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Social justice: the place of equal opportunity¹

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Introduction

Most liberals believe that equality of opportunity requires sought after occupations to be allocated to the best-qualified candidates, and institutions to be designed to ensure that everyone has fair access to qualifications. They suppose that equality of opportunity so conceived has sufficient weight that it cannot legitimately be sacrificed to promote overall welfare. Although liberals pay lip-service to this ideal of equality of opportunity and seek to enshrine it in legislation and public policy, it is hard for them to carve out the right role for it within their theories. On the one hand, they want to show that a commitment to equality of opportunity is compatible with respecting personal liberty, especially in the face of those who insist that enforcing it threatens individual rights, including the right of parents to raise their children as they see fit so long as they do not harm them. On the other hand, they want to show that equality of opportunity is an *independent* principle of justice, not simply an efficient way in most circumstances of allocating jobs and educational places that is consistent with what justice requires.

John Rawls's account of fair equality of opportunity in *A Theory of Justice* provides a good illustration of the difficulties involved here. It is a sophisticated attempt to defend the idea that equality of opportunity is an independent principle of justice, the enforcement of which takes second place to respect for individual rights. I propose to explore Rawls's account in some depth in order to bring out both its strengths and its weaknesses. I shall begin by briefly presenting, for the uninitiated, the main elements of his theory. Those already familiar with it should go straight to section 2. There I defend Rawls's principle of fair equality of opportunity against two objections, including the challenge that implementing it in full would require abolishing the family. In section 3, however, I take the offensive, maintaining that it is unable to provide a secure justification for the idea that equality of opportunity is an independent principle of justice. In the final section of the chapter I try to diagnose why contemporary theories of justice, influenced as they are by Rawls's work, have difficulty in accommodating this idea.

1 The basic elements of Rawls's theory

Let me introduce the basic elements of Rawls's theory as they were presented in *A Theory of Justice*, for it is here that Rawls gives the most sustained treatment of equality of opportunity.² He begins from the idea of society as a co-operative venture for mutual advantage. He claims that, so understood, a society requires principles of justice because it needs some way of determining how the various benefits and burdens of social co-operation should be distributed. In the face of widespread disagreement over which principles of justice should govern our major institutions, Rawls draws upon the social contract tradition in order to develop a method which he hopes can secure agreement on a particular conception of justice.

Rawls's guiding idea is that the principles which should be adopted are those which rational persons, concerned to further their own interests, would agree upon in an initial position of equality. In order to model this initial position, he employs a device he calls the veil of ignorance, behind which people are presumed to be ignorant of various facts about themselves, such as their class or status, race and wealth, and their conception of the good, i.e., their views about what is of value and importance in life. This veil of ignorance is intended to secure a kind of impartiality or neutrality: if people are in ignorance of these facts, they cannot seek to benefit themselves by arguing for principles that are congenial to, say, their class, race or conception of the good.

Although they are behind a veil of ignorance, the parties are to make certain assumptions. First, each is to assume that they have some conception of the good, even though they do not know its content. Second, each is assumed to be rational, and because they are rational they are assumed to want the means to realise their conception of the good, whatever its content. Since things like liberty and opportunity, wealth and income, and self-respect are likely to make it easier for a person to realise his own conception of the good, it is assumed that persons in the original position will want as much of them as possible. Rawls calls these the primary goods.

Rawls argues that persons in this initial or original position of equality, behind the veil of ignorance, will choose two main principles. According to the first principle, each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for all. Basic liberties include political liberty, freedom of speech and assembly, liberty of conscience and freedom of thought, freedom of the person along with the right to hold personal property and freedom from arbitrary arrest and seizure. The second principle comes in two main parts. According to it, social and economic inequalities are to be arranged so that they are open to all, which Rawls develops into the principle of fair equality of opportunity, and so that they are to the greatest benefit of the least advantaged, which he calls the difference principle. He argues that when entertaining the possibility of conflict between these principles, the parties in the original position will rank the first

principle above the second, and the principle of fair equality of opportunity above the difference principle.

Although the original position is the centrepiece of Rawls's theory as it was originally presented, he also gave a further argument for both the principle of fair equality of opportunity and the difference principle that is sometimes referred to as 'the intuitive argument'. This starts from the premise that distributive shares should not be influenced (at least in any systematic way) by factors arbitrary from the moral point of view, and concludes that the difference principle, constrained by the principle of fair equality of opportunity, is what is needed to achieve this outcome.

