Questions of Justice

Distributive Justice

1 The Principles of Justice

- First Principle:

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.

- Second Principle

Social and economic inequalities are to be arranged so that they are both:
(a) to the greatest benefit of the least disadvantaged, consistent with the just savings principle (DP), and
(b) attached to offices and positions open to all under conditions of fair equality of opportunity (FEO).

2 Rawls' Second Principle - Distributive Justice

The 2nd principle is 'distributive' - it concerns the just distribution of goods which are not to be equally distributed (unlike the basic liberties covered by the 1st principle). These goods are essentially of two kinds:

- (i) appointments to positions with power
- (ii) income and wealth

Plainly goods of type (i) can't be equally distributed: we can't all be captain of the team etc. ; whereas goods of type (ii) can in principle be equally distributed: but Rawls thinks that some inequalities here are legitimate.

3 Priority: FEO is prior to DP

- Although Rawls writes of 'the second principle' as if there were a single principle here, in fact there are two:

(i) a principle for distributing positions of status and power:
Fair Equality of Opportunity (FEO);

(ii) a principle for distributing income and wealth:
The Difference Principle (DP)

There's a priority rule here: FEO has priority over DP.

So: if (say) fair equality of opportunity requires a greater degree of equality of income and wealth than is warranted by the DP, then it would take priority over the DP.

Equally (looking back) the fact that the first principle of justice has priority over the second does constrain the application of both parts of the 2nd principle - e.g. if FEO were to undermine some basic liberty (e.g. to privacy or family life?) then it would be unjust.

4   Pure Procedural justice

- Rawls is very insistent that his two distributive principles concern the 'basic structure' of society and should guide just procedures rather seeking directly to ensure certain outcomes. So the aim is to provide for procedural justice: 'The role of the principle of fair opportunity is to insure that the system of cooperation is one of pure procedural justice. Unless it is satisfied, distributive justice could not be left to take care of itself ..' (TJ 76)

- But it's not obvious quite how this applies to the DP which does precisely seem to concern outcomes – distributions of income and wealth – rather than procedures. But more on this later.

5 Fair equality of opportunity (FEO)

- *Social inequalities are to be arranged so that they are attached to offices and positions open to all under conditions of fair equality of opportunity.*

- Rawls holds that this principle does not just prohibit overt discrimination on grounds of social class, ethnicity, gender etc.. It also specifies a goal: that 'those with similar abilities should have similar life chances' (TJ 63).

6   Arguments for FEO

- (i) The intuitive argument for equality of opportunity is obvious: it's unfair if people are constrained by their gender/social/ethnic background etc. from using their abilities properly.

- (ii) The argument from reciprocity is also obvious. Mutual recognition of each other as equal and free is incompatible with practices which discriminate on grounds of gender, race, class etc,.

- (iii) The argument from the OP is that a rational person within the OP, behind the veil of ignorance, would assent to a principle which ensured that s/he was not excluded from positions which enabled her to make the best of his/her abilities merely because of 'accidents of birth'.

That seems fair enough.

7 Applying the principle

- The main application of this principle lies in the field of employment, - to the removal of obstacles which prevent people with appropriate abilities from gaining a fair chance of securing appointments.

- One important implication is that it is the state's responsibility to ensure that everyone receives a decent education, since without education, one's opportunities are seriously limited.

- What is more contentious is the proposal that fair equality of opportunity also implies that everyone should have access to decent medical treatment – since, again, without this one's chance of having the kind of career which requires decent health is much impeded (think of the lives of those who are chronically ill).

- In his late writings, but only there, Rawls accepts this point (*LP* 50).

8   Hard cases (i) the family

- How far should the promotion of equality of opportunity be constrained by basic liberties, esp. the family (if indeed the right to family life is to count as a basic liberty, which Rawls does not explicitly affirm, but which he should) ?

  The argument against the influence of the family is that because parents inevitably care more about their own children than about other children, some children end up being advantaged by gaining abilities from their parents.

  Rawls (TJ 448) seems to accept that the family does make a difference, but he argues that once the DP is in place, the differences between families should not make sufficient difference to equality of opportunity to warrant state interference.

