and the goods he or she holds. No amount of primary goods, for example, expresses favourable circumstances (i.e. advantage) for those with too low a level of capabilities to convert them into functionings. Second, Rawls argued that a person's *expectations* would be determined by the amount of primary goods he or she has. A person's

expectations, however, will be unaffected by his or her primary goods if he or she is unable to convert them into basic functionings because of low levels of capability. These reservations do not alter either the structure or its distributive functions.

Rawls held that in a society characterised by Justice as Fairness, the basic structure and its distribution schemes are thought to be just. They are legitimate in the eyes of the citizenry. Citizens have an effective sense of justice and hold that the principles of justice are, in fact, just.[45] While some reservations have been pressed against Rawls, they are reservations, not fundamentally rejecting criticisms, and so they are not incompatible with Rawls's basic approach. Indeed, these reservations can be incorporated into his theory.

The second principle of justice, Rawls stated:

> ...expresses the conviction that if some places were not open on a basis fair to all, those kept out would be right in feeling unjustly treated even though they benefited from the greater efforts [Rawls also says "superior talent"] of those who were allowed to hold them. They would be justified in their complaint...because they were debarred from experiencing the realisation of self which comes from a skilful and devoted exercise of social duties.[46]

It is desirable for all citizens *who are able* to experience the "realisation of self" coming from the skilful exercise of social duties have this "experience". It is also desirable that the necessary skills and abilities (I would say "functional capabilities") be developed by as wide a range of the citizenry as is possible. It is desirable from the point of view of Justice as Fairness to use the institutions of the

basic structure to develop the functional capabilities of citizens to the point where they experience the "realisation of self which comes from a skilful and devoted exercise of social duties" that Rawls discussed.

Rawls also argued that a "principle of basic needs" is desirable in a society characterised by Justice as Fairness:

> [T]he first principle [of justice] covering the equal basic rights and liberties may easily be preceded by a lexically prior principle requiring that citizen's basic needs be met, at least insofar as their being met is necessary for citizens to understand and to be able fruitfully to exercise those rights and liberties. Certainly, any such principle must be assumed in applying the first principle.[47]

Normally, we understand "basic needs" to be food, clothing, shelter and the like. This does not appear; however, to exhaust what Rawls meant by basic needs. If citizens are to "understand" and "fruitfully exercise" rights and liberties they need adequate levels of functional capabilities, not simply food, clothing and shelter. To "understand" something requires that certain cognitive abilities are functioning properly. To "fruitfully exercise", a right or a liberty not only requires understanding, but the ability to execute particular actions. Rawls was not merely discussing "basic needs"; he was discussing "basic human functional capabilities" though he did this through alternative nomenclature.

The basic structure, "...provides the framework...for a...scheme of co-operation for all the essential purposes of human life..."[48] Rawls insisted that his focus was on "...persons as capable of being normal and fully co-operating members of society over a complete life..." "[W]e are to conceive of persons as having the capacity to

be normal co-operating members of society over a complete life."[49] Rawls required this understanding in order to show why participants in the original position would accept the first principle of justice and its priority over the second. Further, "citizens are to think of themselves and one another in their political and social relationships as specified by the basic structure."[50]

Rawls, however, had also argued that the first principle of justice can "easily be preceded" by a principle of basic needs, which I argue is properly understood as a principle of basic human functional capabilities. Justice as Fairness, in *theory*, requires that citizens have certain capacities. Justice as fairness, in *practice*, requires that functional capabilities be developed across as broad a range of citizenry as is possible, so that more rather than less citizens can be "normal co-operating members of society".

4.6: Concluding Remarks

A society characterised by Justice as Fairness ought to ensure, as far as possible, that all citizens will be capable of pursuing their reasonable and rational goals. It ought to ensure the basic *needs* of societal members are met; it should fairly distribute *primary goods* (which make people well-off and often act as means), and it ought to seek to ensure that as many societal members as possible have the *functional capabilities* necessary to pursue their meaningful goals.

The development of functional capabilities extends fair life chances further than does any distribution of primary goods. Citizens will use the institutions of the

basic structure to develop adequate levels of functional capabilities across as wide a range of societal members as possible. This fits both with the theory of Justice as Fairness and with the idea of fair life chances being advanced here.

It remains desirable for primary goods to be distributed through the institutions of the basic structure in the ways Rawls indicated. This is because primary goods will act as means to meaningful goals for many, and improve the position of many disadvantaged members of society. The development of functional capabilities enables more people to use primary goods as means to their meaningful goals, even if Sen is correct and primary goods do not act as the means to everyone's significant ends.

Before any policies to develop functional capabilities are identified or pursued, a full and open debate ought to take place. This debate should focus on two issues, namely, what are the basic functional capabilities normally required by members of the society, and what levels of them are normally desirable. The appropriate venues for such a debate are the institutions of the basic structure because they are viewed as legitimate by citizens and functions to regulate society, to generate, and criticise public policy.

In chapter five, I consider a difficulty with the application of functional capabilities to Justice as Fairness. Briefly, it is not clear that Rawls's neutral state could recognise capability development as valuable. The practice of Justice as Fairness likely requires a different conception of the state than is articulated in the theory.

A perfectionist state could identify capability development as valuable by relating this to the idea that developing peoples' potentials is intrinsically good. The problem with this is that Rawls argued that a perfectionist understanding of the state could not be made consistent with Justice as Fairness. Thus, I argue that a different idea of the neutral state is preferable. In particular, I will argue that Rawls's neutral state advances several normative claims. I wish to another normative claim. Namely, that citizens would find functional capability development to be good, or minimally to be reasonable. They could thus use the institutions of the basic structure to publicly consider whether capability development would extend fair life chances, and what the state's role in this ought to be.

Notes

[1] John Rawls, Justice as Fairness: A Restatement (Cambridge, Massachusetts: Harvard University Press, 2001), 20.

[2] Ibid., 21-23.

[3] Ibid., 57.

[4] Ibid., 59.

[5] Amartya Sen, "Capability and Well-Being" in Nussbaum & Sen (editors), The Quality of Life, (Toronto: Oxford University Press, 1993, reprinted 1997), 30.

[6] Ibid., 31.

[7] What counts as "lower levels" of functional capability is not yet clear. In the following pages, I argue that scales of normal or average levels of functional capabilities could be developed by the relevant experts. Once this done, those with lower levels of functional capability can be identified.

[8] Martha Nussbaum, "Human Capabilities, Female Human Beings", in Nussbaum & Glover (editors), Women, Culture and Development: A Study of Human Capabilities (Toronto: Oxford University Press, 1995), 83-85.

[9] Dan Brock, "Quality of Life in Health Care and Medical Ethics" in Martha C. Nussbaum and Amartya Sen, (editors), (Toronto: Oxford University Press, 1993, reprinted 1997), 95.

[10] Ibid., 126.

[11] Ibid., 127.

[12] Ibid., (The table is part of Brock's Table 3), 122.

[13] To build such scales of evaluation here is well beyond the scope of this thesis. I am simply making the point that physical well-being can be assessed in a straightforward manner.

[14] Brock, "Quality of Life", 127.

[15] As one expects medical doctors to be involved in the assessment of physical well-being, one also expects that the psychological community would be involved in the assessment of emotional well-being. Again, I am only trying to draw general contours here.

[16] Rawls, A Theory of Justice, 62.

[17] The converse is also true. When a person is denied educational opportunities, it is difficult to see how this could not adversely affect the development of the "natural primary

good"—intelligence. The extent to which social primary goods are shared will also have profound influences on the development of natural primary goods.

[18] Rawls, A Theory of Justice, 100-101.

[19] Ibid., 60.

[20] Ibid., 303.

[21] To distribute primary goods in this way requires that everyone have a roughly equal status, the same educational opportunities and so on. If this were the case, natural primary goods would be developed as a by-product of fair life chances. The advantages gained from the developed natural primary goods could be re-distributed in the way Rawls indicates . A secondary problem arises, namely, how can one know the differences between results of effort and the result of having more or better natural primary goods than "average"? In essence, for Rawls, it does not matter where one's advantages come from; it only matters that they are to the advantage of the least advantaged in the long run. If they are not, they fall under the regulation of the difference principle, which explicitly cites income and wealth as goods requiring redistribution tending toward equality.

[22] Rawls, A Theory of Justice, 91

[23] Ibid., 92

[24] Ibid.

[25] Ibid., 92-93.

[26] Ibid., 190.

[27] Amartya Sen "Equality of what", in Robert E. Goodin and Philip Pettit (editors), Contemporary Political Philosophy: An Anthology (Oxford: Blackwell Publishers, 1997 pp 476-485), 483.

[28] Ibid.

[29] Ibid.

[30] Sen, "Well-Being, Agency and Freedom", 198.

[31] Ibid., 200.

[32] Ibid., 201-203.

[33] Ibid., 203.

[34] Amartya Sen "Justice: Means versus Freedoms" in Philosophy and Public Affairs Volume 19, number 2. Spring 1990, pp-111-121, 112-116.

[35] Ibid., 117.

[36] Rawls, Political Liberalism, 183.

[37] Rawls, Justice as Fairness: A Restatement, 169.

[38] Ibid., 171.

[39] Ibid., 173.

[40] Sen, "Equality of What?", 484.

[41] There is no necessary reason that a society could not aim to do both. However, to examine the relative merits and shortcomings of each, I find it helpful to consider the distribution of goods as one possible route to establishing fair life chances and the raising of functional capabilities to be another possible route. This somewhat false separation, I hope, will indicate whether the distribution of goods or attention to functional capabilities works better in establishing fair life chances.

[42] Consider, for example, Rawls's use of "normal co-operating members of society".

[43] Rawls, Theory of Justice, 7.

[44] Ibid., 7-11, 54.

[45] Rawls, Political Liberalism, 35.

[46]Rawls, A Theory of Justice, 84.

[47] Rawls, Political Liberalism, 7.

[48] Ibid., 301.

[49] Ibid.

[50] Ibid., 299-300.

Chapter 5: Liberal Perfectionism, Rawls's Normative claims & Justice as Fairness in Practice

John Rawls argued that citizens would arrange a society characterised by Justice as Fairness in such ways that all would have real opportunities to express their reasonable and rational conceptions of the good (what I have called "fair life chances"). Thus far, I have argued that Rawls's Justice as Fairness is theoretically adequate, but that the theory requires some alteration in order to be mobilised to inform the practice of liberal democratic politics. In particular, Rawls was committed to assert an abstract level of rationality and capacity among citizens. Rawls asserted that citizens would have developed capacities for a sense of justice and conception of the good. Rawls further argued that citizens would only value things which were rational for them to value (goodness as rationality). In practice the assertions that citizens would have developed the above "moral powers" and rationally order their ends are too strong.

In practice, instead of asserting adequate capability development on the part of citizens—these ought to be made the focus of public policy. That is, in order for people to have fair life chances, I argue that the state must be able to direct resources toward the development and maintenance of functional capabilities.

Rawls's version of "state neutrality", however, may preclude the state from being able to focus public policy on capability development. Functional capabilities can be understood as part of a perfectionist view of humanity. Rawls consistently argued that state directed perfectionism could not be justified within the theory of

Justice as Fairness. The doctrine of "state neutrality" was important to Rawls and other liberals because of its supposed relation to freedom. The state was not to direct people towards particular ends, or bar people from expressing ends that do not prevent others from expressing theirs.

To reiterate, the difficulty is that adequate capability development cannot be assumed in the practice of Justice as Fairness, but capability development (as a focal point of public policy) may be seen as a violation of state neutrality. There are two ways this problem may be circumvented.

- Justice as Fairness may be advanced as a perfectionist doctrine in practice; (This would reject the idea of state neutrality).
- Functional capabilities may be accounted for by including these as part of the normative claims already present in Justice as Fairness; (this could preserve the idea of state neutrality).

Functional capability development may be more straightforwardly done through a liberal "perfectionist", rather than a "neutral" liberal state. Rawls's state neutrality is not comprehensive neutrality; the Rawlsian state must repress all non-reasonable doctrines. This leads some perfectionist liberals to argue that several of Rawls's normative positions (such as the one indicated above) rely on perfectionist understandings of humanity.[1] In the context of mobilising Justice as Fairness for the practice of democratic politics, several issues must be clarified.

