

On Rawls' Theory of Justice  
By David Johnson

In *A Theory of Justice* John Rawls imagines a hypothetical gathering in which the parties set out to establish how a new society should be organized. In this 'original position' the parties are fully rational, and would have general knowledge of history, science, government, human psychology, etc., but they would not know what personal characteristics they would have in the new society. They would not know what economic class they will belong to, what race or gender they would be, whether they would be tall or short, attractive or ugly, intelligent or dumb, gifted and talented, or with special challenges or handicaps, and so forth. They would not even know what their future value system and psychological propensities would be. Rawls calls this 'the veil of ignorance' and believes that it is necessary to ensure that those in the original position would not be biased towards what their own personal interests would be.

The original position is a state of perfect equality. It is assumed that all parties are equal in terms of their rationality, persuasive ability, and influence; or, at least if there are differences, they would be negligible, and would not have any significant effect upon the final agreement that is reached. Though the veil of ignorance prevents them from knowing exactly what their particular interests would be, the parties would be acting out of self-interest. Rawls does not believe that the parties would accept the principle of utility because they would be too worried that their own rights and interests would not be protected. Rawls actually intends for his theory to be an alternative to utilitarianism. It is meant to be a more abstract form of social contract theory, based upon the theories of Locke, and Rousseau, with the original position corresponding to the 'state of nature' in those views. Rawls also considers it to be highly Kantian in nature, though I believe that there are some significant differences between his view and Kant's, some of which will be discussed below.

So what kind of governing principles would be adopted by these 'free and rational persons concerned to further their own interests'(p.10)?<sup>1</sup> Well, if we proceed as he believes they would, the parties would start off by requiring equal basic liberties for all, and fair equality of opportunity, and a completely equal division of income and wealth. This is derived from the fact that all parties are equal, and because of the veil of ignorance, no one could gain any special advantages. In such a situation it would not be reasonable for anyone to expect a greater share than any other, and irrational to agree to any less, so an equal distribution would immediately occur to all (p. 130).

But what if economic efficiency and productivity could be increased if inequalities in income and wealth, and differences in authority and responsibility were allowed? If doing so would make everyone better off relative to the benchmark of perfect equality, why not permit it? It should be noted that Karl Marx would likely disagree with the suggestion that economic inequalities make society more productive. Marx did not believe that anyone was lazy by nature,

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<sup>1</sup> Rawls, John. *A Theory of Justice* Harvard University Press, 1999. Revised from 1971 edition.

it was only the capitalist system that made them that way. If they were free to work on their own projects and were not alienated from their labor they would be productive. He even referred to man as *homo faber* which means 'man the maker'. So Rawls is making an assumption here that not everyone would share. However, it does seem a bit unrealistic to think that everyone would work hard without some sort of incentive to do so, and if everyone had the exact same amount of wealth, regardless of how much they contributed, there would be no incentive to contribute more than the minimum. Without incentives, all that is left to motivate people are threats, and sometimes even those are not very effective. Therefore it seems to me that Rawls is correct that allowing profit to be an incentive would make an economic system more productive and efficient than one that did not allow it. There may also be some social value in having certain professions earn more than others, such as doctors. If we want to attract the best and the brightest to professions that would be considered more valuable to society than others, then allowing those that are in those professions to earn more would be a way to do that. This would be to everyone's advantage because, presumably, everyone would want, and would benefit from having the most capable people in society filling those roles.

However, Rawls believes that the parties would only agree to have inequalities if certain stipulations were met. Eventually, he believes, after some deliberation they would settle upon two principles of justice that would be the foundation for how all of the rest of society would be governed. Rawls reformulates the principles several different times, each with slightly different wording, but here are some more developed versions of them:

1) Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all (p. 220).

2) Social and economic inequalities are to be arranged so that they are both (a) to the greatest benefit of the least advantaged and (b) attached to offices and positions open to all under conditions of fair equality of opportunity (p. 72).

The two principles are ranked in what Rawls calls 'lexical' order, meaning that the first takes priority over the second. This is to ensure that the liberty and primary goods of all parties are protected above considerations of economic efficiency, or utilitarian considerations. Rawls says that liberty can only be restricted for the sake of liberty.