9 The family and the position of women

In his later writings Rawls returns to the issue of justice and the family. Again, his concern is with equality of opportunity, but now with a different focus on the traditional roles of women as wife and mother insofar as these tend to make it impossible for them to enjoy the same opportunities for fulfilling and rewarding careers as men.

For Rawls, this situation is inherently unjust; the only fair division of labour between men and women in the family is a voluntary one, starting from a presumption of equality.

But Rawls does not discuss the familiar difficulties that arise where one parent (typically the mother) chooses to take the major role in child care – e.g. how far the state should intervene to protect their career.

10   (ii) Education

(ii) How far the state should go in promoting of equality of education? Is it enough for the state to attempt to ensure everyone gets a good education? Or is it unfair if some people receive a better education and are thereby better equipped to take interesting, well-rewarded, positions?

Rawls (TJ 243, 245-6) agrees that the state has significant responsibilities in this regard, but he never suggests that the state should seek to prohibit private education, or in order to promote FEO.

In TJ Rawls failed to appreciate the importance of university education in this regard and argued that state support for universities was an improper use of the state's resources (TJ 291-2). He later changed his mind on this point.

11 (iii) Affirmative Action

- (iii) Is there a case for limited 'affirmative action' to provide more equal representation and role models etc. and thus redress for past injustices which have entrenched inequalities of opportunity? (cf. selection of women as candidates for MPs?)

- Rawls (TJ 86) speaks of the DP as providing, through redistributive measures, a means of 'redress' for past inequalities; the suggestion is a bit odd in that context, but it might be redirected here – though there might equally be a challenge from those who are passed over as a result.

12 The Difference Principle (DP)

- *Economic inequalities are to be arranged so that they are to the greatest benefit of the least advantaged.*

This principle concerns the distribution of income and wealth. It affirms that the default position is equality, and thus that inequalities are just only where they are of advantage to the 'least advantaged' who are disadvantaged by having 'few natural endowments' and suffering from 'bad luck' (TJ 83).

For most practical purposes we can pick out this group by their relative lack of income and wealth (TJ 84).

Thus for Rawls an important aim of the state is to work towards equality of income and wealth by improving the lot of the worst off.

13 The alternatives - before

- What are main alternatives in this area – at least in advance of the debates stirred up by Rawls?

(i) Traditional defence of property rights (looking back to Locke)

(ii) Radical egalitarian critique of property rights (Marxism/communism etc)

(iii) Utilitarian perspective – several strands: conservative (Hume) or social democrat (Mill).

The utilitarian social democrat tradition became the dominant intellectual position by the 1950's.

14 The alternatives - after

- How does Rawls change the debate? What are the serious alternatives that remain now?

(i) Libertarian defence of property rights (Nozick)

(ii) Utilitarian pragmatic approach

(iii) Equality of resources (Dworkin)

(iv) 'Luck egalitarianism' (Cohen)

(v) Equality of capabilities (Sen)

Or some combination of these …….

15 Procedural justice

- As before, Rawls stresses (TJ 267) that this principle is intended to guide procedures for arriving at distributive justice.

  'This account of distributive shares is simply an elaboration of the familiar idea that income and wages will be just once a (workably) competitive price system is properly organised and embedded in a just basic structure. These conditions are sufficient. The distribution that results is a case of background justice on the analogy with the outcome of a fair game'. (TJ 268)

- Thus the DP is not supposed to operate at the 'micro' level to interfere with particular transactions. What it does is to motivate background constraints in the 'basic structure' which are primarily put into effect through a tax system which transfers wealth from relatively advantaged groups to the least advantaged group.