- What is meant by *neutrality*, and why is this thought to be central to Justice

as Fairness?

- What is meant by *perfectionism* and why is this thought to be problematic in relation to Justice as Fairness?
- How might *functional capabilities* appear to be perfectionist, and thus violate neutrality?
- How might *functional capabilities* be justified within Justice as Fairness without resort to perfectionism?

I shall argue that functional capability development is a *reasonable* way to extend freedom, equality and fair life chances. In making this argument I add one normative claim to Rawls's Justice as Fairness—that citizens would consider functional capability development to be good, or minimally, to be reasonable.

5.1: Rawls on Neutrality

"Neutrality" can be a misleading term, which can be applied to a myriad of theoretical positions and in different ways. Rawls explained that neutrality was an "unfortunate" term because "some of its connotations [were] highly misleading, [while] others [suggested] altogether impracticable principles."[2] Rawls stated:

> Neutrality can be defined in quite different ways. One way is procedural, for example, by reference to a procedure that can be legitimated, or justified, without appealing to any moral values at all. Or if this seems impossible, since showing something is justified appears to involve an appeal to some values, a neutral procedure may be said to be one justified by an appeal to neutral values, that is, to values such as impartiality, consistency in

> application of general principles to all reasonably related cases... and equal opportunity for the contending parties to present their claims.[3]

Neutral values are to inform a sense of fair procedures for settling conflicting claims. The political conception of Justice as Fairness, Rawls stated, "hopes to articulate a public basis of justification for the basic structure... It seeks common ground—or if one prefers, neutral ground..."[4]

Rawls asserted that constitutional democracies could, in part, be characterised as pluralistic. The assertion of "reasonable pluralism" was to indicate that citizens could hold differing, but publicly justifiable comprehensive conceptions of the good, while simultaneously endorsing a political conception of liberalism—Justice as Fairness. This shared political view would form the basis for an overlapping consensus.

Neutrality is to be defined in terms of the basic structure with respect to the differing comprehensive views that citizens hold. This sense of neutrality could further be understood in several ways. It could be interpreted to mean that the state is to provide an equality of opportunity to advance any freely chosen idea of the good. (The priority of the right excludes this sense of neutrality in Justice as Fairness). State neutrality might also be interpreted to mean that the state is not to favour any particular comprehensive doctrine. State neutrality could also mean that the state is not to encourage people to accept one comprehensive doctrine over another.[5] Rawls was committed to the second and third senses; neutrality meant not favouring, or encouraging the acceptance of a particular comprehensive doctrine.

Rawls's idea of neutrality was not simply procedural neutrality. It was neutrality among comprehensive doctrines, which respect the principles of justice. It was neutrality among reasonable doctrines. Rawls further supposed, "it is surely impossible for the basic structure... not to have important effects and influences as to which comprehensive doctrines endure and gain adherents... We must accept the facts of commonsense political sociology."[6] The state will tend to favour a certain class of conceptions of the good (reasonable). Rawls stated:

> As a political conception for the basic structure justice as fairness as a whole tries to provide common ground as the focus of an overlapping consensus. It also hopes to satisfy neutrality of aim in the sense that basic institutions and public policy are not to be designed to favour any particular comprehensive doctrine. Neutrality of effect or influence political liberalism abandons as impracticable...[7]

Political liberalism seeks an overlapping consensus and attempts neutrality of aim among reasonable citizens. It is not, however, neutral in terms of the political values it endorses. Indeed, Rawls stated that, "... justice as fairness includes an account of certain political virtues—the virtues of civility and tolerance, of reasonableness and a sense of fairness. The crucial point is that admitting these virtues into a political conception does not lead to the perfectionist state of a comprehensive doctrine."[8] Such values are assumed to be shared by citizens and so are understood to complement the political conception of justice for a democratic society.

Political virtues help characterise the ideal of a democratic citizen, as opposed to moral virtues, which are associated with particular comprehensive doctrines. Rawls explained:

> Thus, if a constitutional regime takes certain steps to strengthen the virtues of toleration and mutual trust, say by discouraging various kinds of religious and racial discrimination (in ways consistent with liberty of conscience and freedom of speech), it does not thereby become a perfectionist state of the kind found in Plato or Aristotle... Rather, it is taking reasonable measures to strengthen the forms of thought and feeling that sustain fair social co-operation between citizens regarded as free and equal.[9]

Rawls wished to distinguish the above from the idea of the state advancing a particular comprehensive doctrine, which might be viewed as perfectionist.

The (reasonable) political conception of justice will restrict the expression of

comprehensive doctrines, which violate the principles of justice. It is inevitable that the basic structure, regulated by the principles of justice, will encourage reasonable comprehensive doctrines and discourage unreasonable ones. Some have argued that this kind of "rational and reasonable" judgement is based in perfectionist assumptions.

5.2: Rawls on Perfectionism

Rawls made several normative claims (value judgments). Something is "normative" when it prescribes a standard of judgment (a norm), which classifies actions as right

or wrong. One of the normative standards Rawls employed was "reasonable". Any actions that impinge on Rawls's ideas of freedom and equality would be considered unreasonable, and are prohibited on this basis. Rawls's state neutrality is only neutral among reasonable visions and claims.

Some "perfectionist liberals" have argued, however, that Rawls relied on a kind of perfectionism in asserting his thin theory of the good, goodness as rationality. Thus, the extent (if any) to which Rawls's theory relied on perfectionism should be considered. Though I am persuaded by some perfectionist critiques of Rawls theory, it is not necessary to accept these in order to find that advancing functional capability development in practice requires either a perfectionist state, or at least one that makes more normative claims than Rawls's neutral state.

In regards to the project of putting Justice as Fairness into practice, the distinctions between Rawls's state neutrality and the normative claims it entails, and a liberal perfectionist state are not that significant. Each will propose similar governing structures and practices. Nonetheless, an argument that attempts to illuminate how Justice as Fairness might be worked out in practice should also attempt to be consistent with the theory of Justice as Fairness. Clearly, the theory, as stated by Rawls, is not consistent with a perfectionist understanding of the state.

Rawls held that there are essentially two variants of perfectionism. Rawls stated:

> [I]n the first it is the sole principle of a teleological theory directing society to arrange institutions and to define the duties and obligations of individuals so as to maximise the achievement of human excellence... [The second]... more moderate doctrine is one

> in which a principle of perfection is accepted as but one standard among several in an intuitionist theory. The principle is to be balanced against others by intuition. The extent to which such a view is perfectionist depends, then, upon the weight given to claims of excellence and culture... the requirements of perfectionism override the strong claims of liberty.[10]

Rawls held that perfectionist principles could not provide a feasible basis for social justice because, among other things, such principles could jeopardise individual liberty.

Instead of asserting perfectionist principles to advance a conception of social justice, Rawls's approach was socially derived by considering the public culture of democracies. Within these public cultures, Rawls argued was an implicit recognition of the ideas of liberty and equality and their priority.

The principles of justice were to render these implicit understandings explicit and more precise. The principles of justice were to be understood as implicit in the public culture of democracies, not as principles derived from perfectionist beliefs.

In attempting to articulate democratic principles of social justice, Rawls argued that two fundamental questions had to be addressed. These were, what is the most appropriate conception of political justice for citizens regarded as free and equal, and how should reasonable disagreements among free and equal citizens be adjudicated. Rawls further held that the answers to these questions could be provided for without reference to perfectionist principles. A distinction can be made between perfectionist principles and normative prescriptions. Justice as Fairness is normative, not perfectionist.

Rawls explained that: "what must be shown is that a certain arrangement of basic political and social institutions is more appropriate to realising the values of liberty and equality."[11] This arrangement was specified by Rawls's two principles of justice, which are:

> A. Each person has an equal claim to a fully adequate scheme of equal basic rights and liberties, which scheme is compatible with the same scheme for all; and in this scheme the equal political liberties, and only those liberties, are to be guaranteed their fair value.
>
> B. Social and economic inequalities are to satisfy two conditions: first, they are to be attached to positions and offices open to all under conditions of a fair equality of opportunity; and second, they are to be to the greatest benefit of the least advantaged members of society.[12]

Rights, liberties and opportunities are specified and given a priority. Adequate means for citizens to make use of their rights, liberties and opportunities are asserted. I have argued, however, that the means asserted in the theory (primary goods) are not adequate in practice. Functional capability development is required, and arranging the basic structure to provide for these "is more appropriate to realising the values of liberty and equality."

Justice as Fairness is normative. It indicates that justice should be understood as fairness, which is further specified by liberty, equality and reasonableness (the priority relation between liberty and equality). Any view that rejects the idea of Justice as Fairness will be held to be unreasonable. Justice as Fairness holds that

such views may be legitimately prohibited. All remaining views are necessarily reasonable, and the state is to be neutral among these.

Rawls argued that Justice as Fairness was, in part, a theory regarding the moral sentiments of democratic citizens. Two moral powers were asserted in the theory, the ability to form a conception of the good, and a sense of justice. One's conception of the good would be specified by one's rational and reasonable desire. Rawls further argued that a sense of justice required some account of entitlement. What one's "fair share" of social goods would be was "derived from social institutions and the legitimate expectations to which they give rise."[13] For Rawls, what one would rationally desire would be based in one's "legitimate expectations" arising from society's main political, social and economic institutions or the basic structure- which would be regulated by the principles of justice.

Rawls argued from the principles of justice that, given the diversity of incompatible but reasonable plans of life, the state ought to be neutral vis-à-vis reasonable and rational conceptions of the good. This meant the state should not promote any particular (reasonable) doctrines. The state, however, retained the authority to rule out all unreasonable doctrines. In this sense, Rawls's state was not purely neutral. It made a distinction between what was publicly justifiable and what was not. This value judgement was based in Rawls's view that democratic citizens would conceive of themselves as morally free and equal.

The Rawlsian state *must* make the (normative) distinction between reasonable and unreasonable ends and doctrines. There are three main reasons for distinguishing between unreasonable and reasonable ends:

- The pursuit of unreasonable ends by some may well effect the pursuit of reasonable ends by others.
- The expression of unreasonable doctrines could undermine the social bases of self-respect (a Rawlsian primary good).
- The expression of unreasonable doctrines could undermine Rawls's "overlapping consensus", which is to promote political stability.

5.2.1: Pursuit of Unreasonable ends violates the View of Moral Equality

Rawls's main arguments centred on the attempt to articulate the most appropriate conception of justice for a democratic society marked by moral disagreement among citizens conceived as free and equal. What the "reasonable" criterion does is limit the legitimate moral and political disagreement among free and equal citizens by ensuring that all unreasonable doctrines are incapable of being justified through public reason. Since citizens are characterised as similarly free and equal, anything that violates these similarities will be held to be unreasonable.

Imagine that I am a radical religious zealot. I believe that anyone who does not hold views similar to my own is my enemy. I believe that I am in a state of war with these enemies. In this war, I want to kill, or frighten into submission all who oppose my views. I do not believe democracy is legitimate; I wish to establish a

religious state run by those who hold the same views that I do. I engage in terrorist activities to further this cause.

Clearly, I hold unreasonable views in the above example from the Rawlsian standpoint. Rawls had to ensure that his state was capable of de-legitimising, and preventing these sorts of activities. If not, I will clearly prevent several fellow citizens from expressing and pursuing their reasonable ends. This would undoubtedly violate Rawls's view regarding moral equality of democratic citizens; it would further violate his principles of justice, and some laws that would be introduced through his "basic structure." Rawls's positing of moral equality forced him to make a clear value judgement, which could be conceived as perfectionist in origin, on the ground that he had distinguished between potentially worthwhile ends and doctrines, and others which may not even be pursued.

"Rationality" cannot make a distinction between what is worthwhile and what may not be without reliance on some sense of what is considered good or valuable. "Reasonableness" adds a moral character to Justice as Fairness. It states how citizens are to relate to one another, and what they may express as valuable.

Unreasonable doctrines have no value in a society characterised by Justice as Fairness. Several "value judgements" were made through the positing of moral and political equality and through the reasonable criterion, which was to act to protect these. It is these sorts of value judgements that have led some to argue that Rawls's theory is perfectionist in its moral foundations.

Rawls also advanced what he considered a minimally controversial idea of "goodness"—goodness as rationality. Goodness as rationality states that a person's good is to be found in the satisfaction of that person's rational desires. One difficulty with this is that rational desires can conflict in ways that would violate Rawls's ideas of freedom, and equality.