This is the briefest possible sketch of Rawls's theory of justice. The next two sections will explore his account of fair equality of opportunity in more depth and consider some difficulties it faces.

2 Fair equality of opportunity defended against two objections

Rawls begins his discussion of equality of opportunity by endorsing the idea that careers should be open to talents in the sense that everyone should have 'the same legal rights of access to all advantaged social positions'.³ Minimally this must imply that there should be no legislation requiring discrimination and no legislation requiring different treatment of different groups. Rawls does not say anything more to clarify the notion of 'careers open to talents' and as a result it is amenable to different interpretations. But I assume that careers would not be genuinely open to talents if selectors chose to exclude certain groups from consideration, for otherwise that would make the notion consistent with an informal system of apartheid. Even if selectors are not legally obliged to do so, they must by and large practice non-discrimination if there is to be equality of opportunity. The idea that careers should be open to talents is perhaps not equivalent to the idea that the best-qualified candidates should be selected for advantaged social positions but it is a close relative of it.⁴

Rawls argues that the principle of careers open to talents is insufficient for fair equality of opportunity by appealing to the major premise in what I referred to earlier as the intuitive argument. In his view this principle is insufficient because it permits 'distributive shares to be improperly influenced by . . . factors . . . arbitrary from a moral point of view'.⁵ He argues that a principle of fair equality of opportunity can correct for this by requiring that positions be open to all not only formally, but also in such a way that each has a fair chance of attaining them.⁶ He treats this as equivalent to the idea that 'those who are at the same level of talent and ability, and have the same willingness to use them, should have the same prospects of success regardless of their initial place in the social system, that is, irrespective of the income class into which they are born'.⁷

In order to assess Rawls's account of fair equality of opportunity, let me begin by considering two influential objections. The first objection maintains that what Rawls seeks to achieve from fair equality of opportunity – that is, equal life

chances for those similarly endowed and motivated – could be secured simply by randomly reassigning babies to different parents at birth.⁸ Indeed, as Brian Barry points out, if equality of life chances at birth were a sufficient condition for fair equality of opportunity, then a caste system which randomly reassigned babies shortly afterwards would qualify.⁹ This is surely enough to refute the idea that equality of life chances is a sufficient condition of fair equality of opportunity.

To suppose that Rawls is advocating that idea, however, is to ignore one of the two elements of fair equality of opportunity. He is clear that careers must be open to talents and that would immediately rule out a caste system. This does not wholly defeat the objection, however. There are many possible social systems in which the best-qualified candidates are appointed to advantaged social positions but where economic class, say, still strongly influences one's chances of success. According to Rawls's conception of fair equality of opportunity, it would appear that in these systems equal opportunity could be achieved simply by randomly reassigning babies at birth, and this is surely an unpalatable conclusion.

But I think Rawls can also respond to this point. His guiding idea is that people should not be systematically disadvantaged by morally arbitrary factors; that result could not be achieved simply by randomly reassigning babies at birth. If one's life chances were a function of the family to which one happened to be reassigned, they would be deeply affected by morally arbitrary factors. Fair equality of opportunity obtains only when similarly endowed and motivated individuals have an equal chance of success *because* morally arbitrary disadvantage has been avoided or received compensation.

The second objection I shall consider maintains that fair equality of opportunity can be realised only by abolishing the family and that this is an unacceptable price to pay.¹⁰ Similarly motivated and similarly endowed individuals will have unequal prospects of success so long as they experience different family environments. For example, some parents may value educational achievement, and encourage their children in this direction, while others do not. Rawls recognises this difficulty but his response to it is weak.¹¹ He moves from the claim that 'the principle of fair equality of opportunity can be only imperfectly carried out, at least as long as the institution of the family exists' to the claim that '[i]t is impossible in practice to secure equal chances of achievement . . . for those similarly endowed and motivated',¹² and from there to the conclusion that all we can do is mitigate the morally arbitrary effects of 'the natural lottery' by implementing the difference principle. But if fair equality of opportunity requires abolishing the family, Rawls needs to give us some reason for not doing so. It is not enough for him to reply that fair equality of opportunity can never be fully realised in practice, for the objection is that it could be more fully realised by abolishing the family.¹³

Does Rawls have the resources to construct a better response to the argument that fair equality of opportunity, as he understands it, would require abolishing the family? He could point out that in his theory the basic liberties take priority over fair equality of opportunity and then argue that these basic liberties entail

that people be allowed to form families. This would require him to add to his list of basic liberties, for they do not as they stand appear to justify a right to raise one's children. He could then concede that, strictly speaking, fair equality of opportunity would require abolishing the family but maintain that this is ruled out by the priority given to the (conditional) liberty to raise one's children.

