According to the philosopher John Rawls, principles of justice are the outcome of a special kind of hypothetical agreement.

They are the principles we would agree to if we were choosing rules for our society behind a “veil of ignorance,” where no one knows his or her age, sex, race, intelligence, strength, social position, family wealth, religion, or even life goals. Behind this “veil of ignorance,” it is impossible for anyone to propose social rules designed to benefit him more than other people. Therefore, Rawls argues, the principles we would agree to behind the veil of ignorance would be fair and just.

Rawls thinks that two principles would be agreed to behind this “veil of ignorance,” and these are his principles of justice. Let’s see if you agree with them.

1. Rawls’s first principle says that everyone should have the same set of basic liberties, including the freedom of speech and conscience, the right to hold office and to vote for elected officials, freedom from arbitrary arrest, the right to hold personal property, and so on. Do you agree?
2. Rawls's first principle says that everyone should have an equal chance to run for public office. By law, however, U.S. citizens who were born outside of the United States are not eligible to run for president. Is this law inconsistent with Rawls's first principle? Do you consider this law unjust?

3. Rawls's first principle says that everyone should have an equal chance to influence legislation and political affairs. However, today wealthy individuals and corporations exercise much more influence on the government and the laws than the average citizen might. Is this unjust?

4. Before the U.S. Civil Rights Movement, only white people were legally permitted to compete for the best jobs in many places in the United States. African Americans were often denied the same opportunities as whites, even if they were equally talented. Why, according to Rawls' theory of justice, was this unjust?

5. Often poor children who are very talented have unequal opportunities because their parents lack the money to send them to good schools, to pay for private lessons, and so on. Compared to equally talented children of rich parents, poor kids have fewer opportunities to develop their talents. Why, according to Rawls' theory of justice, is this unjust?

6. Why, according to Rawls, should talented and hard-working poor children have the same chances of success as rich children? Do you agree with him? Suppose that providing equal educational opportunity for all children would require substantial taxes on the rich. After all, it would cost a lot of money to provide schools of the same quality to everyone. Do you believe that such taxes are required as a matter of justice?

7. Rawls' second principle says that people who are equally talented and equally motivated should have equal chances of success. This principle would likely require steep inheritance taxes. After all, children who inherit lots of money have a huge advantage in the competition for jobs, money, and success. Do you think that children should be able to inherit great wealth from their parents? Should they be allowed to get very expensive, private math lessons, or singing lessons, or basketball lessons? What if such lessons give them a huge, unearned advantage in the race for jobs, careers, and wealth? Is it just for poor children to have much lower prospects as a result?

8. Rawls's second principle also holds that social and economic inequality can be justified only if it works to the advantage of the least advantaged members of society. Not even superior effort makes a person deserving of special rewards. After all, argues Rawls, your ability to make a good effort is partly dependent on how good your childhood was, whether your parents loved you and provided encouragement, or whether you were neglected and abandoned. These are all factors over which you had no control. Therefore, if you are now able to make a good effort, you can't really claim credit for it.

Do you agree? Is it true that you can't really claim credit for your upbringing? Surely, your habits and temperaments today are partly the result of your upbringing. Does this mean that you don't really deserve what you get from making an effort?
1. Think of some of the advantages that you have in your life. Do you deserve them more than other people who lack them? Why?
2. Do you think it's unjust if some people do not get to vote merely because they are a woman or a member of a racial or ethnic minority?
3. Do you think it's unjust if some people get paid less money for the same job merely because they are a woman or a member of a racial or ethnic minority?
4. If you answered "yes" to the last two questions, do you think it's also unjust if some people are much worse off than others merely because they were born with fewer talents or with a debilitating disease and the need for expensive medicines? Why should people be worse off merely because of the way they were born?
ETHICAL DILEMMA: INHERITANCE TAX: WHO DESERVES WHAT?

Should inheritances be taxed at a high rate?

READINGS AND DISCUSSION GUIDES

LECTURE 16 – DISCUSSION GUIDE (BEGINNER)

LECTURE 16 – DISCUSSION GUIDE (ADVANCED)

According to the philosopher John Rawls, principles of justice are the outcome of a special kind of hypothetical agreement.