In terms of the second principle, (b) is relatively uncontroversial. It simply means that if inequalities are allowed everyone must have an equal and fair chance at the positions that offer greater benefits. It is (a) that has generated by far the most discussion. Rawls believed that natural talents and abilities are undeserved, and that one of the roles of a just society is to even out and mitigate the arbitrariness and harshness found in nature. To provide genuine equality of opportunity, a just society must give more help to those with fewer natural abilities and to those born into less favorable social positions. Greater resources would be spent on the education of the less, rather than the more intelligent, and so forth. Even if a given law or policy significantly

harmed the interests of the more advantaged groups, and only slightly advanced the interests of the least advantaged, that is what would be done.

Rawls believed that those in the original position would make this arrangement as a hedge against uncertainty. Because of the veil of ignorance, they do not know what their future position in the society will be, so they would want to maximize the minimum (referred to as the 'maximin' principle) as a hedge against the possibility that they could be born into a disadvantaged situation. This lowers the risk for each party by making sure that even the worst possible outcome for them is not that bad.

Some have questioned whether those in the original position would really want to hedge. Considering, though, that everything that they will have, and even who they will be, is all riding on pure random chance, I think it is correct that they would want to hedge against that much uncertainty. You would have to consider both how much greater the benefits would be in a class above the top class in a maximin society, and the odds that you would end up there. Let's say that the very top position in a maximin society has 10 times greater wealth than the average, and 20 times more than the lowest position. The likelihood that you would do better than that is really quite small. How many people, even in our current economic system, have more than 10 times the average? If you had aspirations of being in the top 1% in our current system then you must remember that, by definition, only a very small percentage of the population can be in that class. Would it really be rational to bet literally everything on a 1% chance, or even a 5-10% chance?

Now perhaps one might argue that, in a sense, it was 'irrational' for Bill Gates or Mark Zuckerberg to drop out of college and pursue what ultimately made them billionaires, but it obviously turned out quite well for them. Maybe we just have to take some risks, regardless of the odds. There are some differences between these examples and a gamble from the original position though. Gates and Zuckerberg, along with others like them, were placing a bet upon themselves. They knew that they were very intelligent (they were both attending Harvard after all), and highly skilled in their respective endeavors. I am not saying that it was no gamble at all, but if it had not worked out, either one of them could have easily gone back to Harvard, or some other Ivy League school, and gone on about their lives with at least a moderately successful career. It was not really that much risk, and the potential reward was extremely high. When you know who you are, in some cases it may be rational to think that you can beat the odds (though usually not). One could not do this from the original position, though, because for all you know you could be born ugly, incompetent, and really, really dumb. You would have no control over, nor any knowledge of, what your personal characteristics will be. Instead of a poker game, where the skill of the player could have some influence on the game, it would be a pure odds play, like betting everything that you have and are on one roll of the dice. The odds would be strongly against any particular individual, so for anyone to think that they could beat them would be quite unrealistic.

Moreover, the advantages gained would not be all that much greater because the purchasing power of those at the top of the maximin society would be more than having that same amount of

wealth in our current system. Let's say that with the equivalent of half a million dollars you would be one of the top earners. If there are no billionaires in the society at all, then top end goods and services could not be as expensive as they now are. No one would even have the capability to buy them at those prices, so sellers would have to adjust. Some items, such as private islands and 40 carat diamonds, might be eliminated entirely, and would just not be privately owned. Other items would probably be made smaller. There would not be mansions with 60 rooms, or people who own 50 cars. You would not be living the lifestyle of someone in the *Forbes* 400, but considering the extremely low odds of ending up there anyway, you would not be losing that much. A top earner in a maximin society would still have many of the same benefits as the wealthiest members of our society. There is a 99% chance that you would not be a top earner, though, and probably at least a 50% chance that you would end up near the bottom. For any of those positions, you would be at least as well off, and in most cases far better off, in the maximin society. You would be wise to plan accordingly.

Of course, all this presumes that we are talking about rational risk-takers. Not everyone is. I once saw a guy on a 'bullet bike' going down the freeway at what had to be close to 100 mph, and he had a helmet on, but nothing else except shorts and flip flops (not even a shirt) and it was during a rainstorm! I was going about 60-65 mph at the time, and he blew by me like I was not even moving. Then he was weaving in and out of the traffic up ahead of me so that he would not have to slow down. If he would have wrecked at that speed, with what he was wearing, there would not have been any skin left on his body, and that may have been the least of his worries. Motorcycles are inherently dangerous as it is (particularly that type of motorcycle), but at the very least, if you are going to ride one, wear clothing and gear that would provide some protection in case of an accident, and do not drive like a maniac in bad weather conditions when a crash is more likely. That seems like obvious common sense to me, but some people are just plain crazy. Rawls stipulates, though, that those in the original position are fully rational, so we may assume that they are rational risk-takers. Perhaps if you just had a large gathering of normal people, there would be a few who would want to go for it, but in the original position, even those inclined to roll the dice would eventually be persuaded by the raw data that it would be an intolerable risk.