Rawls had to develop some sense of the "right" to regulate citizen activities; but in order to do this; he also required at least a minimal sense of the "good". Rawls asserted "goodness as rationality", which was meant to advance a "thin" and minimally controversial idea of goodness to develop the "right" (principles of justice), and to provide a rationale for valuing primary goods. Rawls then posited a full theory of the good that treated his "principles of justice as already secured, and then... [used] these principles... [to define] other moral concepts in which the notion of goodness... [was] involved."[14]

Rawls intended goodness as rationality to mean a descriptive sense of "good". Something is good if it has the properties that it is rational to desire in a thing of its kind. According to this descriptive sense of "good, one does not necessarily make a moral judgement in saying something is "good" or "bad". A person's "rational plan of life" will determine her "good." Value judgements are to be made from the standpoint of a given person's rational plan. Goodness as rationality indicates that a person will be happy when her plan is going well,[15] when she is expressing and achieving what she values.

The introduction of "reasonable" specifies what may count as a person's rational good, by positing moral equality of citizens and stipulating that their "goods" must be publicly justifiable. The "good" of the individual becomes the satisfaction of that person's *reasonable* and rational desire.

The pursuit of one's reasonable and rational desire (one's "good") is facilitated through one's set of "primary goods". Primary goods are, Rawls stated, "a class of goods that are normally wanted as parts of rational plans of life which may include the most varied sorts of ends... [T]he parties [in the original position will] want these goods, and to found a conception of justice on this presumption."[16] Rawls defined primary goods in the following way:

> [Primary goods] are things which it is supposed a rational man [or woman] wants whatever else he [or she] wants... The primary social goods are... rights and liberties, opportunities and powers, income and wealth. (A very important primary good is a sense of one's own worth...) [Rawls does not discuss "self-respect" until later in his theory].[17]

All people in a society characterised by Justice as Fairness are presumed to normally desire maximal amounts of primary goods because these are thought to increase their expectations for realising their conceptions of the good.

Just as Rawls's concept of reasonableness was rooted in his view of moral equality among democratic citizens, the idea of primary goods is founded in the moral (and normative) view that democratic citizens ought to have similar freedoms and opportunities. Both main moral values (equality and freedom) are made sacrosanct as founding principles of justice. The principles then regulate the

society's main political, legal and economic institutions (the basic structure), which acts to regulate the rest of the society.

In considering the principles of justice and the moral views that inform them, one can see that Rawls's theory prioritised the main liberal political and moral values (equality and freedom). Once it is apparent that Rawls's theory indicates that liberal values are *qualitatively superior* to other alternative values, the way is opened to make an argument regarding the perfectionist grounds of Rawls's theory.

Rawls's principles of right provide the (normative) standard for Justice as Fairness. The principles are the product of rational deliberations subject to reasonable constraints (original position). Rawls attempted to make the deliberation unbiased through the imposition of the 'veil of ignorance'. The deliberations in the original position, if not fully unbiased, can be considered as, at least, minimally biased.

The same cannot be said of the original position itself. The original position was intentionally constructed so that it could only yield rational principles supported by reasonable judgements. The original position is thoroughly liberal. It starts out with the assumptions that individual freedom and social equality are good things. Though one may agree with these assumptions, they most certainly have a value bias.

Rawls's theory must employ the reasonable criterion lest freedom and equality be jeopardised. Reasonable is also related to the realisation of Rawls's primary good of self-respect. In considering the relation between reasonableness and self-respect,

one again finds that the Rawlsian concept of reasonableness not only prioritises liberal values – it indicates that liberal values are superior to others because they can be conceived of as "fair", when discussing citizens as similarly free and equal. Rawls was attempting to articulate a fair system of social co-operation among free and equal citizens. This fair system of co-operation would allow citizens similar opportunities to advance their reasonable and rational conceptions of the good. Rawls further posited that primary goods would be similarly desired by all because having these was thought to help people realise their vision(s) of the good.

5.2.2: The "Primary Good of Self Respect"

Rawls advanced primary goods as rationally desirable (valuable) to anyone in his society. They were to aid citizens in expressing and pursuing their reasonable and rational goods. One such primary good was the social bases of self-respect. Rawls defined self-respect as including:

> [A] person's sense of his [or her] own value, his [or her] secure conviction that his [or her] conception of his [or her] good, his [or her] plan of life, is worth carrying out. And second self-respect implies a confidence in one's ability, so far as it is within one's power, to fulfil one's intentions...Without... [self-respect] nothing may seem worth doing, or if some things have value for us, we lack the will to strive for them.[18]

Rawls argued that one must have self-respect in order to see value in one's projects and have the confidence to carry these out. The social bases of self-respect turn out to be the effective recognition on the part of others.[19]

Reasonable pluralism is a supporting circumstance of self-respect in Justice as Fairness, and helps to form an "overlapping consensus". Without self-respect, one's ability to pursue one's conception of the good is severely jeopardised. Further, one may value the primary good of self-respect on rational grounds, but it is not clear why goodness as rationality would direct one to value other people and their projects. This is one reason why the social conception of value embodied in the concept of "reasonable" is required in addition to rationality.

It is important from the standpoint of Justice as Fairness to conceive of people as having the abilities to express their goods in a system of fair co-operation. Citizens must be reasonable (willing to propose and accept fair terms of social co-operation) in order for this to occur. Primary goods are to act like all-purpose means-goods—they are to increase our expectations for realising our conceptions of the good.

Self-respect, however, is unlike the other primary goods—indeed Rawls most often treated it separately from the others. Self-respect is inherently social. Yet, without self-respect, the individual will see no value in his life or projects. To realise one's good one must have self-respect. For one to have self-respect, one must find one's life and projects valued by others. Reasonableness encourages this reciprocal valuing by limiting the range of pluralism (all citizens and their conceptions of the good must be reasonable).

Reasonableness is central to understanding Justice as Fairness. In considering reasonableness in Rawls's theory, one finds that it prioritises the foundational

liberal values of equality and liberty—though Rawls discusses these as implicitly part of the public culture of democratic societies. Nonetheless, the liberal values and their priority relation fundamentally inform the concept of reasonableness. One also finds that an important primary good, the social bases of self-respect, requires that people enjoy reciprocal esteem, that others value our lives and projects.

Reasonableness ensures that the liberal values of liberty and equality are part of the moral psychology of citizens. Both citizens and their projects are to be reasonable. It is clear that unreasonable doctrines cannot be tolerated; the Rawlsian state is not neutral towards these. Since all citizens and their projects are to be reasonable, a shared moral and political basis makes self-respect operable in Justice as Fairness. Reasonableness helps ensure that citizens are able to form an "overlapping consensus", which provides the regime with constitutional stability.

5.2.3: "Reasonable" also required to ensure an "Overlapping Consensus"

Rawls weakly posited that democratic societies were marked by the fact of reasonable pluralism. There are many incompatible, but reasonable comprehensive views in such societies. Rawls argued that all reasonable comprehensive doctrines can either support the principles of justice outright, or they can, at minimum, find them to be reasonable, and thus acceptable. There is a distinction made between the varied, and often opposing reasonable comprehensive views, and the more general political view.

The political view was referred to by Rawls as political liberalism. It was meant to convey the idea that people who hold reasonable comprehensive doctrines could, often for different reasons, support the political view because it was itself reasonable. The fact of reasonable pluralism further implied that citizens would not agree on the validity of any one comprehensive doctrine. The "reasonable" predicate implied that citizens could agree on a political conception of justice. It was this agreement that was to form an overlapping consensus in support of political liberalism's principles of justice.

Rawls required the concept of "reasonable" for inter-related reasons. It limited what individuals could count as their rational goods. This was necessary because the satisfaction of one person's rational desires could easily harm another's if no such distinction was made. This would be problematic for Justice as Fairness because of the emphasis it places on the values of liberty and equality.

In both theory and practice, "reasonableness" is a supporting circumstance for the primary good of self-respect. It assures, as far as possible, that citizens will value one another and their projects by ensuring that citizens and their projects are publicly justifiable. Reasonable provides the common ground for citizens to engage in legitimate political disagreements while simultaneously endorsing political liberalism (a political, not a comprehensive doctrine).

Reasonable citizens will be able to form an overlapping political consensus that does not endorse any particular reasonable comprehensive doctrine. This overlapping consensus provides the ties that bind citizens together in their common project while

still allowing them to pursue their individual projects in ways that are not inherently conflictual.

In all the senses discussed above the concept of "reasonable" fundamentally makes a value judgement. It says what may be counted as good and what may not. The descriptive sense of "good" that Rawls advanced in accordance with goodness as rationality is always conditioned by what is thought to be reasonable. This means that the idea of 'good' at play in goodness as rationality is not simply descriptive. "Reasonable" adds normative content to goodness as rationality in practice. Reasonableness also encourages the primary good of self-respect to emerge within the lives of citizens through making this value judgement. Finally, it defines the limits of pluralism when citizens are conceived as free and equal.

Rawls's theory advances several normative claims; this is particularly evident when considering the concept of reasonableness. What remains unclear is whether making these sorts of value judgements ultimately rests on perfectionist ideas regarding human excellence.

Perfectionism, Thomas Hurka states, "...holds that certain states and activities are good, not because of any connection with desire, but in themselves."[20] In contrast, Rawls held that something is good if it satisfies rational (and reasonable) desire.

One's potential may be viewed as directly related to one's set of functional capabilities. In this sense, functional capabilities might be viewed as perfectionist, but Rawls had argued that state directed perfectionism could not be made consistent with Justice as Fairness. It has been argued here, however, that the

development of functional capabilities could establish fair life chances across a broader range of society than primary goods could. This apparent inconsistency could be overcome by either showing that Justice as Fairness is compatible with perfectionism, or the difficulty might be circumvented by justifying capability development within the framework of neutral state (by making a distinction between perfectionist foundations and normative claims).

That is, in considering how Justice as Fairness might be practically implemented, one should question whether Rawls's theory is best understood as being based in perfectionist ideas, or whether Rawls's theory simply posits normative claims which would be uncontroversial to free and equal citizens. This leads to a further consideration of an appropriate conception of the state to advance Justice as Fairness ("liberal perfectionist" or Rawls's sense of "neutral"). Alternatively, a different idea of the neutral state may best advance Justice as Fairness in practice. This mostly likely requires that additional normative claims be added to Rawls's Justice as Fairness.

Vinit Haksar, a perfectionist liberal, argues that Justice as Fairness is properly grounded in perfectionism. In examining Haksar's argument, one can further consider what the practical differences between a perfectionist and neutral state might be in attempting to advance Justice as Fairness. That is, would the practical goals of Justice as Fairness be best achieved through some idea of a perfectionist, or neutral state?

5.3: Perfectionist Egalitarianism (Vinit Haksar)

Vinit Haksar argues that Rawls's theory cannot bypass perfectionist considerations. Haksar begins with the premise that some forms of life are better than others, but human beings are worthy of equal respect and consideration.[21] Rawls was against such a controversial starting point partly because it may not have yielded an agreement in his original position, and partly because it would lead to a non-neutral state.

Nonetheless, Rawls's theory posited that citizens were due equal respect and consideration, and more at later points in his argument.

Haksar asserts that Rawls's use of "a choice criterion of value" (good as the satisfaction of rational desire) is an attempt to bypass perfectionist considerations, and thus avoid the use of controversial doctrines in his original position. The choice criterion of value, however, can only work if rationality and other values are presupposed. Further, once the deliberations in the original position are complete, "goodness as rationality" becomes limited by a public conception of value—"reasonableness". The reasonable criterion then says all non-reasonable are prohibited. Thus, Rawls's "neutral" state is not neutral toward unreasonable doctrines, or visions of the good.

Haksar proposes a weak perfectionism rooted in human nature that asserts some human lives are better than others by appealing to what kinds of lives best suit a human being. This line of reasoning is similar to that of the capability theorists, in that it looks to identify characteristically human activities. Haksar states:

> This is consistent with the admission that if human nature had been different then perhaps different forms of life, such as bestiality, would have been suited to human beings. Perhaps what we take to be human nature does vary to some extent from society to society. And to that extent, the answer to the question which forms of life are superior (in the sense of being suited to human beings) may vary from society to society.[22]

Haksar argues that Rawls thought the choice criterion of value (goodness as rationality) bypassed considerations of intrinsic value. What we freely (and rationally) choose to be good was held by Rawls to be good simply.