They are the principles we would agree to if we were choosing rules for our society behind a “veil of ignorance,” where no one knows his or her age, sex, race, intelligence, strength, social position, family wealth, religion, or even life goals. Such ignorance makes it impossible for anyone to propose social rules designed to benefit him more than other people. Therefore, Rawls argues, the principles we would agree to behind a veil of ignorance would be fair and just.
**Rawls’s First Principle**

Rawls thinks that two principles would be agreed to behind the veil of ignorance. His first principle says that everyone should have the same set of basic liberties, including the freedoms of speech and conscience, the right to hold office and to vote for elected officials, freedom from arbitrary arrest, the right to hold personal property, and so on. According to the first principle, a society in which some people are slaves or serfs, or in which very few people get a say in the government, would be unjust.

1. Do you agree that everyone should have the same basic liberties, whether they are a man or a woman, young or old, rich or poor, part of the minority or part of the majority?
2. Which liberties should everyone have?
3. Why would it be unfair for some people to have more liberty than other people? Rawls thinks that the unfairness is explained by the idea of a hypothetical agreement made behind a “veil of ignorance.” For example, people would not agree to a system of liberties for men only if they didn't know whether they themselves would wind up being men or women.

Is Rawls right to think that the unfairness of a society that distributes liberties unequally is best explained by the idea of an agreement behind the veil of ignorance? If not, what explains the unfairness?

1. Rawls’s first principle says that everyone should have an equal chance to run for public office. Do you agree? By law, U.S. citizens who were born outside of the United States are not eligible to run for president. Do you think this law is unjust? Does Rawls’s theory provide the best way of thinking about the justice or injustice of this law?
2. Rawls’s first principle says that everyone should an equal chance to influence legislation and political affairs. However, today wealthy individuals and corporations exercise much more influence on the government and the laws than the average citizen might. Is this unjust? If so, do you think that Rawls’ theory best explains why it is unjust?

**Fair Equality of Opportunity**

Rawls’s second principle of justice has two parts. The first part says that society must ensure that there is fair equality of opportunity. Fair equality of opportunity is different from formal equality of opportunity, or the idea of careers open to talents.
There is even a lack of *formal* equal opportunities when the best jobs are *legally* restricted to members of a powerful group. This was the case in the United States before the Civil Rights Movement and racial desegregation. However, there can be inequality of opportunity even without such legal restrictions. Often, poor kids who are very talented have unequal opportunities because their parents lack the money to send them to good schools, to pay for private lessons, and so on. Compared to equally talented children of rich parents, poor kids have fewer opportunities to develop their talents.

According to Rawls’s idea of fair equality of opportunity, this is unjust. People with the same natural talents and the same willingness to use them should have the same chances of success, no matter how rich or poor their parents, no matter their sex, or race, or any other social distinction. Do you agree?

1. If you think that poor kids should have the same chances of success as equally talented rich kids, does that mean you agree with Rawls’s second principle? Suppose it turns out that satisfying this principle would require enormous taxes on the rich. After all, it would cost a lot of money to provide schools of the exact same quality to everyone. Do you think that justice requires such taxation?

2. Rawls’s idea of fair of equality of opportunity could also be seen to require steep inheritance taxes. After all, children who inherit lots of money have a huge advantage in the competition for jobs, money, and success. Do you think that children should be able to inherit great wealth from their parents?

3. Should the children of rich parents be allowed to get very expensive, private math lessons, or singing lessons, or basketball lessons? What if such lessons give them a huge, unearned advantage in the race for jobs, careers, and wealth? Is it just for poor children to have much lower prospects as a result?

**The Difference Principle**

The second part of Rawls's second principle is called the difference principle, and it is even more egalitarian than Rawls's idea of fair equality of opportunity.
The difference principle says that there should be no differences in income and wealth, except those differences that make even the least advantaged members of society better off. Not even superior effort makes a person deserving of special rewards. After all, argues Rawls, your ability to make a good effort is partly dependent on how good your childhood was, whether your parents loved you and provided encouragement, or whether you were neglected and abandoned. All of these are factors over which you had no control. Therefore, if you are now able to make a good effort, you can’t really claim credit for it. Do you agree?