What must be understood, though, is that this decision is strictly a prudential one. They are not doing it out of a sense of justice, equity, fairness, or empathy for the least advantaged, they are merely looking to protect their own interests. In some ways, this could be considered a strength of the theory. If the agreement was based upon moral sentiment - say a feeling of pity for the unfortunate plight of the poor - then anyone who lacked that sentiment would simply say that they do not share that feeling, and would never make such an agreement. But if the agreement is made from self-interest it would be applicable to everyone. However, this apparent strength is also the contract's downfall.

The goal of each party is to advance their own interests. The only reason they have for hedging is the veil of ignorance, which forces them to be unbiased, but they are not necessarily unbiased, objective, or fair by nature. Once the veil has been removed, their disposition is the same, but the

circumstances would now be different. There would be no reason for them to hold to the original agreement unless they were in the least advantaged group. For all others, the best way to advance their own interests would now be to seek to give the greatest benefits to whichever groups that they happened to belong to.

People break contracts all the time when it serves their interests. Professional sports is a good example. Athletes sometimes hold out for more money if they have significantly outperformed their contract, or sometimes teams will force them to renegotiate a contract if they have significantly underperformed relative to expectations. Is this fair? Well, in some ways, it may be somewhat exploitive for one party to expect the other to fulfill an outdated contract that is way above or below fair market value. I do not understand why athletes who hold out often get very harsh criticism from reporters and the public, yet no one ever seems to blame a team when they cut a player, or 'renegotiate' their contract if they have underperformed. There is tremendous pressure on these athletes to play when they are injured 'for the good of the team' but then when it comes time for the player to receive a new contract, the team will say that they now have lingering injuries and are no longer worth as much as they were before. It ought to be a two way street; if the team expects the player to be loyal, it needs to be loyal to the player too. But teams usually have more leverage, and they use it.

During the Cold War era, athletes in socialist countries would sometimes perform so well in the Olympics that they would gain international fame. Some of them could have made millions of dollars in endorsement deals and other professional opportunities if they had defected and moved to a capitalist country. Some of them did, and the ones who stayed had to live under strong scrutiny from their own government because of the suspicion that they would. Many in their home country would have seen leaving as an act of betrayal. After all, that country had trained them for free from a very young age, and this had given them a significant advantage over many of their counterparts in the west who had to juggle their training with finding a way to support themselves. The success of those athletes was in large measure due to their government's financial support. Nevertheless, the athlete had won for that country a gold medal (sometimes several) and international fame, which is what it had sought in the first place, so perhaps they would not necessarily have been dealt with unjustly if the athlete had then decided to leave. That country had made an investment, and in some cases, gotten a very good return. The concern was probably more that it would be a high profile political embarrassment for that country than anything else. Whether just or not, though, it would make perfect sense, in terms of self-interest, for an athlete to defect in such circumstances. While still training it would best serve their interests to be part of a socialist nation so that they could focus completely upon their training without having to find outside employment, or pay for the training themselves. But once they had the opportunity to cash in, it would have made sense for them to do so.

People are opportunists. They are often only as faithful as the options available to them dictate. They will not hold to a prior agreement if circumstances change and something better becomes available. A happy marriage of many years could easily fall apart if a middle-aged man were to find out that his young attractive secretary is interested in him. Something similar occurs when a

woman who is in a relationship finds out that a man that she thought was unattainable for her in fact is not. I once heard a story that, so far as I know really happened, about a guy who took a very attractive girl that he had been dating to a professional hockey game. He got great seats that were close to where the players were. Big mistake. The players soon noticed her, and she ended up going home with one of them rather than the guy who had brought her to the game. How many women would let being married stop them from having an affair with an attractive movie star, or the lead singer of a band, if that option suddenly became available to them? How many men would stay married to the same woman if they got very rich, and/or very famous, and suddenly had many other highly attractive options? Often, once the options available for one party change, the contract goes out the window.

