Overview of Week #2

- Distributive Justice
  The difference between corrective justice and distributive justice.
Distributive vs. Corrective Justice

- The police, courts, and prisons are part of a system of criminal justice that dispense Corrective Justice for violations of the law.
- But what about laws that establish individual rights, including property rights and contract rights, and that regulate economic and other kinds of activity. They define an institutional framework that greatly affects individual life prospects. Rawls’s idea: The institutional framework defined by laws and other basic societal institutions must treat everyone fairly. Distributive Justice is the kind of justice that applies to them.
More Overview of Week #2

- Alison Jaggar draws our attention to transnational gender disparities and the ways in which the global order exploits women’s vulnerability.
- Though Jaggar does not employ the original position, we will use it to augment her argument.
More Overview of Week #2

- In his later work, Rawls narrowed his theory of domestic justice to liberal democracies in *Political Liberalism* and articulated a different kind of theory of global justice in *The Law Of Peoples*.

- The question that we will introduce this week and continue to consider throughout the course: Did Rawls make a mistake? Should he have applied the original position to all societies, not just liberal democracies? Or, even more radically, should he have advocated a single original position for all human beings on earth?
John Rawls (1921-2002)
• Rawls's Fundamental Idea: The Idea of Society as a “Fair System of Cooperation between Free and Equal Persons” (14)

• Rawls’s account is a social contract theory of justice, because “the fair terms of social cooperation are to be given by an agreement entered into by those engaged in it” (15).
What Kind of Agreement?

• A hypothetical, not an actual agreement. Why?

• The conditions of the agreement “must not permit some to have unfair bargaining advantages over others” (15).
The Original Position and The Veil of Ignorance

“In the original position, the parties are not allowed to know the social positions or the particular comprehensive doctrines of the persons they represent. They also do not know persons’ race and ethnic group, sex, or various native endowments such as strength and intelligence, all within the normal range. We express these limits on information figuratively by saying the parties are behind a veil of ignorance”(15).
What is the Moral Significance of Hypothetical Agreement?

- Hypothetical agreements are not morally binding.

- Rawls’s Reply: The Original Position is a "device of representation" (17). It is an attempt to articulate what would be required for the terms of social cooperation to be fair.

- Its purpose is to help us to figure out what the principles of justice for our society should be.
Rawls's First Principle of Domestic Justice

- First Principle (Liberty Principle) [Liberal Democracy]: “(a) Each person has the same indefeasible claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all” (42).

- These liberties include "freedom of thought and liberty of conscience; political liberties (for example, the right to vote and participate in politics) and freedom of association, as well as the rights and liberties specified by the liberty and integrity (physical and psychological) of the person; and finally, the rights of liberties covered by the rule of law" (44).
Rawls’s Second Principle of Domestic Justice

- Second Principle (Difference Principle, with Fair Equality of Opportunity): “(b) Social and economic inequalities are to satisfy two conditions: first [Fair Equality of Opportunity], they are to be attached to offices and positions open to all under conditions of fair equality of opportunity; and second [Difference Principle], they are to be to the greatest benefit of the least advantaged members of society” (42-43).

- Note that the second principle requires no discrimination on the basis of sex, race, etc. in education and employment; and that social and economic institutions must be egalitarian, unless inequalities provide incentives that raise the level of the least well-off group.
Is There Fair Equality of Opportunity in the U.S. Today?

A. Yes

B. No

76%

24%
Is There Fair Equality of Opportunity Globally? [This one counts.]

A. Yes
B. No.
Liberal Societies

Rawls refers to societies (or peoples) based on these two principles of domestic justice (or something approximating them) as *liberal* societies (or peoples).
There are two questions that need to be addressed:

(1) Will it be a requirement of international justice that all societies be liberal (in the sense of adopting Rawls’s two principles for domestic case)?

(2) Will the principles of international justice be determined by simply extending Rawls’s original position to include as parties everyone in the world?

Rawls will ultimately answer both questions: No.
Beitz’s Global Application of the Original Position

- “Do citizens of relatively affluent countries have obligations founded on justice to share their wealth with poorer people elsewhere?” (360)

- Not simply humanitarian aid, but duties of justice?
Two Applications of a Global Original Position

(1) Ownership rights to natural resources of the earth.

(2) The distribution of the benefits and costs of international trade.
Beitz’s first argument grants, for the sake of argument, an assumption that Beitz will deny in the second argument: Rawls’s assumption of national self-sufficiency. Beitz argues that even if (contrary to fact), nations were self-sufficient and trade and other economic relations among nations were negligible, there would still be a problem of justice in the distribution of natural resources. What would the problem be?

How, in fact, do nations justify their claims to natural resources?
Beitz’s Second Argument

- Fact of International Interdependence. In fact, there are substantial international economic and trade relations among all (or almost all) the nations in the world. We need a theory of distributive justice to determine fair terms of cooperation in international trade. (The process of globalization has greatly increased this interdependence since Beitz published his article in 1975, so his second argument is even stronger now.)