1. Is it true that you can’t really claim credit for your upbringing? Surely, your habits and temperaments today are partly the result of your upbringing. Does this mean that you don’t really deserve what you get from making an effort?
2. Think of some of the advantages that you have in your life. Do you deserve them more than other people who lack them? If so, why? If not, should these advantages be provided to everyone?
3. Do you think it’s unjust if some people do not get to vote in elections merely because they are a woman or merely because of the color of their skin?
4. Do you think it’s unjust if some people earn much less money and are much worse off than others merely because they are a woman or a member of a racial or ethnic minority?
5. If you answered “yes” to the last two questions, do you think it’s also unjust if some people are much worse off than others merely because they were born with fewer talents or with a debilitating disease and the need for expensive medicines? Why should people be worse off merely because of the way they were born?
ETHICAL DILEMMA: AFFIRMATIVE ACTION

Should groups that have traditionally faced discrimination be given special consideration when applying to university or employment?

READINGS AND DISCUSSION GUIDES

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In 1974, Allan Bakke, a white male, applied to medical school at the University of California, Davis. He was rejected, even though his grades and test scores were higher than some of the minority candidates who were admitted that year.

Bakke sued the medical school. The U.S. Supreme Court decided that he should be let in. Schools could use race as one factor among others in deciding which candidates to accept, but they could not use race as a quota, by reserving some seats for minority candidates only.

Was the decision of the U.S. Supreme Court just? Consider the following questions as you think about the morality of affirmative action.

1. Do you think Bakke was treated unfairly? Does he have a right to be considered solely on the basis of his academic and personal merit?
2. Bakke couldn't help that he was born a member of the white majority. This is a factor over which he had no control, so why should he be rejected from medical school just because he's white?
3. Bakke did nothing to be born with the capacity for high achievement. His natural talents are a factor over which he had no control, so why is he entitled to be judged only by his personal and academic merit?
4. Often, naturally gifted athletes go to college on scholarship. However, their natural talents are a factor over which they had no control. Is it just that scholarships should go to gifted athletes but not to other people?
5. What is merit? Often, minority groups receive better care from minority doctors and better representation from minority lawyers. Does the ability to serve the needs of minority communities constitute a form of merit? Shouldn't schools train doctors and lawyers who will provide the best care and the best representation?
6. Barbara Grutter applied to law school at the University of Michigan. She was rejected, even though her grades were higher than some of the minority candidates who were admitted. This time, the US Supreme Court decided that the University of Michigan had acted lawfully, because racial diversity at law school was an important goal. Do you agree? Was the decision of the US Supreme Court just or unjust?
7. In the United States, African Americans have historically been disadvantaged because of slavery and racial segregation. Is affirmative action in college admissions an acceptable form of compensation for historical disadvantage?
ETHICAL DILEMMA: AFFIRMATIVE ACTION

Should groups that have traditionally faced discrimination be given special consideration when applying to university or employment?

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Do you think Bakke was treated unfairly? Did he have a right to be considered on the basis of his intellectual merits alone? Consider the following questions as you think about the morality of affirmative action.

1. Can Bakke be said to deserve to be admitted to medical school? Sure, he didn’t choose to be a member of the white majority—he was just born that way. But he also didn’t choose to be naturally gifted—he was also just born that way. These are factors equally outside of his control. Why should Bakke’s application to medical school be considered solely on the basis of personal and academic merit when this depends at least partly on factors over which he had no control?

2. What is merit in general? Often minority groups receive better care when they are treated by minority doctors, so doesn’t being a minority count as merit? Shouldn’t we train the doctors who will provide the best care?

3. What if minority lawyers do a better job helping their minority clients than do white lawyers? Is that a form of merit? Does it justify discriminating against law school applicants who are white?

4. Medical schools and law schools often argue that racial diversity is important to the quality of professional education. It makes people more open-minded, helps them learn from their peers, and makes them sensitive to people with different needs. Should medical schools and law schools therefore be allowed to admit a certain number of minority candidates each year, for the sake of achieving the educational benefits of diversity?