This line of argument is not without difficulty, however. In his later work Rawls employs a conception of citizens as reasonable and rational, which requires them to possess two moral powers, namely, the capacity for a sense of justice, and the capacity to form and revise a conception of the good. The basic liberties are then conceived as 'essential social conditions for the adequate development and full exercise of the two powers of moral personality over a complete life'.¹⁴ Yet, as Véronique Munoz-Dardé points out, it is not obvious that a right to raise one's children, of the kind which would be required to justify something akin to the traditional family, is an essential condition for the adequate development and full exercise of the two moral powers that Rawls identifies.¹⁵ The best case which can be made here is that even if the family is not strictly an essential condition for the adequate development of these two powers, in practice over time other institutions, such as compulsory state provision of childcare of various kinds, would be likely to fare worse in developing these powers than some suitably constrained form of the family, given the dangers of vesting the state with that amount of power in the upbringing of children.¹⁶

3 The independent role of equality of opportunity in Rawls's theory of justice

In the process of answering objections to Rawls's account of fair equality of opportunity, I have argued that it needs to be understood in the context of his overall theory, and I have emphasised that it consists of two elements – the idea of careers being open to talents and the idea of equal chances of success for those with the same level of endowments and motivation to use them. Both of these points introduce difficulties of their own, however.

For a start, there are potential conflicts between the principle that careers should be open to talents and the idea that similarly endowed and motivated individuals should have equal chances of success.¹⁷ Suppose that employers tend to devalue women. As a result of discrimination women's life chances may be less good than the life chances of men with similar talents and motivation. Given the complexity of selection decisions, sexism may operate in subtle and even unintentional ways, and as a result it may be hard to detect or prevent.¹⁸ For example, it may be hard to know when gender stereotypes, such as the idea that women are less committed to their careers, are active in selection decisions. So in some circumstances the most effective means of promoting equal chances of success for similarly endowed and motivated men and women in the long term may be to enforce a quota system by means of the law. As a result, promoting equal life chances would entail abandoning the idea that equality of

opportunity requires careers to be open to talents, at least when that is understood (in the way that Rawls does) to require the same legal rights of access to advantaged social positions.

If careers being open to talents and equal life chances for the similarly endowed and motivated are *each* necessary conditions of fair equality of opportunity, it follows that in some circumstances equality of opportunity may be impossible to achieve in practice. Given Rawls's aspiration to provide us with a theory in which conflicts within and between principles are resolved by priority rules, he at least owes us an account of which of these two necessary conditions should take priority when they come into conflict. The point cuts deeper than this, however. When we reflect upon the issue of which of these two elements should take priority in Rawls's theory, it starts to become unclear why he should give the idea of careers being open to talents any independent role at all.¹⁹ What drives his account of fair equality of opportunity is the idea that the distribution of advantaged social positions should not be affected by morally arbitrary factors, and that idea is cashed out in terms of equal chances of success for those with the same level of talents and abilities and willingness to use them. But if equal chances of success for people thus situated is what really matters for fair equality of opportunity, then the idea of careers being open to talents appears to play at best a derivative role. In most circumstances holding careers open to talents may be the best means of ensuring that those with the same level of capabilities and willingness to use them have the same chances of success. But when that goal could be better realised by giving individuals different rights of access to advantaged social positions, then fair equality of opportunity would appear to require us to abandon our commitment to it.

Just as within Rawls's account of fair equality of opportunity the independence of the principle of careers open to talents is problematic, so too in his theory as a whole it is hard to justify the independent role of the account of fair equality of opportunity. Let me explain.