When, however, Rawls added that rational goods must also be reasonable, he clearly indicated that some forms of human life are good (reasonable lives) and others (unreasonable) are not even permissible. Moreover, it is not necessary for perfectionist egalitarianism to be advanced as a universal doctrine. It can be tailored to time, place and culture. In this instance, to a liberal society characterised by Justice as Fairness.

5.4: Similarities between Perfectionist Equalitarianism and Justice as Fairness

Rawls had to justify why human beings were worthy of equal respect and consideration in spite of obvious differences in potential and ability in order to provide a firm foundation for his egalitarianism. Rawls appealed to the Aristotelian principle that stated other things being equal, people will prefer more complex to simple tasks. Rawls appeared to hold that it was natural and good for human beings to explore their potentials.

Rawls also had a Kantian understanding of humanity whereby human nature was best expressed in an autonomous, rather than slavish life.[23] This is not dissimilar to Haksar's "...appeal to a perfectionist view which emphasises the potential that an individual has."[24] Both place constraints on what a good life can entail.

What gives a life meaning is the projects the individual has. The fulfilling of these projects, however, "...must operate within moral constraints."[25] Reasonableness acts as one such restraint; Mill's harm principle provides another similar example.

As a practical matter, it is likely best to arrange a society's institutions in such a way that people have a right to equal respect and consideration.[26] Haksar states:

> [A] rights-based approach, which gives superior status to human beings over [say] animals, goes quite naturally with the view that there are moral constraints that we human beings must observe in our conduct, in addition to the constraints that we have to obey as a result of the rights of other human beings.[27]

Haksar argues that egalitarianism requires a perfectionist foundation because to argue that all people are due equal respect requires that people be treated differently, than say, trees. People are to be treated equally in light of their potential to lead significant and meaningful lives.

In advancing Justice as Fairness in practice, it is both rational and reasonable to seek to attempt to extend the potential of people to lead significant and meaningful (good) lives. This is to say that realising human potential is intrinsically valuable, but Rawls's state neutrality is to avoid questions of intrinsic value. This avoidance, however, is not so much an avoidance of considerations of value as it is an attempt to avoid deep controversy.

It is uncontroversial from the point of view of citizens in a society characterised by Justice as Fairness to posit that human lives have intrinsic value—no reasonable citizen would argue this. We wish to treat people fairly, extend them rights and opportunities because of the agreed upon premise that all human beings have equal moral value, and ought to be free to pursue their ends so long as they do not prevent others from doing the same.

Capability development, as a public policy framework, is not unreasonable—it can be justified without resort to any particular doctrine. Throughout most of this work, freedom has been discussed in terms of its extent through the idea of functional capabilities. Freedom is also often discussed as related to living a self-determined life. That is, a central aspect of liberal notions of freedom is the idea that human beings have the potential to lead autonomous lives.

5.4.1: Autonomy as Derived from Perfectionist Considerations

Haksar argues that: "...Rawls brings in perfectionism through the back door; the view that an autonomous life is an essential part of human well-being is a kind of perfectionism."[28] Haksar cites a distinction made by Brian Barry between want-regarding and ideal-regarding theories to make this point.[29] The difference between want and ideal-regarding theories is their starting points. Want-regarding theories begin with the actual desires of people and do not consider the origins of these desires. Ideal-regarding theories, however, judge desires according to their origins. Rawls's theory is want-regarding so claim Haksar and Barry, because it

does not (on the face of it) appeal to a standard of excellence. That is, it does not appeal to perfectionist principles.

Haksar, however, argues that Rawls's theory is not fully a want-regarding theory. This is because of the importance Rawls placed on individual autonomy. Rawls was interested in what we *would* desire as free and equal rational beings.

Rawls placed himself in the position of attempting to avoid perfectionist considerations while appealing to ideal-regarding ones. He attempted to argue that not all ideal-regarding theories were also perfectionist. Haksar argues that Rawls was not successful in his attempt to maintain this distinction and consequently, was unsuccessful in bypassing perfectionism.[30]

Haksar contends that Rawls could not avoid an appeal to perfectionism because of the importance he placed on individual autonomy. As a non-perfectionist, Rawls could not assert that the autonomy of an individual is intrinsically valuable. Instead, he had to derive the supposed value of autonomy from his original position. Rawls had to show "...that individuals would be better off under conditions of autonomy."[31]

This, however, is not easily demonstrated without an appeal to perfectionist considerations. Haksar explains:

> The experience of totalitarian countries shows that economic, technical and scientific progress is quite compatible with the denial of human freedom and autonomy... [A] person who is non-autonomous in the sense that he [or she] does not choose his [or her] final aims and ends could be capable of considerable achievements in scientific and technical fields.[32]

Rawls had to demonstrate that, other things being equal, an autonomous life is always to be preferred to a non-autonomous one without saying anything in regard to the intrinsic value of autonomy. Haksar thinks, and I agree, a better argument to justify autonomy begins with the perfectionist view: "...that an autonomous life is an essential constituent of human well-being."[33]

Autonomy is securely founded on perfectionist considerations simply by weakly asserting that self-determined lives are intrinsically valuable. Moreover, why would any "reasonable and rational" citizen find such an assertion controversial? Autonomy has to do with the individual's freedom. What freedom means, however, is debatable. Perfectionist egalitarians tend to assert rights-based regimes, and then discuss liberties in relation to authority.

5.4.2: Perfectionism and Liberties

With regard to a right-based egalitarian theory, Haksar argues that: "...there are two legitimate ways of ranking liberties: social criteria and perfectionist criteria."[34] Ronald Dworkin, an egalitarian liberal, thinks that rights to particular liberties are grounded in our right to equal respect and consideration.[35] Haksar agrees with Dworkin on this point, but asserts that such egalitarian premises are properly derived from perfectionism.

Haksar takes the example of free speech to argue against Dworkin's standard liberal position. Haksar states:

> Does the right to free speech involve a right to use obscene words? Some people would say that it does not. They would say that although you have a right to say things like 'Down with the draft', you do not have the right to say 'Fuck the draft'. Dworkin implies that such views are implausible. He thinks that the doctrine of equal respect implies that the dissenters must be allowed to use their rhetoric to match their sense of outrage...[36]

For Dworkin, the use of obscenities in public amounts to the right to free speech. The problem is when other societal members have contempt for those who exercise their right to free speech in this way. This appears to diminish the doctrine of equal respect, which the right free speech is intended to elevate. It would also appear to undermine the social basis of Rawls's primary social good of self-respect.

The main two ways to rank liberties (social and perfectionist considerations) both indicate that the right to free speech, for example, is limited more than most liberals admit precisely because of its relation to the doctrine of equal respect. Liberties must be both ranked and limited. One liberty will trump another in many cases. This is widely accepted. The justification for these trump rights, however, is a matter of dispute.

Haksar argues that the ranking of liberties relies on perfectionist considerations. For example, rights should be ranked according to the degree to which they promote equal respect, well-being, and general human flourishing among individuals. This is often connected with the potential each individual has and ought to develop. This, Haksar argues, can be interpreted in two ways. Haksar explains:

> First, it may be used in the sense which implies that a person is only valued as a means to the realisation of wonderful potential. Or secondly, it may be taken to imply that a person's wonderful potential (which he [or she] can develop without destroying his [or her] identity) is evidence of his [or her] being sacred and inherently valuable, of his [or her] being an end and not a mere means.[37]

Haksar is committed to the perfectionist view of human potential in the second sense because he is also committed to a right-based egalitarian approach.

Even moderate perfectionist views such as Haksar's are "...sometimes thought to be inconsistent with the doctrine of equal respect and concern."[38] Haksar states: "Thus Dworkin believes that the liberal conception of equality is incompatible with the government treating some forms of life as inherently more valuable than others."[39] Haksar disagrees because he thinks the view that some forms of life are superior to others does not entail that people who lead lesser forms of life are themselves less valuable than those who do not. I, however, am less interested in ranking forms of life; than I am with the idea that developing a person's potential is a good thing. (Developing potential and considering what one does with developed potential are separate issues).

5.4.3: Perfectionist Egalitarianism Requires Toleration

An accusation that might be levelled at Haksar's position is that it commits him to a kind of dictatorship where what is worthwhile for individuals is decided for them. In reply, Haksar states: "The view that bestiality is degrading and should be given inferior status compared to conventional sexual practices, does not commit

one to abolishing liberal democracy and becoming a dictator."[40] Rawls's reasonable criterion would also rule out bestiality. There is no loss of liberty simply because the state arrived at this (reasonable) conclusion through employing perfectionist considerations.

Haksar suggests a system of toleration is required.[41] "Inferior forms" of life can be tolerated without being promoted. Thus, practitioners of inferior forms of life are not viewed as less valuable persons, liberty, and autonomy are strongly endorsed. The system need not be stagnant either because the practitioners of the so-called inferior forms of life have the continuing opportunity to convince others that their form of life is not, in fact, inferior but is worthwhile.[42] Instead of discussing superior and inferior forms of life, Rawls's state simply judges whether a given form of life is reasonable. I further assert that what is "reasonable" changes over time and place. Haksar's moderate perfectionist state does not appear to be any more restrictive than a Rawlsian neutral state in terms of what liberties citizens have, and what they may pursue and express. It would, however, be capable of promoting functional capabilities because developing persons potentials is taken to be intrinsically valuable, whereas the strict neutrality of the Rawlsian framework may not allow for this.

To be clear, the practical difference between Rawls's "neutral" state and Haksar's "weak perfectionist" state as these relate to this project, is not in restricting unreasonable options (they both do this). It is, rather, that Haksar's state is capable of promoting the development and maintenance of functional capabilities on the

basis that these are directly related to helping people develop their potentials—which is taken to be intrinsically valuable. If this was where the perfectionist criticisms of Justice as Fairness ended, then it might well be the case that a perfectionist foundation for the theory could extend fair life chances further than a neutral state could. There is, however, another aspect to the perfectionist criticisms. Some variants of perfectionism also hold that the state should promote a range of good options for citizens to express. This not only negates any sense of state neutrality; it also could easily and unnecessarily restrict the freedom and equality of individuals.

There is also the danger of public authorities of a perfectionist state becoming over-zealous in discouraging "inferior" forms of life. Haksar asserts that this might be the case if it were not for the high value placed on the individual's ability to make decisions for him or herself. Haksar states:

> It is quite consistent to say that, other things being equal, a form of life A is superior to a form of life B, but if other things are not the same, if for instance a person has autonomously chosen form of life B, then this situation is preferable to the situation where the form of life A is imposed on him [or her].[43]

Haksar argues along Millian lines that an adult has a stronger interest in his or her well being than the state does and is likely more competent at deciding what is best for him or herself than is the state.

Generally, Haksar also agrees with Mill that it is good for a society to have many forms of life available for the individual to choose from, and that alternative

experiments in living are good for a society and its members. Haksar's perfectionist, right-based, egalitarian approach dictates that: "...the majority is not entitled to tyrannise the minority..."[44] This position follows from the perfectionist view that all people are intrinsically valuable and should be accorded equal respect and consideration on this ground.

Perfectionist liberals understand autonomy and liberty as valuable (both are aspects of freedom). Freedom, however, is properly understood as part of the doctrine of legitimate political authority in democratic societies. Thus, in order to understand what democratic freedom entails, we must consider the meaning of legitimate authority.

5.5: Freedom and Legitimate Authority (Joseph Raz)

Joseph Raz argues that individual autonomy is a necessary element of a good life. He points out, however, that one of the problems one encounters when discussing liberty is that an analysis of freedom does not say anything about how to rank different liberties or say which ones are most valuable.

Raz argues that: "...the value of freedom depends on the other values which the freedom to perform some actions serve."[45] This is a perfectionist view that dictates that the performance of some acts are valuable and others are not.

Freedom is not simply instrumentally valuable, but it is so intertwined with other values that it cannot exist on its own. According to Raz, "...the doctrine of liberty is part and parcel of the general doctrine of political authority."[46] Authorities can turn

"oughts into duties."[47] To understand freedom, Raz argues, one must also understand legitimate authority.

