MICHEAL SANDEL: Today, we turn to the question of distributive justice.
How should income and wealth and power and opportunities be distributed,
according to what principles?
John Rawls offers a detailed answer to that question, and we're going to
examine and assess his answer to that question today.
We put ourselves in a position to do so last time by trying to make sense
of why he thinks that principles of justice are best derived from a
hypothetical contract.
And what matters is that the hypothetical contract be carried out
in an original position of equality behind what Rawls
calls the veil of ignorance.
So that much is clear?
All right, then let's turn to the principles that Rawls says would be
chosen behind the veil of ignorance.
First, he considers some of the major alternatives.
What about utilitarianism?
Would the people in the original position choose to govern their
collective lives by utilitarian principles, the greatest good for the
greatest number?
No, they wouldn't Rawls says.
And the reason is that behind the veil of ignorance, everyone knows that once
the veil goes up and real life begins, we will each want to be respected,
with dignity.
Even if we turn out to be a member of a minority, we don't want to be
oppressed, and so we would agree to reject utilitarianism and instead to
adopt, as our first principle, equal basic liberties.
Fundamental rights to freedom of speech, freedom of assembly, religious
liberty, freedom of conscience, and the like.
We wouldn't want to take the chance that we would wind up as members of an
oppressed or despised minority with the majority tyrannizing over us.
And so Rawls says utilitarianism would be rejected.
Utilitarianism makes the mistake, Rawls writes, of forgetting, or at
least not taking seriously, the distinction between persons.
And in the original position behind the veil of ignorance, we would
recognize that and reject utilitarianism.

We wouldn't trade off our fundamental rights and liberties for any economic advantages.
That's the first principle.
Second principle has to do with social and economic inequalities.
What would we agree to?
Remember, we don't know whether we're going to wind up being rich or poor, healthy or unhealthy.
We don't know what kind of family we're going to come from, whether we're going to inherit millions or whether we will come from an impoverished family.
So we might, at first thought, say, well, let's require an equal distribution of income and wealth.
Just to be on the safe side.
But then we would realize that we could do better than that, even if we're unlucky and wind up at the bottom.
We could do better if we agree to a qualified principle of equality.
Rawls calls it the difference principle.
A principle that says only those social and economic inequalities will be permitted that work to the benefit of the least well off.
So we wouldn't reject all inequality of income and wealth, we would allow some, but the test would be, do they work to the benefit of everyone, including those--
or as he specifies the principle--
especially those at the bottom.
Only those inequalities would be accepted behind the veil of ignorance, and so Rawls argues, only those inequalities that work to the benefit of the least well off are just.
We talked about the examples of Michael Jordan making $31 million a year, of Bill Gates having a fortune in the 10s of billions, would those inequalities be permitted under the difference principle?
Only if they were part of a system, those wage differentials, that actually work to the advantage of the least well off.
Well, what would that system be?
Maybe it turns out that as a practical matter, you have to provide incentives to attract the right people to certain jobs, and when you do, having those people in those jobs will actually help those at the bottom.
Strictly speaking, Rawls' argument for the difference principle is that it

would be chosen behind the veil of ignorance.
Let me hear what you think about Rawls' claim that these two principles would be chosen behind the veil of ignorance.
Is there anyone who disagrees that they would be chosen?
Let's start up in the balcony, if that's all right.
Go ahead.
MIKE: OK, your argument depends upon us believing that we would argue and set policy or justice from a bottom, for the disadvantaged, and I just don't see from a proof standpoint where we've proven that.
Why not from the top?
MICHEAL SANDEL: Right, and what's your name?
MIKE: Mike.
MICHEAL SANDEL: Mike, all right.
Good question.
Put yourself behind the veil of ignorance.
Enter into the thought experiment.
What principles would you choose?
How would you think it through?
MIKE: Well, I would say things like even Harvard's existence is an example of preaching toward the top, because Harvard takes the top academics.
And I didn't know, when I was born, how smart I would be, but I worked my life to get to a place of this caliber.
Now, if you'd said Harvard's going to randomly take 1,600 people of absolutely no qualification, we'd all be saying, well, there's not much to work for.
MICHEAL SANDEL: And so what principle would you choose?
MIKE: In that situation, I would say a merit based one, where I don't necessarily know, but I'd rather have a system that more awards me based on my efforts.
MICHEAL SANDEL: So you, Mike, behind the veil of ignorance would choose a merit based system where people are rewarded according to their efforts.
All right, fair enough.
What would you say?
Go ahead.
KATE: My question is if the merit based argument is based on when everyone is at a level of equality, where from that position you're rewarded to where you get, or is it regardless of what advantages you may