Recall that the difference principle says that inequalities are permissible if they are to the greatest benefit of the worst off group. The effect of giving the principle of fair equality of opportunity priority over the difference principle is to insist that equal opportunity, so understood, cannot legitimately be sacrificed for greater material benefits for the worst off group.²⁰ But why should we suppose that the principle of fair equality of opportunity ought to be ranked above the difference principle? Rawls does not explicitly present his reasoning but hints that the same line of argument which justifies giving the principle of liberty priority over the difference principle will also justify giving fair equality of opportunity priority over the difference principle.²¹

The argument he gives for the priority of liberty appeals to the device of the original position: when a person knows in the original position that society has reached a point where everyone's basic needs can be met, it is rational for him to give priority to liberty.²² It is rational for someone in the original position to assume that once his basic needs have been met, the basic liberties will be more

beneficial for pursuing his own conception of the good, whatever that turns out to be, than, say, greater wealth or income. Even if this is a good argument for the priority of liberty,²³ it is hard to see how the analogous argument in relation to opportunity is supposed to work. The original question in effect resurfaces in a new form: why is it supposed to be rationally required from the standpoint of the original position to refuse to trade off access to advantaged social positions in favour of greater wealth and income *if* the basic liberties are in place? Rawls is implicitly treating access to advantaged social positions as more important than other primary goods such as wealth and income, the distribution of which is to be governed by the difference principle. But why should we suppose that access to these positions is of such importance to justify ranking the principle of fair equality of opportunity above the difference principle in a way that disallows trade-offs?

Rawls develops his argument for the priority of liberty in a way that might seem to promise an explanation of why he thinks the principle of fair equality of opportunity should take priority over the difference principle. He argues that in a just society the basis of self-respect for all is secured by the public affirmation of equal citizenship, which requires enshrining the basic liberties in public institutions.²⁴ Might it be argued in a parallel way that the basis for self-respect for all can be secured only if the principle of fair equality of opportunity is also enshrined in society's basic institutions? It is hard to see how this position could be sustained. Rawls faces a dilemma. Either the social basis of self-respect can be secured simply by institutionalising the principle of equal liberty or it cannot. If it can, then the social basis of self-respect does not require institutionalising the principle of fair equality of opportunity. On the other hand, if the social basis of self-respect cannot be secured simply by institutionalising the principle of equal liberty, the question immediately arises of why we should think it will be best secured by enshrining the principle of fair equality of opportunity and giving it lexical priority over the difference principle. For once we have moved away from the assumption that the principle of equal liberty suffices, it is hard to see how we could justifiably rule out the possibility that the basis for the self-respect of the worst off group might sometimes be better secured by giving priority to the difference principle rather than the principle of fair equality of opportunity in matters of institutional design.²⁵ Why is access to advantaged social positions, understood in Rawls's terms, supposed to be so much more important for securing self-respect than making the worst off as well off as it is possible for them to be in terms of their share of wealth and income?

Rawls does present a further reason for thinking that access to advantaged social positions is of particular importance. He points out that they may be valuable not just as a means of securing material goods but also as a means of securing rewarding jobs and hence self-realisation:

if some places were not open on a fair basis to all, those kept out would be right in feeling unjustly treated even though they benefited from the greater efforts of those who were allowed to hold them. They would be justified in their complaint not only

because they were excluded from certain external rewards of office such as wealth and privilege, but because they were debarred from experiencing the realization of self which comes from a skilful and devoted exercise of social duties. They would be deprived of one of the main forms of human good.²⁶

The idea that access to advantaged social positions is important for this reason is plausible but it is of limited help in justifying the priority of fair equality of opportunity over the difference principle. At best it warrants the conclusion that access to these positions should be given special weight. But that could be done in two ways, neither of which requires there to be an independent principle of equality of opportunity, ranked above the difference principle. First, freedom of occupation could be treated as a basic liberty, to be protected by the first principle of justice, the principle of liberty. Second, access to advantaged social positions could be added to the list of primary goods that the difference principle is supposed to cover.²⁷

Consider the first of these suggestions. Rawls himself seems to treat freedom of occupation as a basic liberty in his more recent book *Political Liberalism*.²⁸ But he accepts that freedom of occupation can be secured without the principle of fair equality of opportunity being satisfied.²⁹ Freedom of occupation, when it is conceived as a negative liberty in Rawls's preferred way, in effect as the absence of state-directed labour, does not seem to require equal chances of success for the similarly endowed and motivated. (Nor does it seem to require careers to be open to talents, as Rawls conceives it, for there are ways of regulating access to jobs which fall short of a policy of state-directed labour but which nevertheless mean that people do not have the same legal rights of access to them. An enforced quota system of the kind described earlier would be an example.)