5. Barbara Grutter applied to law school at the University of Michigan. She was also rejected, even though her grades were higher than some of the minority candidates who were admitted. This time, the US Supreme Court decided that the University of Michigan had acted lawfully. Racial diversity at law school was an important goal. Do you agree? Was the decision just or unjust?

6. In the United States, African Americans have historically been disadvantaged because of slavery and racial segregation. Is affirmative action in college admissions an acceptable form of compensating for historical disadvantage?
7. Is affirmative action in hiring for jobs an acceptable form of compensating for historical disadvantage? Is affirmative action acceptable even if equally qualified white candidates are rejected as a result?

8. In general, is it legitimate to design social, political, and educational institutions to redress past wrongs? Does your answer depend on what kind of institution we are talking about?

9. In 2003, the New Haven fire department administered a test to rank candidates for promotion. When none of the African-American firefighters scored high enough to be considered for promotion, the fire department chose to invalidate the test results. The white and Hispanic firefighters then sued the fire department. The US Supreme Court decided that the fire department had engaged in wrongful racial discrimination by invalidating the test results. Do you think that the Court made the right decision?

10. Is affirmative action equally acceptable in elementary school, college, and graduate school?

11. Is affirmative action equally acceptable when picking candidates for government jobs, when picking candidates for private sector jobs, and when choosing who will receive government income support?

12. Which wrongs are sufficiently important to justify using affirmative action to redress them?
ETHICAL DILEMMA: THE VIOLIN: THE GOOD CITIZEN

Who should be allowed to own world’s rarest violin?

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READINGS AND DISCUSSION GUIDES

PGA TOUR, INC. V. MARTIN (2000)

– LECTURE 19 – DISCUSSION GUIDE (BEGINNER)

Aristotle, one of the most important philosophers ever to write about justice lived in ancient Greece, some 2400 years ago.
He thought that justice means giving each person his due, or what he deserves. But how do we know what people deserve? What goods and opportunities should go to which persons? Aristotle’s answer is that we have to consider the telos—the end or the purpose—of the good in question. Let’s see if you think he was right.

1. Say we have some nice flutes. Who should get them? According to Aristotle, it’s not the rich person, since playing flutes has nothing to do with money. Nor is it the person who will be made most happy, since making good music is different than being happy. The purpose of a flute is to be played, and to be played well. So, Aristotle thinks, the flutes should go to the best flute players. Do you agree? How else should we assign the flutes?

2. Suppose there are some very good, public tennis courts in your town. Who should get priority to use the courts? Should priority be given to the tennis players who are willing to pay the most? Should court-time be assigned on a first-come, first-served basis? Should priority be given to the worst tennis players, who most need the practice? Should it be given to the best tennis players, who will play the best tennis? Which of these arrangements would be fair or just? What is the purpose of tennis, and does it help you to answer this question?

3. Who should be admitted to colleges and universities? Should admission decisions be made strictly on the basis of academic merit? Or should colleges and universities admit students with a variety of academic and other backgrounds, and to strive for diversity? What would be fair? What is the purpose of higher education, and does it help you to answer this question?

4. For much of its history, the US military did not permit women to serve in its ranks. Was this unjust? What is the purpose of the military, and does it help you to answer this question?

5. “Hooters,” a restaurant, hires only female waitresses who are willing to wear revealing clothing. However, some men want to work there as waiters, too. Is it unfair that “Hooters” hires only women? Consider the purpose of the restaurant. Is it merely to serve food? Or is it to entertain men? Who should get to decide the purpose?

6. Aristotle thought that human beings were by nature meant to use their reason to deliberate about important moral questions, and to share in the political life of the community. He also thought that government should promote this purpose, by helping people to become better informed, and more virtuous. Do you agree?

7. Think of a law designed to promote civic virtue. Does this law run the risk of unfairly imposing the majority’s values on everyone? Can you think of a law that promotes civic virtue but escapes this objection?

8. “People should be free to choose for themselves what kind of life to live, even if they go on to make bad choices.” Do you agree? Is there a tension between Aristotle’s way of reasoning about justice and the modern emphasis on individual freedom? Or can Aristotle’s approach make adequate room for the value of individual freedom?
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Aristotle’s answer is that we have to consider the “telos”—the point, the end, or the purpose—of the good in question. Say we have some nice flutes. Who should get them? According to Aristotle, it's not the rich person, since playing flutes has nothing to do with money. Nor is it the person who will be made most happy, since making good music is different than being happy. The purpose of a flute is to be played, and to be played well. So, Aristotle thinks, the flutes should go to the best flute players.