5.5.1: Authority and Consent

Raz asserts that consent is an instrumental justification of legitimate authority. Where, following Hobbes and Locke, consent is understood as "...an expression of rational enlightened self-interest."[48] Here, consent to legitimate authority is thought to further the ends of the individual. Another way consent is used to justify authority is derived from Rousseau and is non-instrumental. In this case, "The consent is a constitutive element both of the condition of the person who gives it and the society resulting from it, which is good in itself."[49] These are both distinct from Rawls's hypothetical consent of fair-minded persons (original position). Rawls's version is more like a "cognitive agreement" than consent.[50] Raz further posits that consent comes in degrees in practice. Raz argues that:

> Those who consent to the authority of reasonably just governments or respect their laws are subject to their authority and have an obligation to obey their laws. But not everyone does consent, nor do all have this attitude. Those who do not are not necessarily guilty of wrongdoing. Obligations undertaken through consent or respect are voluntary or semi-voluntary obligations. They bind those who undertake them. [Consent] cannot be a foundation of an obligation to respect the law, nor a basis for the general authority of governments over all their subjects.[51]

Governmental authority is legitimate only in degrees. Respect for the law is not

universal, nor is it obvious that all will consent to the law.[52] Rawls theoretically overcame this by asserting another sense of "reasonable". Citizens were to be willing to propose and accept fair terms of social co-operation; they were to relate to one another in reciprocal ways. It is unreasonable to break the law in a society characterised by Justice as Fairness.

When discussing the freedom of the individual, it often makes sense to speak of this in terms of "autonomy." The autonomous person is to consent to the authority of the state because this is thought to further that individual's good.

5.5.2: State Neutrality and Autonomy

Rawls had made a strong connection between individual freedom and political neutrality vis-à-vis citizens' pursuits. Rawls held that individuals were (autonomous) moral agents capable of deciding what was good for themselves. Governments should not force conceptions of the good on people (political neutrality). Yet, governments could legitimately force people to discontinue unreasonable pursuits and actions. Rawls's neutral state was not to be impartial towards people or projects that violate the principles of justice.

Raz defines "comprehensive political neutrality" as "[ensuring] all persons an equal ability to pursue in their lives and promote in their societies any ideal of the good of their choosing."[53] Raz argues that Rawls's theory, "...deviates from comprehensive neutrality in requiring equal ability to pursue ideals of the good only in so far as that liberty depends on the principle of equal liberty."[54] One might

add that roughly equal liberty depends on having at least basic levels of functional capability. Rawls assumed this in theory, but the assumption is too strong in the light of observable fact and experience.

Raz re-constructs Rawls's argument for neutrality to uncover Rawls's intuitive idea of morality. Raz argues that the intuitive idea of morality is it is:

> [A]n expression of one's rational nature, it is essentially self-determined.... It advocates not neutral political concern as a principle of restraint between those conceptions of the good which greatly value an autonomous development of one's life in accordance with one's rational nature. It is in fact not a doctrine of neutrality but of moral pluralism.[55]

Thus, there would be many conceptions of the good (understood as rational expressions of people's natures) that would be both valuable and incompatible. The state should be neutral between these so long as they are reasonable. Some "life plans" would be viewed as worthless or degrading because they are unreasonable. The state should not be neutral among these. It may even seek to eradicate them.[56]

On the point of neutrality and with regard to citizen's actual lives, Raz asks: "Is it the state's duty to try and maximise their satisfaction, i.e., to make sure that people do succeed in leading the lives they have chosen, or should it make opportunities available to them that will enable them to try and lead the lives they have chosen?"[57]

The answer(s) to Raz's question rest on one's conception of an autonomous person. That is, if being autonomous is valuable because it is a significant element of leading a worthwhile life, then autonomy's value rests on the successful

achievement of significant ends. If a person is mistaken in pursuing what turn out to be false or worthless ideals, then the value of being autonomous appears diminished. This point is made clear by Rawls's detailed accounts of "full deliberative rationality", a concept designed to theoretically eliminate the possibility of choosing a life plan that one would not have chosen if one had accurate information about its consequences.

Autonomy is not simply about making choices. It is about making significant choices from good options. Raz argues that autonomy has:

> [P]artly to do with the state of the individual concerned (that he [or she] is of sound mind, capable of rational thought and action, etc.) and partly to do with the circumstances of his life (especially that he [or she] has a sufficient range of significant options available to him [or her] at different stages of his [or her] life).[58]

Raz argues that state neutrality could inhibit the carrying out of good lives first by not distinguishing between valuable and worthless options, and second by not ensuring that a range of valuable options are available to choose from.

Rawls did distinguish between valuable and worthless lives with his reasonable criterion. He, however, was uninterested in promoting a range of good options for citizens to pursue. To be clear, I am not arguing that the state should promote a range of good options, I am arguing that the state should promote functional capabilities to better enable people to express their reasonable goods. I view the development and maintenance of functional capabilities as pre-requisites for autonomy.

For Raz, freedom, autonomy and the pursuit of good lives are all bound together and require a state capable of promoting ideals. Freedom is not, Raz argues, unimpeded choice among infinite options, whatever they may be. It is rather "...bounded by our notions of what might be worthwhile."[59] Raz states:

> Autonomy is only valuable if it exercised in pursuit of the good. The ideal of autonomy requires only the availability of morally acceptable options. This may sound a very rigoristic moral view, which it is not. A moral theory, which recognises the value of autonomy inevitably, upholds a pluralistic view. It admits the value of a large number of greatly differing pursuits among which individuals are free to choose.[60]

Thus, Raz thinks "...valuing autonomy leads to the endorsement of moral pluralism."[61]

An endorsement of moral pluralism, however, does not lead to comprehensive state neutrality. Raz explains that: "Since autonomy is valuable only if it is directed at the good it supplies no reason to provide, nor any reason to protect worthless let alone bad options...[W]hile autonomy is consistent with the presence of bad options, they contribute nothing to its value."[62] Perfectionist considerations are required in evaluating the options from which individuals are to choose because autonomy itself cannot do this.[63]

This view, however, does not appear to correspond to most people's lives. The problem is similar to ones encountered earlier regarding Rawls's emphasis on rationality. We do not normally view our commitments as perfectionist; we simply have commitments. We have ends that we express as valuable. We commonly

accept that people disagree over these matters. While it is true that many of our commitments can be conceived as perfectionist, there is insufficient reason to suggest that the state ought to direct people towards what we should value, that it should promote a range of good options. Free, equal, and reasonable individuals do not require the state to direct them towards valuable options; they require the state to ensure certain liberties and securities so they may express what they value.

I agree with Rawls that the state should not make evaluations of people's ends beyond assessing whether they are reasonable. The individual should do this. Raz is correct in asserting the state has a role in promoting conditions of autonomy—particularly, to consider how to develop the capacity for autonomy. Contra to perfectionism, however, I agree with Rawls that it is unnecessary for the state to promote a range of "good" options, so long as it prohibits unreasonable ones.

Of the reasonable options, none can be promoted above the others. A range of *reasonable* options is required in a society characterised by Justice as Fairness. There is no necessary reason to think that the state should, or could provide an exhaustive range of good options.

If unreasonable visions of the good are prohibited, then only reasonable (if not good) options remain. In theory, a citizen simply has to express a reasonable vision of the good that she will experience as good.

5.6: Accounting for Functional Capabilities in Justice as Fairness

Rawls argued that citizens' expectations for their lives would be indicated by the bundle of primary goods they held. The practical problem is that increasing one's bundle of primary goods does not necessarily raise one's expectations because primary goods only take account of the means to freedom and ignore its extent. If primary goods cannot always aid the individual in expressing her reasonable good, then it makes sense to consider what might do this. I have argued that developing functional capabilities would extend fair life chances (the opportunity to express oneself in ways experienced as good) further than any distributions of the means to freedom could.

It may be that functional capabilities could be valued on similar grounds to primary goods (which are instrumentally valuable). It is rational for citizens to want adequate levels of functional capability to express their reasonable ends. There is a difficulty, however, with this line of reasoning. Primary goods are presented as part of the thin theory of the good (goodness as rationality). They are intended as all-purpose means to various ends, and are not meant to indicate any intrinsic value. The full theory of the good, (goodness as reasonable rationality) does indicate an understanding of social value (ends must be publicly justifiable to count as "good"). Unlike primary goods, the functional capability approach indicates that developing one's potential to express and experience a good life is intrinsically valuable. Considerations of value properly belong to the full theory of the good, not the thin, descriptive theory.

If the valuation for functional capabilities were to be added to the thin theory of the good, which is part of the account of rationality in the original position, then this would have the effect of substantially filling out Rawls's thin theory of the good, making it more controversial. Instead of attempting to justify the state advancing functional capabilities (and inviting a hypothetical controversy in an imagined "original position"), it would be better from the stand point of practising Justice as Fairness to have citizens collectively decide through the institutions of the basic structure whether:

- Functional capability development would extend the freedom, equality and fair life chances of society's least advantaged members.
- And to consider what the state's role in capability development ought to be.

Instead of importing functional capability into the thin theory of the good, the development of functional capabilities could be justified to and by reasonable citizens through public reason at the so-called "legislative stage" (Rawls's terminology).

In advancing capability development the state would not be fully "neutral" because functional capabilities would be seen as either perfectionist, or adding additional normative content to Justice as Fairness. I propose to briefly consider how functional capabilities could be conceived as perfectionist, and then show how they could be valued by citizens of a society characterised by Justice as Fairness without resort to perfectionism. (By adding the additional normative claim that

citizens would find functional capability development to be good, or minimally, to be reasonable).

5.6.1: ***Functional Capabilities as "Normative" not necessarily "Perfectionist"***

Rawls consistently asserted that citizens would have developed moral powers and other capacities required to be normal co-operating members of society. Citizens, so conceived, are to rationally desire primary goods to be used as means to their various reasonable and rational goods. This has been shown to be problematic in practice because it is obviously the case that some people do not meet this essential minimum. "Functional capabilities" have been advanced as way to enable those who are beneath this theoretical threshold to have their well-being raised to adequate levels, enabling the expression of their reasonable ends.

In considering how functional capabilities could be conceived as perfectionist, Martha Nussbaum's list and explanation of "basic human functional capabilities" will be re-visited. Nussbaum's list is as follows:

1) To have a normal life span.
2) Good health including adequate nourishment
3) Avoidance of "non-beneficial pain" and ability to have pleasurable experiences.
4) Free expression, ability to think, imagine, and reason.
5) To love others and be loved.
6) Ability to critically reflect on one's goals and life.
7) The capacity for both justice and friendship.
8) To live in balance with other creatures and plants that inhabit the planet.

9) To laugh, to play, to enjoy recreational activities.

10) Guarantees of non-interference with certain personal choices.

10a) "[G]uarantees of freedom of association...integrity of private property"[64]

For Nussbaum, this list of capabilities is intended to outline the essential requirements of a good life for all human beings. All people who are not otherwise disabled are presumed to have the potential for these capabilities. Capability development is presumed to be a requirement for a good life. The list itself is controversial. Free and equal people could presumably argue for different capabilities than the one's Nussbaum indicates.

Nussbaum's position, however, is more controversial than this, especially in respect to how she conceives of functional capabilities. She argues that her list of capabilities is "universalist" and "essentialist".

Nussbaum did not simply assert a favoured list of functional capabilities. She asserted that her list contained *the basic human functional capabilities*. The "essentialist" and "universalist" aspects of her understanding of functional capabilities entails an Aristotelian/perfectionist view regarding the nature and purposes of humanity—it says what is thought to be essential to a good human life. In this sense, functional capabilities can be understood as having a perfectionist element.

Functional capabilities, as Nussbaum describes them, take certain human characteristics as essential to the individual's ability to live a good life. This fits with the liberal perfectionist premise that people are inherently valuable, and it is a good thing to attempt to develop their potentials. It is, then, natural to assume that

a liberal perfectionist state may be better equipped to advance fair life chances through capability development than a neutral state, which may not even recognise these as valuable.

Since, however, the Rawlsian neutral state already contains normative prescriptions regarding freedom and equality; it makes sense to consider how these might be adequately realised in practice. Citizens could reasonably agree that capability development could extend freedom and equality, and also recognise that the state is more able to provide for these than individuals are.

