society is characterized by the circumstances of justice. The account of these conditions involves no particular theory of human motivation. Rather, its aim is to include in the description of the original position the relations of individuals to one another which set the stage for questions of justice.

23. THE FORMAL CONSTRAINTS OF THE CONCEPT OF RIGHT

The situation of the persons in the original position reflects certain constraints. The alternatives open to them and their knowledge of their circumstances are limited in various ways. These restrictions I refer to as the constraints of the concept of right since they hold for the choice of all ethical principles and not only for those of justice. If the parties were to acknowledge principles for the other virtues as well, these constraints would also apply.

I shall consider first the constraints on the alternatives. There are certain formal conditions that it seems reasonable to impose on the conceptions of justice that are to be allowed on the list presented to the parties. I do not claim that these conditions follow from the concept of right, much less from the meaning of morality. I avoid an appeal to the analysis of concepts at crucial points of this kind. There are many constraints that can reasonably be associated with the concept of right, and different selections can be made from these and counted as definitive within a particular theory. The merit of any definition depends upon the soundness of the theory that results; by itself, a definition cannot settle any fundamental question.

5. Various interpretations of the concept of morality are discussed by W. K. Frankena, "Recent Conceptions of Morality," in Morality and the Language of Conduct, ed. H. N. Cassada and George Nakhnikian (Detroit, Wayne State University Press, 1965), and "The Concept of Morality," Journal of Philosophy, vol. 63 (1966). The first of these essays contains numerous references. For an account of the text is perhaps closest to that of Kurt Baier in The Moral Point of View (Ithaca, N.Y., Cornell University Press, 1958), ch. VIII. I follow Baier in emphasizing the conditions of publicity (he does not use this term, but it is implied by his stipulation of universal teachability, pp. 195f), ordering, finality, and material content (although on the contract view the last condition follows as a consequence, see §25 and note 16 below). For other discussions, see W. D. Falk, "Morality, Self, and Others," also in Morality and the Language of Conduct, and P. F. Strawson, "Social Morality and Individual Ideal," Philosophy, vol. 36 (1961).

6. See, for example, W. V. Quine, Ontological Relativity and Other Essays (New York, Columbia University Press, 1969), ch. 5 entitled "Natural Kinds."
understand these principles should not require a knowledge of contingent particulars, and surely not a reference to individuals or associations. Traditionally the most obvious test of this condition is the idea that what is right is that which accords with God’s will. But in fact this doctrine is normally supported by an argument from general principles. For example, Locke held that the fundamental principle of morals is the following: if one person is created by another (in the theological sense), then that person has a duty to comply with the precepts set to him by his creator. This principle is perfectly general and given the nature of the world on Locke’s view, it singles out God as the legitimate moral authority. The generality condition is not violated, although it may appear at first sight.

Next, principles are to be universal in application. They must hold for everyone in virtue of their being moral persons. Thus I assume that each can understand these principles and use them in his deliberations. This imposes an upper bound of sorts on how complex they can be, and on the kinds and number of distinctions they draw. Moreover, a principle is ruled out if it would be self-contradictory, or self-defeating, for everyone to act upon it. Similarly, should a principle be reasonable to follow only when others conform to a different one, it is also inadmissible. Principles are to be chosen in view of the consequences of everyone’s complying with them.

As defined, generality and universality are distinct conditions. For example, egoism in the form of first-person dictatorship (Every- one is to serve my—or Pericles’—interests) satisfies universality but not generality. While all could act in accordance with this principle, the results might in some cases not be at all bad, depending on the interests of the dictator, the personal pronoun (or the name) violates the first condition. Again, general principles may not be universal. They may be framed to hold for a restricted class of individuals, for instance those singled out by special biological or social characteristics, such as hair color or class situation, or whatever. To be sure, in the course of their lives individuals acquire obligations and assume duties that are peculiar to them. Nevertheless these various duties and obligations are the consequence of first principles that hold for all as moral persons; the derivation of these requirements has a common basis.

A third condition is that of publicity, which arises naturally from a contractarian standpoint. The parties assume that they are choosing principles for a public conception of justice. They suppose that everyone will know about these principles all that he would know if their acceptance were the result of an agreement. Thus the general awareness of universal acceptance should have desirable effects and support the stability of social cooperation. The difference between this condition and that of universality is that the latter leads one to assess principles on the basis of their being intelligently and regularly followed by everyone. But it is possible that all should understand and follow a principle and yet this fact not be widely known or explicitly recognized. The point of the publicity condition is to have the parties evaluate conceptions of justice as publicly acknowledged and fully effective moral constitutions of social life. The publicity condition is clearly implicit in Kant’s doctrine of the categorical imperative insofar as it requires us to act in accordance with principles that one would be willing as a rational being to enact as law for a kingdom of ends. He thought of this kingdom as an ethical commonwealth, as it were, which has such moral principles for its public charter.

A further condition is that a conception of right must impose an

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ordering on conflicting claims. This requirement springs directly from the role of its principles in adjusting competing demands. There is a difficulty, however, in deciding what counts as an ordering. It is clearly desirable that a conception of justice be complete, that is, able to order all the claims that can arise (or that are likely to in practice). And the ordering should in general be transitive: if, say, a first arrangement of the basic structure is ranked more just than a second, and the second more just than a third, then the first should be more just than the third. These formal conditions are natural enough, though not always easy to satisfy. But is trial by combat a form of adjudication? After all, physical conflict and resort to arms result in an ordering; certain claims do win out over others. The main objection to this ordering is not that it may be intransitive. Rather, it is to avoid the appeal to force and cunning that the principles of right and justice are accepted. Thus I assume that to each according to his threat advantage is not a conception of justice. It fails to establish an ordering in the required sense, an ordering based on certain relevant aspects of persons and their situation which are independent from their social position, or their capacity to intimidate and coerce.  