Rawls just assumes that whatever agreement is reached in the original position will be followed by all:

The parties are presumed to be capable of a sense of justice and this fact is public knowledge among them. This condition is to insure the integrity of the agreement made in the original position. It does not mean that in their deliberations the parties apply particular conception of justice, for this would defeat the point of the motivation assumption. Rather, it means that the parties can rely on each other to understand and to act in accordance with whatever principles are finally agreed to. Once principles are acknowledged the parties can depend on one another to conform to them. In reaching an agreement, then, they know that their undertaking is not in vain: their capacity for a sense of justice insures that the principles chosen will be respected (p.125).

. . . taking everything relevant into account, including the general facts of moral psychology, the parties will adhere to the principles eventually chosen. They are rational in that they will not enter into agreements they know they cannot keep, or can do so only with great difficulty. Along with other considerations, they count the strains of commitment. Thus in assessing conceptions of justice the persons in the original position are to assume that the one they adopt will be strictly complied with (p.126).

Assuming that they have taken everything into account, including the general facts of moral psychology, they can rely on one another to adhere to the principles adopted . . . Since the original agreement is final and made in perpetuity, there is no second chance . . . A person is choosing once and for all the standards which are to govern his life prospects. Moreover, when we enter an agreement we must be able to honor it even should the worst possibilities prove to be the case. Otherwise we have not acted in good faith (p. 153).

This is a dangerous assumption. Why think that everyone can be relied upon to act in good faith? How could we guarantee that the agreement would be strictly complied with? It was already stated that the value systems of the parties will differ once they are outside of the original position. Surely some of them, at least, will be immoral; to assume otherwise would be naive. I do not know what aspect of moral psychology he is referring to<sup>2</sup>, but it is clear to me from

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<sup>2</sup> Perhaps he is referring to section 75 (p. 429)? There he introduces three 'laws' of moral psychology which are basically that in just family institutions children come to return the love of their parents and then as the child grows up these feelings develop for society as a whole, and society's institutions when they are just. But not everyone in the real world grows up in a good home, or lives in a just society. Even in an idealized society there would be many people who would seek their own advantage, if they could, and this would soon destabilize and corrupt it. That is why the real world is the way that it is.

looking at human psychology, and the sad history of cruelty, oppression, and exploitation which has taken place in nearly every age and civilization, that it is absolutely not the case that everyone can be relied upon to be just. Quite the opposite, in fact. The veil of ignorance makes it impossible to be unjust in the original position, but what consequences would there be if someone did not comply with the agreement once he had a knowledge of his personal situation?

Rawls is generally aware of this type of concern. He discusses what he calls 'the assurance problem' (p. 237-238, 296) which is that cooperating parties require some assurance that the common agreement made among them will be carried out. Each person's willingness to contribute is contingent upon the contributions of others. Therefore some device for administering fines and penalties for noncompliance must be established so that there is confidence that the agreement will be followed. This would require an effective sovereign authority (or at least the perception of it), and Rawls believes that this would be agreed to in the original position so that everyone may have assurance that contracts, financial agreements, and so forth will be complied with. What he does not seem to realize is that the original position agreement itself has an assurance problem. There is no sovereign authority that will enforce compliance with it, and the least advantaged groups will not have the power to enforce it themselves. Those who are wealthier, more intelligent, and more attractive would have greater political power and influence. Some of them would probably even hold political office and other positions of authority; they would be the sovereign authority. No one could stop them from breaking the agreement if that is what they wanted to do.

Rawls goes to great lengths to make a distinction between saying that the parties are seeking to advance their own interests and calling them egoists. He calls them 'mutually disinterested' (p. 12) and says that the two principles are the best way for each person to secure his own ends (p. 102). I am still not entirely sure what the distinction is supposed to be, but if I had to guess, I think he sees egoism as immoral, while seeking to advance one's own interests as not necessarily immoral. Perhaps he has in mind something like Adam Smith's description of how buyers and sellers negotiate the best deal that they can for themselves without considering how it affects the other party, but they are not necessarily immoral in their dealings with the other party. They are tough negotiators, but most would not murder the other party for the item, or even steal it. But even if we do not assume that everyone is an egoist, some would be, and that is all it would take. None of the parties had any leverage in the original position, but now some of them would. Inequalities create leverage. Those with greater advantages would use them to acquire even more of what they want, just as they do in our current society. Even if the society did not start off with an uber-wealthy elite, there would probably be one within only a few generations.