Consider the second proposal, that access to advantaged social positions might be included in the list of primary goods that the difference principle covers. As Rawls deploys the difference principle, it is primarily concerned with the distribution of wealth and income but there is no reason in principle why it could not be extended to cover opportunity, if opportunity (conceived as having a genuine chance of occupying advantaged social positions that enable self-realisation) were regarded as a separate primary good. In practice, of course, this would raise various difficult questions concerning the relative weight to accord to wealth, income and opportunity. But these difficulties are not resolved by insisting that opportunity is much more significant than wealth and income, which in effect is the assumption behind ranking the principle of fair equality of opportunity above the difference principle.

The difference principle, reformulated in this way, would still have implications for the distribution of advantaged social positions. If institutions are to ensure that members of the worst off group are as well off as possible (in terms of their shares of opportunity, wealth and income), these positions must be distributed in such a way that the talents and powers of individuals are utilised to good effect. Although this does not in any straightforward way imply the principle of fair equality of opportunity, it lends some limited support to it. For

designing institutions in such a way that those with the same level of talents and abilities, and willingness to use them, have the same chances of success is, in most circumstances, likely to benefit the worst off group considerably in terms of the opportunities and income and wealth they enjoy.

The suspicion that Rawls's theory lacks the resources to explain why the principle of fair equality of opportunity should be given an independent role is reinforced by considering an incoherence from which that principle appears to suffer. Rawls's move from careers open to talents to fair equality of opportunity is driven by the idea that the distribution of advantaged social positions should not be affected by factors that are arbitrary from the moral point of view. Yet fair equality of opportunity permits access to positions to be affected by natural endowments (i.e., those talents and abilities, or parts of them, which are due to one's genetic inheritance) which Rawls also accepts are arbitrary from the moral point of view. Therefore, if he is to be fully consistent it seems he must concede that fair equality of opportunity, properly thought out, requires all persons to have an equal chance of occupying advantaged social positions, irrespective of natural endowment.³⁰ If Rawls's theory were implicitly committed to the idea that advantaged social positions should be distributed in such a way that people's natural abilities have no bearing on who gets them, it would be hard to imagine a notion that is more fundamentally at odds with our intuitive understanding of equality of opportunity.

Rawls is aware of this problem. In response he seems to argue that the best solution in practice is to allow unequal natural endowments to affect access to advantaged social positions in the way the principle of fair equality of opportunity does, while adjusting the extrinsic rewards accruing to these positions so that inequalities in the distribution of these rewards are limited in accordance with the difference principle.³¹ In the context of Rawls's theory, however, this response appears flawed. It would seem that extrinsic rewards are being offered to those with less natural talent as a way of compensating them for their relative lack of access to the goods intrinsic to advantaged social positions.³² Yet surely it is precisely this kind of compensation that is supposed to be disallowed by ranking the principle of fair equality of opportunity above the difference principle. If compensation of this kind is permitted, again there seems to be no reason to give the principle of fair equality of opportunity any independent role. The opportunity to occupy advantaged social positions could be treated as a primary good, which, along with wealth and income, is to be distributed by the difference principle.

4 Can appointing the best-qualified candidates be defended as an independent principle of justice?

From within Rawls's framework it is hard to see why equality of opportunity should be given any independent role. This is a problematic conclusion which must raise doubts about the framework itself. For once we embrace this

conclusion, the justification of fair equality of opportunity, and indeed of a practice of appointing the best-qualified candidates to advantaged social positions, becomes contingent upon its role in making the worst off group as well off as possible (judged in terms of some appropriate metric which gives weight to income, wealth and opportunity). The point here is not that this way of justifying equality of opportunity will allow exceptions to the idea that the best-qualified candidates should be appointed to advantaged social positions. Exceptions to this principle may be justified, as indeed defenders of affirmative action programmes argue. The problem is rather that this principle seems to have independent weight in our thinking about justice, even if does not express a strict requirement of justice. Rawls's principle of fair equality of opportunity held open the possibility of being faithful to this deeply rooted intuition but it cannot be if we must regard it as derived using empirical premises from some suitably expanded version of the difference principle.