Functional capability development need not entail perfectionist claims, nor does it necessarily entail a role for the state in creating "good options" for citizens to pursue. This would also seem to address some of the perfectionist criticisms of Rawls's theory. William Galston states:

> Rawls correctly maintains that a theory of justice requires an independent theory of the "good." But his interpretation of the good as "primary goods," universal means, is inadequate and untenable...[T]he primary goods thesis makes it theoretically impossible to consider the varying effects that the identical means may have on different individuals. But these effects are crucial. The sick need more than the healthy, the threatened more than the secure, in order to achieve the end-states that all desire.[65]

Galston, a liberal perfectionist, is in clear agreement with Amartya Sen, the principal capability theorist, that Rawls's primary goods approach is flawed. Primary goods cannot act as universal means, and therefore, will not always be to the advantage of society's least advantaged members. This has the further effect of

substantially diluting the idea of fair life chances for citizens of a society characterised by Justice as Fairness.[66]

Galston and Sen agree that the primary goods approach will not advance a "fair equality of opportunity" (fair life chances) because Rawls's "focus on the distribution of means prevents us from taking into account the use individuals make of these means or the variations of worth that the same means can have for different individuals..."[67]

Sen's theory of functional capabilities would seem to overcome this particular problem by expressly accepting that individuals vary in the conversion of means into ends and that some additional class of functional capacities beyond "basic" will be agent specific depending on the individual's goals and aspirations.

Public policy in a society characterised by Justice as Fairness should focus on the development and maintenance of functional capabilities because this will extend fair life chances further than any distribution of means (primary goods). Rawls argued that the state should be neutral towards reasonable visions of the good. It is not to be neutral among all conceptions of the good; Rawlsian neutrality involves making value judgements. Rawls added, however, that "Justice as Fairness does not seek to cultivate the distinctive virtues and values of the liberalisms of autonomy and individuality, or indeed any other comprehensive doctrine."[68]

According to Rawls, "autonomy" is a value that Justice as Fairness does not seek to cultivate. This is problematic because it is difficult to conceive of how citizens who are assumed by Rawls to be normal co-operating members of society, and

who are also assumed capable of expressing their goods are not also assumed to be autonomous. Surely Rawls's theory when put into practice would hope (if not insist) that educational institutions, for example, turn out autonomous agents.

Rawls attempted to meet this criticism by making a distinction between political liberalism and comprehensive liberalism. Children's education, for example, would be subject to the reasonable requirements of political liberalism. Rawls stated:

> The state's concern with their education lies in their role as future citizens, and so in such essential things as their requiring the capacity to understand the public culture and to participate in its institutions, in their being economically independent, and self-supporting members of a society over a complete life...[69]

Rawls held that the above was based in the political rather than comprehensive understanding of liberalism. If this is the case, however, then political liberalism places emphasis on the value of autonomy. Autonomy would appear rather empty if it did not include the capacities required to be, for example, a participant in public life, or "economically independent" and so on.

To assert that citizens are to be conceived of as normal co-operating members of society is not only to assert adequate functional capability development. It is also to assert some level of autonomy. Instead of assuming adequate levels of capability (and autonomy), the state should seek to create these.

Perfectionism takes some things and states as intrinsically valuable. Liberal perfectionism holds that all people have intrinsic worth because we have what might be called "human potential." People normally wish to enjoy their lives. Part

of the enjoyment of life has to do with developing our human potential. Rawls's assertion of a reasonable moral psychology in concert with the Aristotelian (motivational) principle imply as much. Part of human potential is the capacity to determine innumerable aspects of our own lives, to freely express our goals and ourselves. To be free in these ways is to be autonomous.

A liberal perfectionist state could simply posit the value of autonomy for its citizens, (even if Rawls was correct in arguing that a neutral state could not). It could further develop a public policy scheme to support and engender autonomy in order to extend fair life chances to its citizens. Even though a perfectionist state could do this, it is not required so long as reasonable citizens could address these matters through the institutions of the basic structure. There is insufficient reason to suppose that in order for people to have good lives, the state must provide good options (perfectionist). The state must simply be neutral among reasonable conceptions of the good, and prohibit unreasonable ones.

To develop autonomous agents is to develop certain human capacities. In the context of the practice of Justice as Fairness, a *reasonable* way for the state to develop citizens capable of being autonomous is to focus public policy on the development and maintenance of functional capabilities. Which functional capabilities ought to be part of this project is a subject for citizens to *reasonably* discuss through the institutions of the basic structure.

When considering how Rawls's normative prescriptions regarding freedom and equality could be worked out in practice, one finds that the neutral state is not fully

neutral, but it neither is it perfectionist. It, however, contains more normative claims than has been acknowledged. The practice of Justice as Fairness requires an additional normative claim because one cannot assume in practice (as Rawls did in theory) that citizens will have the capacities to be "normal co-operating members of society". The capacities involved should be developed rather than assumed. Though the Rawlsian neutral state may not be able to account for functional capability development, an alternative version of neutrality can do this if one normative claim is added to Rawls's Justice as Fairness—that citizens would consider functional capability development to be good, or minimally, to be reasonable.

By focusing public policy on functional capability development, society's least advantaged members would be correctly identified and their positions would be elevated. This would extend fair life chances further than any re-distribution of so-called primary goods could. Functional capability development would be considered by citizens to provide a reasonable (publicly justifiable) rationale for public policy.

5.7: Concluding Remarks

Rawlsian liberals and perfectionist liberals place a high value on freedom. Freedom is often discussed within liberal tradition as being related to the idea of autonomy. Liberals further agree that a good life is in some way an autonomous life.

Liberal perfectionist regimes would be capable of promoting things thought to be intrinsically valuable such as autonomous lives. The problem with perfectionism, as it has been discussed here, however, is it entails an active state in regards to making "good" options available. I have agreed with Rawls that the state ought not to do this. These sorts of evaluations properly belong to the individual conceived as free and equal.

Given the perfectionist criticisms of Justice as Fairness, it is difficult to see how Rawls's work can consistently avoid the charge of relying, at least in part, on some perfectionist grounds. There, however, is a distinction to be made between normative and perfectionist claims. The disagreement between Rawls and liberal perfectionists is somewhat over-stated when the discussion moves from the level of theory to that of practice. They propose very similar societal frameworks and governing structures.

The perfectionist critiques do, however, invite a closer consideration of what is required on the part of the state to promote a reasonable moral pluralism, where individuals, under conditions of autonomy, could pursue ends they think of as worthwhile. Functional capability development is a *reasonable* way to develop autonomous individuals able to express their reasonable and rational goods.

Notes

[1] See, for example, Vinit Haksar's Equality, Liberty & Perfectionism.

[2] John Rawls, Political Liberalism (New York: Columbia University Press, 1993), 191.

[3] Ibid.

[4] Ibid., 192.

[5] Ibid., 192, 193.

[6] Ibid., 193.

[7] Ibid., 193, 194.

[8] Ibid., 194.

[9] Ibid., 195.

[10] John Rawls, A Theory of Justice (Cambridge Mass.: Harvard University Press, 1971), 325.

[11] John Rawls, Political Liberalism, 5.

[12] Ibid., 5,6.

[13] Ibid., 10.

[14] Ibid., 398.

[15] Ibid., 409.

[16] Ibid., 260.

[17] Ibid., 92.

[18] Rawls, A Theory of Justice, 440.

[19] See chapter 2.

[20] Thomas Hurka, Perfectionism (Toronto: Oxford University Press, 1993), 5.

[21] Vinit Haksar, Equality, Liberty, and Perfectionism (Toronto: Oxford University Press, 1979), 2.

[22] Ibid., 4.

[23] Ibid., 6 and 13.

[24] Ibid., 81.

[25] Ibid., 121.

[26] Ibid., 135.

[27] Ibid., 147.

[28] Ibid., 166.

[29] Brian Barry Political Argument (London: Rutledge, 1965), 28, cited by Haksar, 166.

[30] Haksar, Equality, Liberty, and Perfectionism, 167.

[31] Ibid., 180.

[32] Ibid., 183.

[33] Ibid., 184.

[34] Ibid., 258-259.

[35] Ronald Dworkin, Taking Rights Seriously (London: Duckworth, 1977), chapter 10, cited by Haksar, 259.

[36] Haksar, Equality, Liberty, and Perfectionism, 260.

[37] Ibid., 283.

[38] Ibid.

[39] See Dworkin, Taking Rights Seriously, 272-273, cited by Haksar, 284.

[40] Ibid., 286.

[41] Haksar and Raz agree substantially concerning the perfectionist grounds for toleration, which can be derived from Mill's harm principle.

[42] There nothing that contradicts the reasonable criterion here because what is reasonable (publicly justifiable) changes over time.

[43] Ibid., 293.

[44] Ibid., 296.

[45] Joseph Raz, The Morality of Freedom (New York: Oxford University Press, 1986), 16.

[46] Ibid., 21.

[47] Ibid., 60.

[48] Ibid., 80.

[49] Ibid.

[50] Ibid., 81.

[51] Ibid., 99-100.

[52] Ibid., 104-105.

[53] Ibid., 115.

[54] Ibid., 117.

[55] Ibid., 132-133.

[56] Ibid., 133.

[57] Ibid., 144.

[58] Ibid., 204.

[59] S.I. Benn and W.L. Weinstein "Being Free to Act and being a Free Man" Mind, 80 (1971), 195, quoted by Raz, 305.

[60] Raz, The Morality of Freedom, 381.

[61] Ibid., 399.

[62] Ibid., 411-412.

[63] Ibid., 418.

[64] Martha Nussbaum, "Human Capabilities, Female Human Beings", in Nussbaum & Glover (editors), Women, Culture and Development: A Study of Human Capabilities (Toronto: Oxford University Press, 1995), 83-85.

[65] William Galston, Justice and the Human Good (Chicago: The University of Chicago Press, 1980), 9.

[66] I agree with both Rawls and Galston that a theory of justice requires an independent theory of the good. I should like to add, however, that Rawls's theory, "Justice as Fairness" does not require that the theory of the good at play is "goodness as rationality". In practice, it merely requires that whatever one's theory of the good is—it be reasonable.

[67] Galston, "Justice and the Human Good", 114.

[68] John Rawls, Justice as Fairness: a Restatement Erin Kelly, editor (Cambridge, Mass.: Harvard University Press, 20010, 157.

[69] Ibid.

Chapter 6: Justice as Fairness in Theory & Practice: Rationality versus Reasonableness*

In considering how Justice as Fairness might be practically advanced, one finds that Rawls's emphasis on rationality in theory becomes problematic. The theory renders a strong account of the nature of justice (and its justifications) in rational terms in democratic societies. Rawls's use of "rationality" is not problematic in the theory. When, however, we consider how the theory of Justice as Fairness could be practically implemented, we find that the level and nature of "rationality" ascribed by Rawls to citizens is not apparent—citizens do not act as rationally as Rawls indicated they would in theory. In practice, it is crucial that citizens are

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* Earlier drafts of this work envisioned the concluding chapter as setting out the contours of a comprehensive public policy framework centering on functional capability development. Two difficulties with this became apparent. First, the topic could not be adequately treated in a chapter; it rather could be "volume II" of this project. Second, and perhaps more importantly, the range of desirable capability development for citizens of a society characterised by Justice as Fairness does not lend itself to singular study and analysis—this must be a public exercise. Consider, for example, the relatively simple idea of assessing physical well-being discussed in 4.2.1. In order to develop a scale like Brock's, one requires specific expertise in the medical field. Moreover, even if panels of relevant experts were convened for all the functional capabilities indicated—this would not satisfy the requirements of Justice as Fairness in practice. The reason for this is that citizens have a central role to play in deciding public policy. Any consideration of the identification of functional capabilities and their desired extent must be open to public debate (governed by Rawls's sense of "public reason") through the institutions of the "basic structure". Ideas of desired functional capabilities and their extent can be indicated as they are in chapter 4, but any developed sense of functional capabilities requires specific expertise, and public debate. In alternative, the concluding chapter builds on the main theme of this project—the theory of Justice as Fairness asserts too high a level of rationality (and capability) among citizens. The practice requires that "rationality" be relaxed and de-emphasised in several ways.