have when you began your education to get where you are here?
MIKE: I think the question you're asking, if you want to look at whatever, utilitarianism, policy, whatever it is, do we want to maximize world wealth?
And I think that a system that rewards merit is the one that we pretty much all established is what is best for all of us.
Despite the fact that some of us may be in the 2nd percentile and some may be in the 98th percentile, at the end of the day, it lifts that lowest based level, a community, that rewards effort as opposed to innate differences.
KATE: I don't understand how you're rewarding someone's effort, who clearly has had--
not you, but maybe myself--
advantages throughout to get where I am here.
I mean, I can't say that somebody else who maybe worked as hard as I did, would have had the same opportunity to come to a school like this.
MICHEAL SANDEL: Let's look at that point.
What's your name?
KATE: Kate.
MICHEAL SANDEL: Kate, you suspect that the ability to get into top schools may largely depend on coming from an affluent family, having a favorable family background, social, cultural, economic, advantages, and so on?
KATE: I mean economic, but yes, social, cultural, all of those advantages for sure.
MICHEAL SANDEL: Someone did a study of the 146 selective colleges and universities in the United States, and they looked at the students in those colleges and universities to try to find out what their background was, their economic background.
What percentage do think come from the bottom quarter of the income scale?
You know what the figure is?
Only 3% of students at the most selective colleges and universities come from poor backgrounds.
Over 70% come from affluent families.
Let's go one step further then and try to address Mike's challenge.
Rawls actually has two arguments, not one, in favor of his principles of justice, and in particular, of the difference principle.
One argument is the official argument, what would be chosen behind the veil

of ignorance?
Some people challenge that argument saying, maybe people would want to take their chances.
Maybe people would be gamblers behind the veil of ignorance hoping that they would wind up on top.
That's one challenge that has been put to Rawls.
But backing up the argument from the original position is a second argument.
And that is a straightforwardly moral argument, and it goes like this.
It says the distribution of income and wealth and opportunities should not be based on factors for which people can claim no credit, it shouldn't be based on factors that are arbitrary from a moral point of view.
Rawls illustrates this by considering several rival theories of justice.
He begins with a theory of justice that most everyone these days would reject, a feudal aristocracy.
What's wrong with the allocation of life prospects in a feudal aristocracy?
Rawls says, well, the thing that's obviously wrong about it is that people's life prospects are determined by the accident of birth.
Are you born to a noble family or to the family of peasants and serfs, and that's it.
You can't rise.
It's not your doing where you wind up or what opportunities you have.
But that's arbitrary from a moral point of view.
And so that objection to a feudal aristocracy leads--
and historically has led people to say, careers should be open to talents.
There should be formal equality of opportunity, regardless of the accident of birth.
Every person should be free to strive, to work, to apply for any job in the society.
And then, if you open up jobs and you allow people to apply and to work as hard as they can, then the results are just.
So it's more or less the libertarian system that we've discussed in earlier weeks.
What does Rawls think about this?
He says it's an improvement.

It's an improvement because it doesn't take as fixed the accident of birth, but even with formal equality of opportunity, the libertarian conception doesn't extend its insight far enough.
Because if you let everybody run the race, everybody can enter the race, but some people start at different starting points, that race isn't going to be fair.
Intuitively, he says, the most obvious injustice of this system is that it permits distributive shares to be improperly influenced by factors arbitrary from a moral point of view, such as whether you've got a good education or not, whether you grew up in a family that supported you and developed in you a work ethic and gave you the opportunities.
So that suggests moving to a system of fair equality of opportunity, and that's really the system that Mike was advocating earlier on.
What we might call a merit based system, a meritocratic system.
In a fair meritocracy, the society sets up institutions to bring everyone to the same starting point before the race begins.
Equal educational opportunities, head start programs, for example, support for schools in impoverished neighborhoods, so that everyone, regardless of their family background, has a genuinely fair opportunity.
Everyone starts from the same starting line.
Well, what does Rawls think about the meritocratic system.
Even that, he says, doesn't go far enough in remedying or addressing the moral arbitrariness of the natural lottery.
Because if you bring everyone at the same starting point and begin the race, who's going to win the race?
Who would win?
To use the runner's example.
The fastest runners would win, but is it their doing that they happen to be blessed with the athletic prowess to run fast?
So Rawls says, even the principle of meritocracy, where you bring everyone to the same starting point, may eliminate the influence of social contingencies and upbringing, but it still permits the distribution of wealth and income to be determined by the natural distribution of abilities and talents.
And so he thinks that the principle of eliminating morally arbitrary influences in the distribution of income and wealth requires going beyond what Mike favors, the meritocratic system.