10. To illustrate this point, consider R. B. Braithwaite's study, Theory of Games as a Tool for the Moral Philosopher (Cambridge, The University Press, 1955). On the analysis he presents, it turns out that the fair division of playing time between Matthew and Luke depends on their preferences, and these in turn are connected with the instruments they wish to play. Since Matthew has a threat advantage over Luke, arising from the fact that Matthew, the trumpeter, prefers both of them playing at once to neither of them playing, whereas Luke, the pianist, prefers silence to cacophony, Matthew is allotted twenty-six evenings of play to Luke's seventeen. If the situation were reversed, the threat advantage would be with Luke. See pp. 36f. But we have only to suppose that Matthew is a jazz enthusiast who plays the drums, and Luke a violinist who plays sonatas. In which case it will be fair in this analysis for Matthew to play whenever and as often as he likes, assuming as it is plausible to assume that he does not care whether Luke plays or not. Clearly something has gone wrong. What is lacking is a suitable definition of a status quo that is acceptable from a moral point of view. We cannot take various contingencies as known and individual preferences as given and expect to elucidate the concept of justice (or fairness) by theory of bargaining. The conception of the original position is designed to meet the problem of the appropriate status quo. A similar objection to Braithwaite's analysis is found in J. R. Lucas, "Moralists and Game theorists," Philosophy, vol. 34 (1959), pp. 9f. For another discussion, consult Sen, Collective Choice and Social Welfare, pp. 118-123, who argues that the solution of J. F. Nash in "The Bargaining Problem," Econometrica, vol. 18 (1950), is similarly defective from an ethical point of view.
first-person dictatorship and the free-rider forms, since in each case a proper name, or pronoun, or a rigged definite description is needed, either to single out the dictator or to characterize the free-rider. Generality does not, however, exclude general egoism, for each person is allowed to do whatever, in his judgment, is most likely to further his own aims. The principle here can clearly be expressed in a perfectly general way. It is the ordering condition which renders general egoism inadmissible, for if everyone is authorized to advance his aims as he pleases, or if everyone ought to advance his own interests, competing claims are not ranked at all and the outcome is determined by force and cunning.

The several kinds of egoism, then, do not appear on the list presented to the parties. They are eliminated by the formal constraints. Of course, this is not a surprising conclusion, since it is obvious that by choosing one of the other conceptions the persons in the original position can do much better for themselves. Once they ask which principles all should agree to, no form of egoism is a serious candidate for consideration in any case. This only confirms what we knew already, namely, that although egoism is logically consistent and in this sense not irrational, it is incompatible with what we intuitively regard as the moral point of view. The significance of egoism philosophically is not as an alternative conception of right but as a challenge to any such conception. In justice as fairness this is reflected in the fact that we can interpret general egoism as the no-agreement point. It is what the parties would be stuck with if they were unable to reach an understanding.

24. THE VEIL OF IGNORANCE

The idea of the original position is to set up a fair procedure so that any principles agreed to will be just. The aim is to use the notion of pure procedural justice as a basis of theory. Somehow we must nullify the effects of specific contingencies which put men at odds and tempt them to exploit social and natural circumstances to their own advantage. Now in order to do this I assume that the parties are situated behind a veil of ignorance. They do not know how the various alternatives will affect their own particular case and they are obliged to evaluate principles solely on the basis of general considerations.11

It is assumed, then, that the parties do not know certain kinds of particular facts. First of all, no one knows his place in society, his class position or social status; nor does he know his fortune in the distribution of natural assets and abilities, his intelligence and strength, and the like. Nor, again, does anyone know his conception of the good, the particulars of his rational plan of life, or even the special features of his psychology such as his aversion to risk or liability to optimism or pessimism. More than this, I assume that the parties do not know the particular circumstances of their own society. That is, they do not know its economic or political situation, or the level of civilization and culture it has been able to achieve. The persons in the original position have no information as to which generation they belong. These broader restrictions on knowledge are appropriate in part because questions of social justice arise between generations as well as within them, for example, the question of the appropriate rate of capital saving and of the conservation of natural resources and the environment of nature. There is also, theoretically anyway, the question of a reasonable genetic policy. In these cases too, in order to carry through the idea of the original position, the parties must not know the contingencies that set them in opposition. They must choose principles the consequences of which they are prepared to live with whatever generation they turn out to belong to.

As far as possible, then, the only particular facts which the parties know is that their society is subject to the circumstances of justice and whatever this implies. It is taken for granted, however, that they know the general facts about human society. They understand political affairs and the principles of economic theory; they know the basis of social organization and the laws of human psychology. Indeed, the parties are presumed to know whatever general facts affect the choice of the principles of justice. There are

11. The veil of ignorance is so natural a condition that something like it must have occurred to many. The closest explicit statement of it known to me is found in J. C. Harsanyi, "Cardinal Utility in Welfare Economics and in the Theory of Risk-Taking," Journal of Political Economy, vol. 61 (1953). Harsanyi uses it to develop a utilitarian theory, as I discuss below in §§27–28.