"reasonable," but it is less important that they be rational. By way of conclusion, I intend to focus this general criticism of Rawls's use of rationality more precisely on the Rawlsian concept of "plan of life" to illustrate the difficulties with Rawls's use of rationality, and why reasonableness becomes centrally important in the practice of Justice as Fairness. As an alternative to "life plan"[1], (which encourages rationally consistent values), I shall argue that a more practical understanding of what one values, reasonable collection of ends, (which encourages reasonable values) is appropriate to the practice of Justice as Fairness.

Rawls argued that citizens would express their "rational goods" through their "plans of life". Life plans are to allow values (ends) consistent with the two principles of justice. They are to prioritise and render these values consistent with one another. A life plan is also conceived of as the vehicle through which one's values are expressed and pursued. Life plans can be understood as highly rational articulations of what a person values and hopes to achieve.

In practice, most people do not have rational plans of life. This does not mean, however, that people have irrational or unreasonable goals. It rather indicates that "life plan" is a rational idealisation of what a person values. It is stressed here that ends must be reasonable values, not necessarily that they be rationally consistent. Justice as Fairness allows for a range of rational and reasonable goods (plans of life), but also allows for considerable flexibility in terms of how one's ends are ordered.

Practical experience indicates that most people do not have highly rationalised plans of life and sub-plans in regards to their ends. Rather, people often have some idea of the things they wish to pursue and achieve in life, but these are more collections of ends than they are rational plans. Life plans are highly rational in their structure. One's good could also be discussed as one's *reasonable collections of ends* (RCE). The difference between the life plan and the reasonable collection of ends is in their rational

structures, which can be considered in two ways.

- RCEs relax the rational structure of life plans; they allow for inconsistent ends.
- RCEs assert that people may not refer to the principles of rational choice, or apply them fully in articulating and pursuing their reasonable and rational goods.

Before discussing the idea of reasonable collections of ends further and contrasting this with life plans, it would be helpful to recall the main features of plans of life.

6.1: The Rational Structure of Plans of Life

For Rawls, a plan of life specified a person's conception of the good. It was to be reasonable (implying a capacity for justice and a willingness to exercise this capacity reciprocally in a system of fair social co-operation.). Life plans were also to be rational (implying a capacity for forming and pursuing a conception of good in an efficient manner).

One may agree with Rawls that rational and reasonable people would most likely be happier with their lives if their ends were all consistent, but still find life plans problematic. The problem is that our own experience and considered intuitions indicate that our ends will not always be consistent. There is little reason to suspect that people with plans of life will realise their conceptions of the good any more frequently than those who have reasonable collections of ends. This has little to do with how rationally structured each conception is and much to do with the fact that human beings have imperfect knowledge.

A good plan is one that rationally articulates one's good. One difficulty with this is that one's "plan" could be mistaken. Rawls introduced Sidgwick's idea of "deliberative rationality" to overcome this in theory. Deliberative rationality indicates that:

> [A] person's future good on the whole... [is] what he [or she] would now desire and seek if the consequences of all the various courses of conduct open to him [or her] were, at the present of time, accurately foreseen by him [or her] and adequately realised in imagination.[2]

In practice, people do not have full deliberative rationality. This means a person's "choice [of plans] may be an unhappy one..."[3] It would seem that the more rational one's plan, the more likely one would be able pursue one's rational good. A difficulty with this in practice, however, is that people's ability to make a thoroughly rational plan is limited by imperfect knowledge.

It is also apparent that most people do not have reasonable and rational plans of life. This makes Rawls discussions of people's goods appear artificial. How Rawls

indicated individuals are to express their goods does not match practical experience. Rawls moved to increasingly relax his rationality criterion in regards to pursuing one's good. Rawls explained that:

> [M]any citizens may not hold any well-articulated comprehensive doctrine at all. Perhaps most do not. Rather, they affirm various religious and philosophical, associational and personal values together with the political values expressed by the political conception. These political values are not derived within any overall, systematic view.[4]

Rawls held that not all people would have reasonable and rational plans of life. The moral weight is on the reasonable category because it specifies what citizens may not pursue.

Rawls had relaxed the rationality requirement in two ways.

He asserted that our own considered judgements normally conflict. He asserted that one might pursue one's good without necessarily having a rational structure to guide discriminative evaluations. Rawls held that some plans are more "rational" than others are. A clearer distinction can be made. Instead of discussing more and less rational plans, one could discuss rational plans and reasonable ends.

In a society characterised by Justices as Fairness, there is no limit to the number of permissible reasonable comprehensive doctrines. Such a society, however, does have a clear political understanding of what kinds of things can be valued and pursued, namely reasonable ends. No person or group has the right, which is to say the authority, in a society characterised by Justice as Fairness to discriminate against any reasonable doctrine or pursuit.

6.2: Reasonable Collections of Ends

In considering what people value, one may assert that there are three basic classifications of ends. *Immediate* ends are *goods and services* that are directly accessible. Individuals also have goals. *Goals* can be understood as *intermediate* ends because they require the satisfaction of some immediate ends before they can be realistically pursued. Some ends may be understood as *encompassing*, they are one's *ideal* of a good life. An ideal may be further understood as a collection of goals. I assert that in practice people will often discuss what they value by referring to certain goods, goals and ideals that they have or hope to achieve, rather than by referring to a plan of life.

Goods and services are ends a person requires to live; and (or) desires for momentary pleasure. They include the basic goods of food, clothing and shelter. Food, for example, is an immediate end because people cannot live for prolonged periods without it. Goods and service ends are basic "needs" and "wants". They are directly accessible. If these ends are satisfied, that person will continue to live, *but this says nothing about whether that person will live well.* An individual needs to have the opportunity to articulate and pursue different kinds of ends before a good life becomes likely.

Other, more complex, ends are better discussed as *goals* a person has that indicate to each person where he or she is in relation to living the kind of life he or she wants to live. Intermediate ends indicate two things of fundamental importance to

the individual. First, they sketch the main aspects of what a person thinks is valuable. Second, they indicate the direction of a person's life. In achieving a goal, the individual can rationally assume she is progressing towards that which she hopes to end up doing and being in life.

Goals will vary substantially because people want to do and be different things. The pursuit of goals allows people to reflect on what they would like to do and be, and gauge their success in becoming and doing what they (or think they will) find valuable. Goals are also "signposts" indicating where persons are in relation to where they want to be.

Ideals (encompassing ends) pertain to what people would like to do and be. A person's ideal indicates that person's idea of a good life, which is understood as a collection of goals. Ideals often embody a conception of perfection that can never be attained, but remain valuable because they give individuals something to gauge their lives against. The idea is that one can have a good life, but not a perfect one. For example, say I have not reached the pinnacle of my ideal (nor can I), but I am closer than I used to be. My reaching ever closer to the ideal makes my life *on my own account* better than it was. Conversely, my sliding further and further from my ideal makes my life *on my own account* worse than it used to be. Alternatively, my staying the same distance from my ideal may indicate it is as good as it gets, or perhaps that my life is stagnant and I may wish to re-evaluate my ends. Ideals give the fullest account of what the individual believes a good life for her would entail. The assessment as to whether reasonable lives are good is dependent on the

individual's values and ability to express these. Not all reasonable lives will be good because people who live them may not find them fulfilling or worthwhile.

RCEs place heavy emphasis on the reasonable criterion of Justice as Fairness. RCEs tend to encourage the reasonable value of respect and the rational value of reflection. Most people do not evaluate their lives, or what they value according to formal principles of rational choice. Many, however, do reflect on their lives and their pursuits in considering what might make them happy.

Rawls over-stated the degree of rationality in most people's lives in two ways. First, he asserted that people should use *rational principles* to help them express their conceptions of the good as captured in their plans of life.[5] Second, the concept of plan of life itself over-states the degree of rational consistency regarding one's ends.[6]

Justice as Fairness, however, allows for lives that pursue rational goods with little reference to some (perhaps any) of the principles of rational choice. These lives may be understood as less rational, but not necessarily irrational. The structure of life plans appears overly rational. In particular, life plans strive for a consistency of ends. This is neither always possible, nor desirable. Justice as Fairness can allow for a range of rationality both in the structuring of the pursuits and in the level of consistency between those pursuits. The concept of *reasonable collection of ends* accounts for these contingencies by relaxing the need for principles of rational choice and consistency of ends in the expression of rational goods.

The Rawlsian concept of life plan relies on principles of rational choice, which are to aid people in making decisions regarding their ends. The principles of rational choice can help people in making evaluative decisions, but ultimately, we must also consider the "relevant features of one's situation" along with a kind of "self-knowledge" that specifies the intensity of our desired ends. These relevant features and self-knowledge vary from person to person.[7]

6.3: Contrasting Life Plans and RCEs

The tripartite understanding of ends explicit in the concept of RCEs implies a rational structure in the pursuit of one's conception of the good. This rational structure, however, differs from that of the Rawlsian plan of life because it shifts emphasis away from the need to have consistent ends, and toward the idea that ends must be reasonable values. RCEs attempt to allow for careful consideration of self-knowledge and life circumstances within Justice as Fairness, and this comes at the expense of systematic and structural rationality.[8]

RCEs offer a relevant point view to make evaluations concerning one's ends in the identical manner that a plan does. An RCE offers a relevant point of view to evaluate one's ends, if and only if, it accurately indicates what one's ends are and the relative intensity of these ends. To do this, it must draw significantly on one's self-knowledge of what one values— referred to as one's "value identity". Any new potential ends are to be evaluated from the standpoint of accurately captured

enduring ends whose intensity is known; these can be indicated either in a rational plan or in an RCE.

Rational and reasonable people would most likely be happier with their lives if their ends were all consistent as Rawls indicated. The problem, however, is that our own experience and considered intuitions indicate that our ends will not always be consistent.

6.4: Justice as Fairness allows for a Spectrum of Rational Ordering in Human Lives

A plan of life is to indicate a person's rational good. A reasonable collection of ends can also indicate one's rational good. One central difference between the two is in the level of rationality each requires in their structures. Plans of life require highly rationalised structures as evidenced, for example, in their function of rendering one's ends consistent. RCEs assert that pursuing inconsistent ends is not necessarily irrational. Justice as Fairness should account for the possibly of reasonable and rational people pursuing inconsistent ends. RCEs address this concern.

A reasonable collection of ends does not necessarily function to make one's ends consistent. It just says one's ends must be reasonable values. "Consistency" of ends appears to indicate a desired overall unity of one's life from the standpoint of rationality. RCEs assert that the "unity" of a person is not to be found in consistent ends, rational principles, or life plans. The unity of a person is found in the self, in

one's identity. A person may rationally pursue inconsistent ends. Pursuing inconsistent ends would be both less rational and more difficult, but not necessarily irrational.

6.4.1: The Highly Rationalised Plan of Life Juxtaposed against the Less Rationalised RCE

In order to further illustrate the differences between life plans and RCEs, the less rational, "unplanned" life can be juxtaposed against the highly rational planned life. In the examples to follow, we assume for the purposes of illustration, that people have the requisite abilities necessary to express their rational goods through either a plan of life, or a reasonable collection of ends. Even if one grants that people could articulate and pursue a rational plan of life[9], this may not help them achieve their goods more fully or more frequently than people who express their goods through a reasonable collection of ends. From a practical point of view, the RCE is to be preferred to the life plan because it accords more closely with experience without sacrificing the desire for free, equal, and diverse citizens to express their reasonable goods.

6.4.2: The Highly Rational, Planned Life

Consider Rachel, who decides to rationally plan her life along Rawlsian lines. She will employ the *principles of rational choice* as indicated by Rawls, develop a plan of life, and seek to ensure that her ends are consistent.

She begins by attempting to discern what matters most to her and what she thinks will contribute most to her future happiness. She decides she would like a family. She would also like to have a challenging and fulfilling career. She wants to achieve both ends (*inclusiveness*) *efficiently.*[10]

In order to decide her career path, she asks herself two questions. What interests me? What am I good at? She finds that the answer to both questions is "psychology." She decides to become a psychologist.

Rachel plans her university schedule. She only enrols in classes that she must in order to obtain her education. Her plan is to complete a Bachelor of Arts in three years. A Masters degree will follow, which she plans to complete in one year. Upon completion of her Masters, she will enrol in a doctoral program. She plans to complete her PhD in three years. After seven years of university, Rachel will have achieved the first part of her career goal of becoming a psychologist. Rachel thinks her plan is *efficient* and has a high *likelihood* of success.