The difficulty Rawls faces in giving the principle that selectors should appoint the best-qualified candidates an independent role as a principle of justice arises, at least in part, because the two most obvious ways of trying to justify this principle are unavailable to Rawls, revealing the gulf between his theory and ordinary intuitions.

It is sometimes held that the best-qualified candidate for an advantaged social position *deserves* to be appointed to it, at least if there is fair access to qualifications.³³ But this kind of defence is ruled out by Rawls, for he believes that it is impracticable to reward desert. In his view people's achievements are due not only to their own efforts but also their fortunate circumstances, such as the supportive family into which they were born or their inheritance of various talents. Rawls appears to assume that people deserve to be rewarded only for their efforts; therefore tracking desert would require us to disentangle these different components which he maintains is impossible in practice.³⁴ Even if Rawls were wrong and we could disentangle the different components, the idea that the best-qualified candidates deserve to be appointed would be hard to justify if we employ his conception of desert, for a person's qualifications are due in part to factors beyond her control such as her natural endowments and social circumstances.

Other writers, such as George Sher, have tried to defend the idea that appointing the best-qualified candidates is an independent principle of justice by appealing to the notion of respect for persons as agents. He writes:

When we hire by merit, we abstract from all facts about the applicants except their ability to perform well at the relevant tasks. By thus concentrating on their ability to perform, we treat them as agents whose purposeful acts are capable of making a difference in the world . . . [S]electing by merit is a way of taking seriously the potential agency of both the successful and the unsuccessful applicants.³⁵

When someone is hired because they are the nephew of the director, or because they are members of disadvantaged groups, or when hiring them will bring

about better overall consequences for society, the potential agency of the applicants – successful or not – is ignored and they are not accorded respect as rational agents: candidates are treated ‘as mere bearers of needs or claims, as passive links in causal chains, or as interchangeable specimens of larger groups or classes’.³⁶ Sher regards this argument as grounded in the idea of desert but I think it is better conceived as appealing directly to the idea of respect for persons.

A defence of this kind (though in my view much stronger than one which appeals to the idea of desert) is unavailable to Rawls for it relies upon a contestable notion of respect for persons, which, even if it can be given more defence, will remain contentious. The idea that a theory of justice should appeal to premises which are widely shared and weak figured prominently in *A Theory of Justice*, and was reformulated in *Political Liberalism* in terms of the requirement that principles of justice should not be defended by appealing to comprehensive moral doctrines. Now Rawls supposes that the fundamental purpose of political philosophy in a democratic society is to devise a theory that could become the object of an overlapping consensus between those who subscribe to widely different comprehensive moral doctrines. Appealing abstractly to ideas of respect for persons in the way that Sher does in order to defend the appointment of the best-qualified candidates to advantaged social positions is poorly adapted to this role.

The discrepancy between, on the one hand, Rawls’s account of equality of opportunity and the role he gives it within his theory of justice and, on the other hand, our intuitions about equality of opportunity does not show that we should reject the former. But I hope that I have clarified the choice facing liberal theorists. They must either reject key elements of Rawls’s theory (such as the conception of desert he employs and his claim that it is impracticable to reward desert) or acknowledge that the idea of appointing the best-qualified candidates for advantaged social positions can be given no independent justification.

Notes

- 1 I would like to thank Richard Bellamy, John Horton and audiences at Manchester and Reading for their helpful comments.
- 2 For Rawls’s discussion of equality of opportunity, see J. Rawls, *A Theory of Justice* (Oxford, Oxford University Press, 1971), pp. 72–5, 83–90.
- 3 Rawls, *A Theory of Justice*, p. 72. Advantaged social positions include positions which are in themselves rewarding as well as those which merely carry material benefits or prestige. (This becomes important later when I consider Rawls’s argument for ranking the principle of fair equality of opportunity above the difference principle.) Some dispute is possible over exactly what is covered here but jobs of all varieties are clearly included.
- 4 For example, Rawls appears to think that to say positions are open to all means that they must be accessible to all: Rawls, *A Theory of Justice*, p. 61. But see T. Pogge, *Realizing Rawls* (Ithaca, NY, Cornell University Press, 1989), p. 165.