Aristotle’s method is to think about justice by thinking about the purpose of a good, an institution, or even a person. If the purpose of a tennis court is to play tennis, then the best tennis players should get priority. If the purpose of universities is to pursue and reward scholarly excellence, then the students with the best academic records should be admitted. If the purpose of a human being is to live a good life, then society should promote the good life by ensuring that citizens have the resources necessary for living a good life, and by encouraging them in the pursuits that make for a good life.

Is this the right way to think about justice?

What is the Purpose of an Institution?
If we want to use Aristotle’s “teleological” method to think about the justice of a particular institution, we need to determine the point or the purpose of the institution. But how are we to know the purpose?

Consider the practice of golf. Is the purpose of golf merely entertainment, or is it athletic excellence? The question is important because the answer will help to determine how golf should be played. If the purpose of golf is mere entertainment, then it shouldn't matter if players ride golf carts from one hole to the next. The use of golf carts does not conflict with the purpose of entertainment. Indeed, allowing golf carts may even serve this purpose better than making everyone walk the long course, by hastening the pace of play. However, if the purpose of golf is not mere entertainment but athletic excellence, then perhaps players should be required to walk the long course, or else forfeit the game.
How do we know the purpose of golf or any other practice or institution? Should we say that the purpose of an institution is given by what most people believe it to be? The problem with this answer is that people tend to disagree about the purposes of institutions. Does the purpose of an institution lie in its beneficial consequences? Does the purpose lie in the values that the institution promotes, honors, and rewards? Consider each of these alternatives as you think about the following questions.

1. Suppose there are some very good, public tennis courts in your town. Who should get priority to use the courts? Should priority be given to the tennis players who are willing to pay the most? Should court-time be assigned on a first-come, first-served basis? Should priority be given to the worst tennis players, who most need the practice? Should it be given to the best tennis players, who will play the best tennis? Which of these arrangements would be fair or just? What is the purpose of tennis, and does it help you to answer this question?

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**Reasoning from the Purpose**

Aristotle's method of reasoning about justice asks us to reason from the purpose of an institution to a conclusion about how the institution should function. In other words, we start with the purpose and ask how the institution can best serve this purpose. However, can’t the purpose of an institution itself be questioned?

1. Think of the Ku Klux Klan—an association founded with the intention of harassing and even killing African American, Jewish, Hispanic and other minority citizens. This purpose seems clearly unjust. How should we proceed if we want to use Aristotle's method of thinking about justice? Try to construct a teleological argument against an association such as the KKK. Is it possible to argue against the KKK by reflecting on the purpose of voluntary associations generally?
2. How do we know whether the purpose of a given institution is just or unjust? Try to find a teleological method of answering this question. Perhaps we should ask whether—and how well—the institution contributes to a good society, or to a good human life. But what is a good society, or a good human life?

3. Aristotle thought that human beings were by nature meant to use their reason to deliberate about important moral questions, and to share in the political life of the community. He also thought that government should promote this purpose, by helping people to become better informed, and more virtuous. Do you agree?

4. Think of a law designed to promote civic virtue. Does this law run the risk of unfairly imposing the majority’s values on everyone? Can you think of a law that promotes civic virtue but escapes this objection?

5. Aristotle thinks that the reasoned life of an engaged citizen is a necessary part of a good human life. Is he right? Suppose someone chooses to live alone in the woods, away from the hustle and bustle of communal life. Is there something less good, and less fully human, about a life spent in solitude and isolation? Would it be better to spend one’s life living in a community of equals?

6. Consider this challenge to Aristotle: “Even if it is better to live in a community of equals than to live an isolated life, people should be free to choose for themselves what kind of life to live.” Do you agree?

7. Is Aristotle’s method of reasoning about justice and individual rights in tension with the modern emphasis on individual freedom? Or can his approach make adequate room for the value of individual freedom?