**Phil 2, December 4 and 6, 2006**

*Rawls's two principles:*
First: each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others.

Second: social and economic inequalities are to be arranged so that they are both (a) attached to positions and offices open to all and (b) reasonably expected to be to everyone's advantage.

*Pure procedural justice:*
*Perfect* procedural justice: (i) an independent criterion of a just outcome; and (ii) a procedure guaranteed to realize that outcome.

*Imperfect* procedural justice: (i) an independent criterion of a just outcome; but (ii) no procedure guaranteed to realize it.

For Rawls, distributive shares are a matter of *pure* procedural justice: There is no independent criterion of a just outcome. Whatever outcome results from the specified procedure is just.

How does this bear on Nozick's Wilt Chamberlain example?

*From the system of natural liberty to liberal equality to democratic equality:*

|  | "Everyone's advantage" | |
|---|---|---|
| "Equally open" | Principle of efficiency | Difference principle |
| Equality as careers open to talents | System of Natural Liberty | Natural Aristocracy |
| Equality as equality of fair opportunity | Liberal Equality | Democratic Equality |

The *principle of efficiency* is realized when it is impossible to make one person better off without making another person worse off. Many different distributions, however, may be efficient.

So the principle of efficiency must be supplemented by some other principles. In the system of natural liberty, the principle of efficiency works against a background of equal liberty and "careers open to talents." This means *formal* equality of opportunity: everyone has legal access.

Now the efficient distributions that result from the system of natural liberty, Rawls notes, will be strongly influenced by two kinds of contingency: (i) native talent; and (ii) social starting point. "[T]he most obvious injustice of the system of natural liberty is that is permits distributive shares to be improperly influenced by these factors so arbitrary from a moral point of view" (63).

Liberal Equality takes a stricter interpretation of "open to all." It requires not only that positions are formally open to all, but also that everyone has an equal chance to hold them. Specifically: everyone with the same native talent and motivation should have the same chance of holding the position. The social class of one's birth into should not affect one's life-prospects.

Now while Liberal Equality does not allow social starting points to affect life prospects, it does allow native talents to affect life prospects. This makes Liberal Equality an unstable position. For "there is no more reason to permit the distribution of income and wealth to be settled by the distribution of natural assets than by historical and social fortune" (64).

The *difference principle*: inequalities in social and economic expectations are just if and only if they improve the expectations of the worst-off representative person. The only defense the better off can offer for enjoying their advantages is that if the worst-off would be even worse off if they (the better off) did not enjoy those advantages.

*A questionable interpretation of Rawls:*
It can seem that Rawls argues:
   (1) We deserve only what results from our voluntary efforts, and not what results from brute luck.
   (2) Our natural talents do not result from our voluntary efforts.
   (3) So, we do not deserve our natural talents. This is what it means to say that they are "arbitrary from a moral point of view."
   (4) So, we do not deserve what results from our natural talents.
   (5) People should get only what they deserve.
   (6) Therefore, natural talents should not be allowed to influence the distribution (at least not to the extent that the system of natural liberty allows).

*Problems with this interpretation:*
*First,* Nozick points out that (4) doesn't obviously follow from (3). Why should it follow from the fact that one's *natural talents* are undeserved that one cannot deserve something for *what one achieves as a result of those talents*?
   (1) It just seems false to say that you must deserve your talents to deserve what flows from your talents.
   (2) To say that you must deserve X in order to deserve what flows from X may "prove too much." Does anyone ever deserve *anything*.

*Second,* Rawls explicitly rejects (5)! He thinks, in his own words, that we are mistaken in accepting the commonsense precept: "that income and wealth, and the good things in life generally, should be distributed according to moral desert. Justice is happiness according to virtue" (273). Distributive justice does not consist, even in part, in giving people what they deserve. Desert is simply not relevant to justice.

*Desert, legitimate expectations, deservingness*
For Rawls, the relevant concept is not *desert*, but *legitimate expectations*. Institutions promise people certain things for certain behaviors, and institutions ought to keep their promises. Legitimate expectations are *incentives* to socially beneficial behavior, which must be *honored* when the behavior is displayed. However, legitimate expectations are not *rewards* for moral merit.

Rawls recognizes, in addition to legitimate expectations, a notion of "*deservingness.*" Just institutions offer rewards as incentives to certain kinds of behavior. Nevertheless, sometimes

people display the desired behavior, but through bad luck, fail to acquire an entitlement to the rewards.

How, then, does deservingness differ from desert? Deservingness is defined *in terms of* the principles of justice. Deservingness is behaving in the way that *just* institutions encourage. According to the precept of desert, by contrast, justice is defined *in terms of* desert. Justice is giving people what they can independently be said to *deserve*.

*Rawls's argument against desert:*
How are we to understand desert? *Contribution*? Depends on the number of other people supplying similar talents. *Effort*? Depends on native talents.

If desert equals anything, it ought to equal *just behavior*. But this would be *circular*. According to the precept, justice is rewarding desert, and according to the present proposal, desert is doing what justice requires.

*Another interpretation?*
Natural talent is not a morally relevant ground on the basis of which principles of justice ought to treat people differently, because natural talents are *irrelevant to people's status as free and equal cooperators in society*. One's natural talents are "arbitrary from a moral point of view," in other words, because they *have no bearing on one's standing as a citizen*. It is not as though people get *extra votes* because they have special talents. On this interpretation, Rawls doesn't mean by "arbitrary from a moral point of view" "undeserved." He means something like: irrelevant to the conception of free and equal citizenship that underlies the democratic ideal.

*The rejection of desert*
We often hear it said, and indeed we may often say, that things are unjust because people are not getting what they deserve. As we have seen, Rawls rejects this commonsense view.

Utilitarians also reject it. We don't ask about desert, we just ask what would make people happy.

Even Nozick rejects it. Nozick believes that it is acceptable for the distribution to be influenced by natural endowment to a greater extent than does Rawls. But he does not believe this *because* he believes justice requires rewarding desert. The reason why natural endowment may influence the distribution, according to Nozick, is that people *own* themselves, and hence they have a *right* to what they do and to what results from what they do. The claim is not that the distribution should be influenced by natural endowment because people *deserve* their talents or *deserve* what flows from their talents.

*All* of these theories seem at odds with our commonsense view. Why?