When there is no external authority to enforce an agreement, the stronger party will usually force compliance from the weaker party, but they may not comply with it themselves. The U.S. government made a treaty (the Treaty of Fort Laramie, 1868) with Native American tribes in South Dakota that in part recognized the Black Hills area as belonging to the Sioux. The Powder River Country was to be closed to all whites. But then in 1874 gold was discovered in the area and the treaty meant nothing. Prospectors claimed the land all around the creeks, and thousands

more came in hoping to find a spot that was still unclaimed, even though actually all of the land still belonged to the Sioux. Nobody cared. There was gold. The tribes saw this as an act of war (which it was), and attacked them. The claim was that both sides had violated the treaty, the prospectors for encroaching on the land, and the tribes for killing some of them, but it was clearly the prospectors who were at fault. They never should have been there in the first place. It was a blatant violation of the treaty. But none of that really mattered. The U.S. government seized the Black Hills land in 1877, because they wanted it, and they could. The Indians tried to fight, but there was nothing that they could really do to enforce the treaty once the more powerful party decided to break it. Looking at the awful things that have been done throughout history for gold, diamonds, ivory, oil, etc., it is clear that those who have the power usually get what they want, one way or another.<sup>3</sup>

I realize, of course, that the original position is only hypothetical, but that in no way helps to resolve the problem. If anything, an implied agreement is weaker than an actual signed contract. Rawls says that one can be in the original position at any time simply by considering which principles one would choose under such conditions. Imagine that you were born wealthy and privileged into one of the most advantageous positions that society has to offer. Let us assume that you become familiar with Rawls' work and enter the original position as a thought experiment. The implication of his argument is that you have an obligation to help create a society in the actual world in which those who are the least advantaged receive the greatest benefits, and this would include giving up some of your undeserved advantages by nature and birth. But there would be no reason for you to do this out of self-interest, even if that is the agreement you would make under a veil of ignorance, because in the real world you know what your position is, and you know that it is a good one. No one would hedge a bet that they have already won. The only reason you would have for following the agreement would perhaps be out of a sense of fidelity or duty. But if there is no assurance that those who are currently in the least advantaged positions would do the same for you, if roles had been reversed, why would you give up your advantages for them? There is no true obligation to follow the agreement when there is no assurance that others would follow it.

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<sup>3</sup> A contract is only as meaningful as the ability of both parties to enforce it. In terms of a social contract, Locke's is the best of them, because if the government does not hold up its end of the bargain, the people have some recourse. According to his view, if the government becomes corrupt and loses the trust of its citizens, there is revolution and that government is eventually replaced with a new one. It is the people who authorize government and give it legitimacy. This can be taken away if it is not acting in the correct way. The founding fathers were strongly influenced by Locke, and I believe they had this contingency in mind with the second amendment. They did not want the federal government to have a full monopoly on power. Realistically, of course, small arms today could not really prevent a takeover by the military, or some faction within it, but it could still act as a deterrent. I am sure that a well-trained military could invade and take over Texas if they really wanted to, but why would they when California would be so much easier? In addition to allowing people to protect themselves individually, the second amendment would enable average citizens to assist those in the military who would resist any kind of coup or takeover attempt, if it ever occurred. That could be just enough to swing the balance of power to the correct side. Hopefully, anyone inclined to make such an attempt would know this, and would never dare to make the attempt at all. That is why the second amendment should always be preserved.



This concern could even alter the actual agreement itself. Even if everybody promised to follow whatever agreement is reached, there is no way to ensure that they will. Because of my distrust of the other parties, I would not want to have any inequalities in wealth, even if it did make society more productive to have them. If you might already have advantages over me by nature, I would not want to give you a financial advantage as well. I would worry too much about what you might use it for. Potentially, even my liberty could be at risk, if you decided to enslave me, or create some sort of feudal system. One might feel that this possibility is so unlikely that such worries are ill-founded, but judging from history, I am not so sure about that. Even if the chances of it were quite small, though, I am really supposed to tolerate even a tiny risk of slavery or serfdom simply for the sake of greater economic efficiency? I think not. I would seek to establish perfect equality as a permanent general principle that could never be overturned for any reason. This would mean accepting the first principle, but rejecting the second. That would be a true 'maximin' strategy. Even then, such efforts would likely only delay the inevitable. There would still be no way to enforce the agreement. Perfect equality could not be maintained once the parties have unequal natural endowments. Eventually those with greater advantages by nature would begin to assert themselves; some would be unscrupulous, and there is nothing that those who are less advantaged could do about it. That is just the way of the world. Wealth creates power, and power generates wealth. One typically accompanies the other. But at least some semblance of equality could be maintained for a greater number of generations if you began from a state of perfect economic equality, and had this as a foundational principle, so this option would be preferable.