While at university, Rachel plans to meet her life partner. She does not have to think about her wedding, she has had it planned for years. Rachel and her partner will have two children; she already has their names picked out. Rachel's plan is detailed; it is *comprehensive* and *inclusive.*

With these broad contours of a plan in place, Rachel begins to think of sub plans so she can envision her future with more precision. Having done this, she subjects her plan to thorough reflection (deliberative rationality). She decides her plan is a good

one. She sees no inconsistencies in it. If her life goes according to plan, Rachel believes she will be happy.

Rachel's plan of life has an over-all *continuity*. She has structured her life plan in such a way as to take into account the rational principle of rising *expectations*. Similarly, Rachel's plan shows a *responsibility to (future) self* by ensuring that none of her current pursuits will detract from her future happiness. Finally, Rachel plan is a reasonable one.

6.4.3: The Unplanned Life

Susan is the kind of person who does not worry much. She is not sure what life has in store for her, but she is *confident*. Susan just wants to enjoy each day as it comes.

Susan is in her seventh year of university; she has yet to complete a degree. She is not sure what she would like to do with her life, but she wants to be sure that it will be something that makes her happy.

The reason why Susan has not completed a degree is that she has not decided what she wants to do. On the one hand, Susan has shown herself to be very capable in electrical engineering. On the other, she enjoys sociology immensely. She knows she cannot be both an electrical engineer and a social worker. At some point, she will have to choose one or the other, but for now, she wants to keep her *options open*.

Here we can note a main difference between a life plan and an RCE. A plan of life would have Susan make her ends consistent. (In this case, decide on a career path). RCEs make no such demand. An effect of this is to "leave" doors open for Susan, something that is far less likely in a plan with consistent ends.

Susan's life is open-ended. There is no *continuity* or *consistency* in her ends. She is not pursuing an *efficient* route to her realisation of her conception of the good. This is in part because she has not articulated any conception of the good beyond the vague "something that will make me happy." Susan has not referred to any principles of rational choice; she has not assessed which route will have a *greater likelihood* of success, nor is she yet in a position to do so. What Susan has done is pursue the things she enjoys with an eye to her future happiness. There is nothing irrational about this. Indeed, it seems to be a rational course of action. Susan has no need for rational principles to aid her in making discriminative evaluations. Further, by making her ends consistent, Susan may close the door on the very pursuit that would have made her happiest.

6.4.4: Contrasting the Planned and Unplanned Lives

Taking Rachel's life as the highly rationalised plan of life and Susan's as the unplanned life, we can illustrate some of the concerns raised in regards to plans of life. Plans of life emphasise rationality to the point that it appears most people either do not have this level of rational capacity, or are not exercising it, or lives

cannot be planned out in such detail. Life plans set the rationality "bar" too high. This can be illustrated by focusing on two related concerns.

- The extent to which a life can be rationally planned is uncertain because luck is involved and because people do not have full deliberative rationality.
- Plans may focus people's attention too much on an uncertain future. The concept of a plan indicates that a person will be happy when she *achieves or realises* her conception of the good. The concern is that if a person does not achieve his or her good, can he or she still be happy in the pursuit of it.

Note that both Rachel's and Susan's plans (or lack thereof) are consistent with the theory of Justice as Fairness. Both accept that their goods are to be found in the expression of their enduring reasonable commitments.

Rachel clearly has a plan and has a good idea of her enduring ends. The immediate problem with this is questioning whether such a young person can know what her enduring ends will be. Rachel has decided what she would like to do with her life. She wants to become a psychologist as quickly as possible. She has already "closed the door" to other career pursuits that may also have lead to her happiness. Moreover, by choosing to narrowly focus her studies in order to complete them quickly, Rachel misses the opportunity to develop more interests.

Rachel's focus on her plans could have further bad effects for her. She plans to meet her future partner in university. Yet, it is questionable whether Rachel will

have a "social life". How will she meet her partner? Moreover, Rachel assumes she will meet someone and fall in love. This is a reasonable assumption, but one cannot plan love. Yet, seemingly, this what Rachel has done.

Even if Rachel were to meet her future partner, her planning may cause her other problems. She has her wedding planned out and her "children" named. This "sub plan" of Rachel's may meet with some resistance from her partner. Rachel's exclusive focus on her life plan could actually result in conflict with her significant others and lead to her unhappiness, rather than her happiness.

Rachel wants to be able to plan her life and develop a clear idea of what her future will look like. She attempts to subject her plan to full deliberative rationality. People, however, do not have full deliberative rationality; we cannot know the exact consequences of our actions or our plans. Plans can lead people to over-abstract about an uncertain future.

Finally, an important question must be considered in regards to plans of life. Rachel's plan takes little account of the *present*; its focus is on the future. Will Rachel be happy in *pursuing* her ends, or will Rachel only (possibly) be happy in the *achievement* of her ends? Unless Rachel enjoys working hard and at an accelerated pace in university, it seems Rachel's plan will act to put off her happiness until a future goal is achieved.

Now contrast Rachel's plan to Susan's lack of one. Susan, like Rachel, has enduring commitments. Susan has no specific plan. She wants to enjoy each day as

it comes. That is, Susan looks to enjoy the present; she does not put off her happiness planning for an uncertain future.

Susan is uncertain about her career path, an important part of her future happiness. Note that Susan is not enjoying the present at the expense of the future. She is simply *uncertain* about what she will find most fulfilling in life. Instead of risking choosing wrong early on, Susan has left her options open.

Eventually, Susan plans to be either a social worker, or an electrical engineer. She is currently pursuing both. These are inconsistent ends. Would it be more rational for Susan to pick one of them and have consistent ends in the present? Susan could be perfectly happy with this, but it could also work unhappily for her.

There is insufficient reason to argue that Susan will be happier (though she is not unhappy in the present), if she makes her ends consistent and chooses her career path. Uncertainties about the future because we do not have full deliberative rationality means that "plans" can easily go awry. It is certainly rational to plan for the future, but it is no less rational to arrange one's life so that it is enjoyable and fulfilling in the present.

Both Rachel and Susan may end up being happy with their lives in the future. Rachel's plan may accurately capture her enduring ends and help her to do and be those things she thinks will lead to her enjoying her life fully. Susan's collections of ends may also be achieved, once she specifies them in greater detail. However, so long as Susan enjoys her life in the present without jeopardising her future happiness, there is little reason to argue that she is acting contrary to her "good".

Reasonable and rational plans of life may lead to the realisation of conceptions of the good. Since, however, people cannot be certain about the consequences of their actions and choices, and since the broader future is also uncertain, there is insufficient reason to believe that plans are the most reliable method for expressing one's conception of the good. Reasonable collections of ends may or may not lead to one's happiness. Simply because the structure of RCEs is less rational than plans does mean that RCEs are inconsistent with Justice as Fairness. In practice, the RCE is preferable to the life plan because it is in accordance with experience, but also because we cannot be certain about all the consequences of our choices, actions, and inactions. Our plan's ability to take account of possible futures is limited.

Occasionally people do pursue inconsistent ends. This is not always because people act irrationally. Sometimes it is because people do not want to make the mistakes of "closing doors". There is nothing irrational about putting a decision off because more information about the options is thought to be required. [11]

Rawls explained that: "... individuals find their good in different ways, and many things may be good for one person that would not be good for another."[12] What is good for one person may not be good for another. Plans are always conditioned by self-knowledge of our ends and their intensity as well as our differing life circumstances. People will find their goods in different ways. Rawls, no doubt, intended this to refer to differing plans, yet it is also consistent to argue that a

rational plan of life is not the only means to realising one's reasonable and rational good.

Rawls argued that there is "... no necessity for an agreement upon the principles of rational choice. Since each person is free to plan his [or her] life as he [or she] pleases... unanimity concerning the standards of rationality is not required."[13] There is more than one way to arrange one's life in order to pursue one's rational good.

Some people may opt for the highly rationalised structure of a plan of life. Most, however, will simply have reasonable collections of ends (they may simply refer to these as goals) whose pursuit they hope, will lead to their happiness. Rawls had over-emphasised the need for a highly rational structure to realise one's conception of the good (plan of life).

Some people may realise their rational goods through their life plans. The concept of a plan of life strongly indicates that people should "weed out" inconsistent ends. This may not always be possible or even desirable. People may pursue their conceptions of the good in a number of different ways. This variation is not simply from person to person, or "plan" to "plan." Rather, this variation can also result from variations in the rational structure of plans themselves. Instead of discussing more and less rational plans, a clearer distinction can be made. That distinction is between the highly rational structure of a plan of life, and the less rational structure of a RCE.

In practice, the concept of reasonable collections of ends is preferable to plans of life because RCEs appear to accord more with practical experience than do life plans. Although the structure of a life plan involves a higher level of rational consistency than does the RCE, there is little reason to suspect that life plans will lead to the realisation of people's goods any more frequently than will RCEs.

In considering how the theory of Justice as Fairness could be practically implemented, one finds Rawls's uses of "rationality" are problematic. In practice, citizens must be reasonable, but not necessarily rational. Justice as Fairness could tolerate irrational citizens; the same cannot be said of unreasonable citizens. "Rationality" is a main characteristic of the theory, but in practice, "reasonableness" becomes the central feature of Justice as Fairness. The reasons why this is the case are briefly recounted in the concluding section.

6.5: Brief Review of the Main Claims of this work

Rawls's theory of Justice as Fairness is the most significant attempt to "provide an acceptable philosophic and moral basis for democratic institutions and thus to address the question of how liberty and equality are to be understood."[14] The theory, however, makes several assertions, which become problematic when attempting to consider how Justice as Fairness might be advanced in practice. This thesis has critically considered several Rawlsian notions and made several emendations to Rawls's theory so that it might practically implemented. These are as follows:

- Rawls defined citizens as "normal co-operating members of society". This, however, obscures the identification of society's least advantaged members.
- Rawls's understanding of "advantage" becomes problematic because in practice it is obvious that many do not have the requisite capacities to effectively use Rawls's means (primary goods) to express their ends. Rawls's theory considers the means to freedom, but ignores the extent of freedom by assuming "citizens" have the capacities to be normal co-operating members of society.[15]
- Both the means to freedom and the extent of freedom must be considered when thinking about one's "advantage". Functional capabilities are advanced in concert with primary goods to address questions of the means to freedom and its extent.
- Rawls's discussion of people's "goods" is through the concept of life plans. The life plan is to rationally structure what one values and render these values consistent. This is neither always desirable, nor possible in practice.[16]
- Reasonable citizens will wish to focus the basic structure (society's main institutions) on the development and maintenance of functional capabilities.

In considering how Justice as Fairness could be practically implemented, it is crucial that people and their ends be reasonable. It remains desirable from the point view of the individual to pursue ends, which the individual could achieve, and do

this efficiently. That is, citizens have an interest in being rational, and they have an obligation to be reasonable.

Notes

[1] According to the Rawlsian conception of "life plan", reason does not determine one's ends; it functions to coordinate them and excludes ends, which are incompatible with one another and/or the principles of justice.

[2] John Rawls, A Theory of Justice (Cambridge, Mass.: Harvard University Press, 1971), 416-417.

[3] Ibid.

[4] Ibid., 33.

[5] See section 3.2 "Principles of rational choice" pp. 78-83 for further elaboration of this point.

[6] See 3.6 "whether Plans can or should make one's ends consistent", particularly the "Ellen" example.

[7] The meaning of the "relevant features and one's situations and self-knowledge" are discussed in some detail in section 3.3.

[8] By "systematic rationality", I mean the full application of the principles of rational choice. By "structural rationality", I mean the strong preference for consistent ends explicit in the concept of life plans.

[9] Generally, I do not hold that people in the main are capable of this.

[10] Italicized terms in this section were counted by Rawls as principles of rational choice.

[11] Rawls, A Theory of Justice, 409ff.

[12] Ibid., 448.

[13] Ibid., 447.

[14] John Rawls, Justice as Fairness: A Restatement (Cambridge Massachusetts: Harvard University Press, 2001), 5.

[15] See sections 4.3.1 & 4.3.2 for discussions concerning "primary goods" & "functional capabilities" as indicators of advantage and contrasts between the means to and the extent of freedom.

[16] See chapter 3, especially sections 3.1-3.6.

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