- 5 Rawls, *A Theory of Justice*, p. 72.
- 6 Rawls, *A Theory of Justice*, p. 73.
- 7 Rawls, *A Theory of Justice*, p. 73.
- 8 J. Fishkin, *Justice, Equal Opportunity, and the Family* (New Haven, CT, Yale University Press, 1983), p. 57.
- 9 B. Barry, 'Equal Opportunity and Moral Arbitrariness', in N. Bowie (ed.), *Equal Opportunity* (Boulder, CO, Westview Press, 1988), p. 32.
- 10 A. Flew, *The Politics of Procrustes* (London, Temple Smith, 1981), pp. 55–6.
- 11 Rawls, *A Theory of Justice*, pp. 511–12, 74.
- 12 Rawls, *A Theory of Justice*, p. 74.
- 13 See V. Munoz-Darde, 'Is the Family to be Abolished Then?', *Proceedings of the Aristotelian Society*, 72 (1998), pp. 37–55.
- 14 J. Rawls, *Political Liberalism* (New York, Columbia University Press, 1993), p. 293.
- 15 See Munoz-Darde, 'Is the Family to be Abolished Then?', p. 41.
- 16 Munoz-Darde, 'Is the Family to be Abolished Then?', pp. 48–9.
- 17 See also R. Arneson, 'Against Rawlsian Equality of Opportunity', *Philosophical Studies*, 93 (1999), p. 81.
- 18 See L.W. Sumner, 'Positive Sexism', *Social Philosophy and Policy*, 5 (1987), esp. pp. 213–14.
- 19 This issue is also explored in Arneson, 'Against Rawlsian Equality of Opportunity'.
- 20 Rawls, *A Theory of Justice*, pp. 302–3.
- 21 See Rawls, *A Theory of Justice*, p. 301.
- 22 Rawls, *A Theory of Justice*, pp. 542–3.
- 23 See H.L.A. Hart, 'Rawls on Liberty and its Priority', in N. Daniels (ed.), *Reading Rawls* (Oxford, Blackwell, 1975), esp. pp. 249–52, for some doubts about this argument. See Rawls, *Political Liberalism*, lecture VIII, esp. pp. 310–24, for Rawls's response.
- 24 See Rawls, *A Theory of Justice*, s. 82.
- 25 See Arneson, 'Against Rawlsian Equality of Opportunity', pp. 104–5.
- 26 Rawls, *A Theory of Justice*, p. 84.
- 27 See Arneson, 'Against Rawlsian Equality of Opportunity', pp. 98–9.
- 28 See Rawls, *Political Liberalism*, pp. 228, 230, 308. See also Rawls, *A Theory of Justice*, p. 275; B. Barry, *Theories of Justice: A Treatise on Social Justice, Vol. I* (Hemel Hempstead, Harvester Wheatsheaf, 1989), pp. 398–400.
- 29 Rawls, *Political Liberalism*, p. 228.
- 30 See Barr, 'Equal Opportunity and Moral Arbitrariness'.
- 31 See Rawls, *A Theory of Justice*, pp. 74–5.
- 32 Of course, offering a job to a person who lacks the natural talent or ability to secure the goods of self-development to which it allows access would be pointless. But under a Rawlsian regime of fair equality of opportunity there would be many who had the capacity to secure such goods but who failed to succeed in competitions for the positions from which they could be obtained simply because they had less natural talent than those who succeeded.
- 33 For a sophisticated recent defence of this idea, see D. Miller, *Principles of Social Justice* (Cambridge, MA, Harvard University Press, 1999), ch. 8.
- 34 See Rawls, *A Theory of Justice*, p. 312.
- 35 G. Sher, 'Qualifications, Fairness, and Desert', in N. Bowie (ed.), *Equal Opportunity* (Boulder, CO, Westview Press, 1988), pp. 119–20.

- 36 Sher, 'Qualifications, Fairness, and Desert', p. 123. Sher's approach here is an extension of one which maintains that selection for advantaged social positions should be done on the basis of relevant reasons. See B. Williams, 'The Idea of Equality', in his *Problems of the Self* (Cambridge, Cambridge University Press, 1973).