Thus far I have only considered how individuals might break the agreement, but it may also be the case that the majority would want to use the principle of utility rather than the two principles of justice in certain instances, especially if they knew that it would not be their interests that would be sacrificed. Imagine that there was a terrible disease like the Black Plague, which killed one third of the population of Europe during the the Middle Ages. What if doctors said that they could probably cure the disease, but they would need to perform many years of painful experiments upon 50 young healthy people with very specific genetic traits. If any of the individuals who were selected refused to participate, the lexical ordering of the two principles would forbid experimenting upon them against their will. But in such dire circumstances, it is quite likely that a majority of the remaining population would vote to have the experiments done, regardless of the wishes of the individuals involved. This would especially be true if the participants had already been selected, and each voter knew that it would not be them, or anyone close to them. If social institutions and the two principles forbid this, leaders would probably just alter them, or ignore them, and do it anyway, at least in that case. Utilitarianism is the egoism of the group. If the masses believed that it would serve their interests to have the experiments performed, they would be done. A hypothetical acceptance of the two principles of justice under a hypothetical veil of ignorance would not stop them.

Rawls considered the two principles of justice to be similar to Kant's categorical imperative. There is a significant difference though. The categorical imperative is not a contract that we make with others. One is obligated to follow it whether anyone else does or not, because

violating it would be what Kant calls a practical contradiction. It is contradictory because, in the first form you would be acting contrary to what you yourself would at the same time will for everyone else to do, and in the second form, you would be using a rational agent, a being of infinite worth, as though they were merely a means for obtaining your goals and desires. A rational agent with desires and ends of their own cannot be used as though they were an inanimate object, or merely a tool to get what you want. Not only does violating the categorical imperative make you a hypocrite, according to Kant, it would be similar to making a claim that is logically contradictory, such as 'All squares are round'. It is thought to be a form of irrationality, in other words. The categorical imperative is known *a priori* and has no exceptions. It is moral law to all rational agents regardless of their personal circumstances or desires. But in the case of the original position, no one would consent to the agreement, or follow it, unless they had assurance that others would follow it as well. A contract is not binding without consent. My objection is not merely that it sounds good in theory, but would not work in practice; it is that, really, it would not even hold up in theory *because* we know (or ought to, anyway) that it would never work in practice.

One cannot derive an obligation to be just from an agreement based upon self-interest because justice often requires acting contrary to self-interest. Though I have pointed out that the contract is ineffectual, one should not suppose that I am justifying or advocating unjust behavior. To be just, even when one is more powerful and could get away with being unjust, is the highest form of justice, and is the mark of true character. I do not think that we would, or should give the the greatest benefits to the least advantaged, but we should treat everyone fairly, and help those in need. On that, Rawls and I would agree.

Lastly, while we are on the topic, I would like to share a quick anecdote about a satirical essay that I wrote about Rawls' theory while I was a graduate student called 'A Theory of Justice Concerning Graduate School Admissions'. I wanted it be very serious and formal at first, and then it got progressively more silly the further it went along. My thesis was that if philosophers actually believed that Rawls was right, then to be consistent, they should apply the same sort of reasoning to the graduate school admissions process. I argued that if everyone who was interested in pursuing a career in philosophy was placed in an original position in which it was unknown to them what their level of natural ability would be, that they would agree that the least advantaged applicants (meaning those who were the worst at philosophy) would get the greatest advantages in order to have the best chance of making it in the field. So, the least advantaged applicants should be admitted to the best graduate programs. I suggested that we would make this agreement as a hedge, just in case it turned out that we were really awful at philosophy. I thought that the top programs should not admit anyone who scored higher than 1000 on the GRE. We would also want to be mindful of the most disadvantaged programs as well, so the best students would be sent to the worst programs in order to make those programs better. Tendency toward equality, eh? right? right? I even included snippets of possible writing samples and hypothetical letters of recommendation in which faculty would explain why the person that they were recommending really was the worst candidate, and thus why they should be admitted.