- How, in fact, do nations typically attempt to justify the current distribution of benefits of trade?
Beitz believes that in an international original position there would be agreement on a *global difference principle* (378) to apply to the ownership of natural resources and to apply more generally in the interdependent world we live in.

What would this principle require?

It would at least require an institutional structure for international trade that maximized the benefits to the least well off groups from international trade. Inequalities would be justified to the extent that they motivated greater trade and, thus, greater benefits to the least well off group.
Beitz believes that once the interdependence between countries becomes great enough, the global difference principle does not simply apply to the benefits of trade. It applies generally, so that it requires maximizing the overall position of the least well off groups, not merely maximizing their benefits from trade.

Beitz calls this view “radical” (378)? Why?
Should There Be A Natural Resources Dividend?

A. Yes
B. No

67% Yes
33% No
Should Global Institutions Aim to Maximize the Position of the Least Well-Off Group?

A. Yes
B. No

81% Yes
19% No
Gendered Vulnerability and Global Gender Justice

Examples of transnational gender disparities:

- In the international economy, women often expected to do work that is unpaid, and even when they have paying jobs, they tend to work in jobs that are not unionized and that have no way to effectively bargain for reasonable working conditions and pay.

- “Other transnational gendered disparities include lower rates of political participation by women, lower literacy rates, and susceptibility to harassment and violence, particularly sexual violence”(35).
Why Are Women More Vulnerable?

(1) traditional marriage. Most women in the world are trained and educated to be wives who are dependent on their husbands for material support. This makes them vulnerable to both poverty and abuse. Domestic violence is universal.

(2) the global domestic work industry. (In 2002, maids were said to be the Philippines’ most important export.) These workers often are treated as second class citizens.
(3) the national and transnational sex industry. Sex tourism is a significant part of the economy of some countries. Sex work is often a form of slavery.

Jaggar insists that any theory of international justice must address these cycles of gendered vulnerability. The goals is to break down the institutions that trap women in these cycles and promote women’s empowerment.

Would any of these forms of discrimination against women be agreed to in a global original position?
Would These Forms of Discrimination Be Agreed to in Global OP? [This one counts]

A. Yes
B. No

96% Yes
4% No
Rawls’s Principles of Domestic Justice

Rawls’s Principles of Domestic Justice can be summarized as follows:

(1) Liberal Democracy
(2) (a) Fair Equality of Opportunity
    (b) Difference Principle (Need to justify social and economic inequalities as maximizing the level of the least well-off group)
If Rawls based his theory of international justice on an international original position in which the parties represented individuals living anywhere on earth, his theory would have been similar to, if not the same as, Beitz’s and Jaggar’s. But Rawls bases his theory of international justice on a different kind of original position—one in which the parties represent individual peoples or nations, not assumed to be liberal. Rawls includes both liberal and hierarchical societies in his theory. This leads to very different principles of international justice.
Rawls’s Principles of International Justice

1. Peoples (as organized by their governments) are free and independent and their freedom and independence is to be respected by other peoples. NOTE: This does not imply that individual citizens are free and equal, as they would be in a liberal state.

2. Peoples are equal and parties to their own agreements.

3. Peoples have the right of self-defense but no right to war.
Rawls’s Principles of International Justice

4. Peoples are to observe a duty of nonintervention.

5. Peoples are to observe treaties and undertakings.

6. Peoples are to observe certain specified restrictions on the conduct of war (assumed to be in self-defense).

7. Peoples are to honor human rights.
What Does Rawls Consider Human Rights?

“[C]ertain minimum rights to means of subsistence and security (the right to life), to liberty (freedom from slavery, serfdom, and forced occupations) and (personal) property, as well as to formal equality as expressed by the rules of natural justice (for example, that similar cases be treated similarly)”(546-547).

These are very minimal rights.
Rawls’s Principles of Domestic Justice can be summarized as follows:

(1) Liberal Democracy
(2) (a) Fair Equality of Opportunity
   (b) Difference Principle (Need to justify social and economic inequalities as maximizing the level of the least well-off group)
Rawls’s Theory of International Justice contains:

1. No requirement that states guarantee liberal or democratic rights (only Rawls’s short list of human rights).

2. (a) No requirement of fair equality of opportunity (consider the status of women).

   (b) No difference principle. No need to justify social and economic inequalities between nations (only a duty of humanitarian assistance to peoples).
Does International Justice Require:

- Fair sharing of the benefits of natural resources?
- Equity in trade relations?
- Equal treatment of all persons, regardless of sex, gender, race, ethnicity, or religion?
- That governments be democratic?
- That there be a world democracy to make international law, binding on all?
- That there be a world court to adjudicate international law, with universal jurisdiction?