16 Rawls' system for economic management

- Socialism and the market

Rawls distinguishes questions about the ownership of natural resources and the means of production from questions about the ways in which markets are used to fix prices and allocate resources. His attitude is basically pragmatist: find the system which best satisfies the DP – i.e. works best for the most disadvantaged. He is largely in favour of free markets (TJ 239ff.) since these are much more efficient than the alternatives and also favour equality of opportunity; but on the issue of public vs private ownership of resources and capital, he has no strong preference:

Which of these systems and the many intermediate forms most fully answers to the requirements of justice cannot, I think, be determined in advance. There is presumably no general answer to this question, since it depends in large part upon the traditions, institutions, and social forces of each country, and its particular historical circumstances. The theory of justice does not include these matters. (TJ p. 242)

17 The 'allocative', 'distributive', 'stabilisation', and 'transfer' offices

- However those matters are organised, Rawls holds that it is important to distinguish 'allocative' principles for allocating resources efficiently to producers from principles for determining the income of producers and others (TJ 241).

- The allocative departments of government will aim to keep the economy working well by regulating the market (preventing monopolies etc.), and they work closely with the 'stabilization' branch of government which regulates the labour market and aims to maintain 'reasonably full employment' (TJ 244).

- Where this aim is achieved, most households should have access to a decent income; but in order to guarantee this outcome, there needs to be a 'transfer' branch of government to ensure that all households reach a 'social minimum' (TJ 244-5).

18 The (Re)distributive branch

- In addition to all this, however, there is to be a 'distributive' branch of government. One part of this is to be *re*distributive. Its aim is to 'gradually and continually .. correct the distribution of wealth' through inheritance tax and constraints on gifts and bequests (TJ 245). But it also uses taxes to raise the funds for the transfer system and to finance public goods (e.g. roads). Slightly oddly Rawls strongly favours consumption, rather than income, taxes for this purpose.

- This helps us to place the DP correctly: it is to be thought of as providing a high-level goal for the design of these middle level economic institutions.

19 The 'exchange' branch

- A curiosity of Rawls system is that public goods are narrowly defined, in terms of facilities and institutions that are of benefit to pretty well all citizens, directly or indirectly. So Rawls explicitly excludes cultural institutions such as opera, theatre, art galleries etc. from this sphere. The coercive power of the state may not be used to gather taxes for their support (TJ 291-2), even if they are of very great value.

- Instead the 'exchange' branch of government can facilitate collective support for them, as long as a very large majority of citizens support such action.

- So: no Arts Council in Rawlsland.

20 Arguing for the DP - (i) Justice as reciprocity

Rawls appeals, even in TJ (88-90), to reciprocity as a consideration in favour of the DP. What this seems to mean is that because the potential benefits available to the talented depend upon social cooperation, the DP expresses a relation of reciprocal benefit:

on the one hand, the least advantaged agree to support the institutions of distributive justice because they benefit maximally from them despite the resulting inequalities;

on the other hand, the talented, having secured the support of the least advantaged to these institutions, are able to benefit through the labour   market that makes it worth their while to keep producing.

In JF (132) Rawls uses a slightly different approach: what is important is that citizens should feel equally valued within the community even if they have different abilities, income and wealth. And then the thought is that the idea of reciprocity captured by the DP secures this kind of political equality in a way in which other less egalitarian principles of distributive justice do not.

One can see the point here: the DP perhaps expresses a kind of social solidarity, which in TJ Rawls describes in terms of 'fraternity' (TJ p. 70 - the state as one big family); but one can ask whether that is really a requirement of distributive justice as opposed to being a legitimate political ideal?

21 (ii) Arguing from the OP

The OP argument is that the rational man behind the veil of ignorance would use maximin and that choosing in accordance with maximin leads to the selection of the DP. But this is vulnerable to Harsanyi's objection – that rationality requires maximising expected utility. This objection implies that the OP (as conceived by Rawls) is not a good way of filling out the conception of justice as reciprocity; not that the DP itself is necessarily flawed.

One might include among the primary social goods the good of being a member of a cohesive community in which there is equality of status and, as a result, there are no large inequalities of wealth. If one introduces this thesis into Rawls's OP, so that individuals choosing principles behind the veil of ignorance seek to ensure that they belong to a 'cohesive' society, then the practical distinction between the average utilitarian principle and Rawls's egalitarian DP largely disappears. For a society in which wealth is not reasonably evenly distributed will be one in which average welfare is not maximised.