Here is the concluding paragraph of the full one and a half page writing sample for one of these 'top candidates':

*So, like yeah, that is why by my lights that dude from The Princess Bride is probably right. Plato, Aristotle, and Socrates really ARE morons! Course so is he, cause he drank the poison. What an idiot. I think maybe the giant was the smartest, or maybe that one dude hunting the six fingered guy. What a freak, mutatis mutandis. That movie is pretty good, but not as good as the The Bourne Identity, or like, Fight Club. Those movies are bad ass, ceteris paribus. I owe this argument to Ricky, who pointed out to me before class how bad ass those movies are. You rock Ricky! By my lights anyway.*

And here is a snippet from a hypothetical letter of recommendation for another candidate:

*This is the worst student I have ever had. He frequently came to class smelling of marijuana and goat cheese. He does not understand the reading; in fact, I am not even sure he knows how to read. On one occasion, he climbed up on my desk, pointed his finger menacingly at each member of the class, and said that we were all going to hell for supporting abortion. The strangest part of it all was that no one had even said anything about abortion; we were merely discussing the "right to life" as part of natural rights theory. Another time we got into a semi-circle to better facilitate discussion and he began wandering around the room tapping people's heads and trying to get them to play "duck duck goose." When I politely asked him to stop he swore at me and crumpled up on the floor in a fit of violent sobbing. I had to call security to have him removed. They tased the fool, which, I am not going to lie, gave me a lot of satisfaction. Even when he is calm, his comments do not really make sense. They are usually not even about the topic. Typically they include some reference to "The Batman" (not just "Batman" it has to be "The Batman") who I believe he perceives himself to be. One time when I pointed out a potential flaw in his argument he told me that females are not to speak unless first spoken to. I am a nice person, really I am, but I hate this young man with a passion that I have never honestly felt before. And it is for all of these reasons that he would be a perfect fit for your program. This would be such a great challenge for you! Any program can turn a great student into a good philosopher, but if you could pull this off? It would be an absolute miracle. Finally, please do let me know what you thought of his writing sample. I worked very hard on it.*

I sent a copy of this paper to everyone in my department, telling them that I planned to use it for my writing sample when I applied to Ph.D. programs, and I asked them for feedback. The reaction was mixed. Some thought it was hilarious, including a couple of the professors. Others were annoyed. One professor reprimanded me and said that I needed to start taking things more seriously and be professional if I wanted to get into a Ph.D. program, and be successful there. The most surprising thing to me was the number of people who did not even get that it was supposed to be satirical. I thought it would be completely obvious by the end, but apparently not. It could have been that some of them thought it was just a really awful student paper. One fellow student said, after I told him that it was a joke, that he thought it might have been, but he did not want to ask for fear that it would offend me if he was wrong. Some people never got it at all,

though, including one professor. When I told her it was just a joke I do not think that she believed me. She was a very literal sort of person and I don't think that she got the whole idea of satire very well, or at least not that it could be used in philosophy. She offered some helpful criticism of my 'argument' by saying that she did not think the comparison was legitimate because graduate school admissions is the sort of thing that should be based upon merit. She thought it could be consistent to support Rawls' view without necessarily applying the same type of reasoning to the admissions process. I imagine Rawls would have probably said something similar, likely considering graduate school to be one of those positions that should be 'open to all under conditions of fair equality of opportunity'. (Although, he is the one who said that society should spend more resources on the education of the less rather than the more intelligent . . .) Well, up until then, I had thought of the whole thing as just a joke, not a serious objection. But after she said this, it got me thinking: why would wealth distribution be the one thing that should not be based upon merit? I am sure the rich believe that it should be, and, in a sense, that it is. They think of themselves as having earned the positions that they hold in society, or if it is inherited wealth, that their ancestors did. They also believe that there is a relatively equal opportunity for everyone else to obtain the same if they worked hard enough. I would not agree with that, myself, but that is how many of them feel. I think it is a legitimate point that we would never agree to anything like the original position contract if it was applied to anything else, even under a veil of ignorance. But it was still mostly just meant for a laugh.

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