Now, how do you go beyond?
If you bring everyone to the same starting point, and you're still bothered by the fact that some are fast runners and some are not fast runners, what can you do?
Well, some critics of a more egalitarian conception say, the only thing you can do is handicap the fast runners.
Make them wear lead shoes, but who wants to do that?
That would defeat the whole point of running the race.
But Rawls says, you don't have to have a kind of leveling equality if you want to go beyond a meritocratic conception, you permit, you even encourage, those who may be gifted to exercise their talents, but what you do is you change the terms on which people are entitled to the fruits of the exercise of those talents.
And that really is what the difference principle is.
You establish a principle that says people may benefit from their good fortune, from their luck in the genetic lottery, but only on terms that work to the advantage of the least well off.
And so, for example, Michael Jordan can make $31 million, but only under a system that taxes away a chunk of that to help those who lack the basketball skills that he's blessed with.
Likewise, Bill Gates.
He can make his billions, but he can't think he somehow morally deserves those billions.
'"Those who have been favored by nature may gain from their good fortune but only on terms that improve the situation of those who have lost out." That's the difference principle, and it's an argument from moral arbitrariness.
Rawls claims that if you're bothered by basing distributive shares on factors arbitrary from the moral point of view, you don't just reject a feudal aristocracy for a free market.
You don't even rest content with a meritocratic system that brings everyone to the same starting point, you set up a system where everyone, including those at the bottom, benefit from the exercise of the talents held by those who happen to be lucky.
What do you think?
Is that persuasive?
Who finds that argument unpersuasive, the argument for moral arbitrariness?

Yes?
CATE: I think that in the egalitarian proposition, the more talented people, I think it's very optimistic to think that they would still work really hard, even if they knew that part of what they made would be given away, so I think that the only way for more talented people to exercise their talents to the best of their ability is in the meritocracy.
MICHEAL SANDEL: And in a meritocracy--
What's your name?
CATE: Cate.
MICHEAL SANDEL: Cate, does it bother you, and, Mike, does it bother you that in a meritocratic system, even with fair equality of opportunity, people get ahead, people get rewards that they don't deserve simply because they happen to be naturally gifted?
What about that?
CATE: I think that it is arbitrary.
And obviously, it is arbitrary, but I think that correcting for it would be detrimental.
And unlike--
MICHEAL SANDEL: Because it would reduce incentives, is that why?
CATE: --it would reduce incentives, yeah.
MICHEAL SANDEL: Mike, what do you say?
MIKE: That we're all sitting in this room, and we have undeserved glory of some sort, so you should not be satisfied with the process of your life because you have not created any of this.
And I think from a standpoint of not just this room being upset, but from a societal standpoint, we should have some kind of a gut reaction to that feeling that the guy who runs the race, he actually harms us as opposed to maybe makes me run that last 10 yards faster, and that makes the guy behind me run 10 yards faster, and the guy behind him 10 yards faster, and so--
MICHEAL SANDEL: All right, so, Mike, let me ask you, you talked about effort before.
Effort.
You think when people work hard to get ahead and succeed that they deserve the rewards that go with effort.
Isn't that the idea behind your defense?
MIKE: Of course.

Bring Michael Jordan here.
I'm sure you can get him, and have him come and defend himself about why he makes $31 million, and I think what you're going to realize is his life was a very, very tough one to get to the top.
And that we are basically being the majority oppressing the minority in a different light.
It's very easy to pick on him.
MICHEAL SANDEL: All right, effort.
You've got--
You've persuaded--
MIKE: I've got a few but that's about it.
MICHEAL SANDEL: Effort.
You know what Rawls answer to that is?
Even the effort that some people expend, conscientious driving, the work ethic, even effort depends a lot on fortunate family circumstances through which you, we, can claim no credit.
Now, let's do the test.
Let's do a test here.
Never mind economic class.
Those differences are very significant.
Put those aside.
Psychologists say that birth order makes a lot of difference in work ethic, striving, effort.
How many here--
raise your hand-- those of you here, who are first in birth order.
I am too, by the way.
Mike, I noticed you raised your hand.
If the case for the meritocratic conception is that effort should be rewarded, doesn't Rawls have a point that even effort, striving, work ethic, is largely shaped even by birth order.
Is it your doing?
Mike, is it your doing that you were first in birth order?
Then why, Rawls says--
of course not.
So why should income and wealth and opportunities in life be based on factors arbitrary from a moral point of view?
That's a challenge that he puts to market societies, but also to those of

us at places like this.

A question to think about for next time.