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Poverty and Social Justice: A Critique in the Rawlsian Tradition

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Abstract: Poverty is a key issue for social justice and goes to the very heart of the concept of justice. Since poverty is a direct consequence of injustice, it also underscores the primacy of social injustice for the concept of social justice. In classical approaches, evident from Plato through to John Rawls, the concept of 'justice' is always construed in logical or 'etymological' comparison to the concept of injustice. The idea of distribution of wealth and services lies at the base of the genesis of equity and equality as the main focus of social justice. Poverty exists at record-high levels in absolute terms, disproportionately affecting the most marginalised groups in societies underscoring the presence of injustice across the world. The issue of distributive justice has an inherent importance in the wake of various forms of distributive injustice like world poverty, hunger and other manifest deprivations. Does distributive justice imply absence of poverty and inequality? If social justice is construed as a notion in contrast to the injustice in a society, it should value equitable treatment of people and their rights and a fair allocation of available goods and resources without being constrained or facilitated by the considerations of gender, ethnicity, belief, political affiliation, social status, or other individual and social distinctions. As a consequence, its application in the political and economic domains also denotes realignment of rights and distribution and redistribution of goods and resources from the advantaged to the disadvantaged. A fair allocation of resources as the goal of distributive justice, therefore, takes into account the diversity of community members, the total amount of goods available as well as the procedure and pattern of distribution.

Keywords: Social Injustice, Poverty, Distributive Justice, Moral Values, Political Philosophy.

Introduction

The concept of justice as the general idea, in the normative sense, has always been defined in relation to equity and fairness. As an empirical reality, however, different political philosophers may have different conceptions of justice. There can, therefore, be a variety of conceptualizations as is obvious from Tom Campbell's conventional theoretical framework (Campbell, 1988). David Miller has explained Campbell's position by referring to justice as one of the many social values that unifies legal and social aspects and ensures the benefits and harms to the deserving individuals (Miller 1991). It is not surprising that justice is now variously conceived in relation to fairness, desert, equality and inequality, liberty, entitlement, human rights, etc. Similarly, Sarah Williams Holtman's conceptualization of justice as abstraction, idealisation and utopianism (Holtman 2003) and Michael J. Sandel approaches to justice as Utilitarian, Libertarian and Idealistic (Sandel 2010) testifies to the fact that none of the formulations is final. Unlike Miller, Schmidtz seems to favour a monistic concept of justice by defining it as "to argue about justice is to argue what people are due" (Schmidtz 2006, 8). The concept of justice is defined by Rawls in terms of "a proper balance between competing claims from a conception of justice as a set of related principles for identifying the relevant considerations that determine this balance" (Rawls 1999, 9). For him, the concept of justice is "the role of its principles in assigning rights and duties and in defining the appropriate division of social justice" while a "conception of justice is an interpretation of this role"(Rawls 1999, 9). Rawls conception of justice as fairness and his embryonic constructivism (appearing in his later works) are said to provide not only a general principle of convergence but also grounds to relate different concepts and conceptions of justice.

As pointed out above, social justice includes the connotation of fairness and mutual obligation in a society and the implication that individuals have responsibilities towards one another and shall also have equal chances of success in life if a society fails to provide equal distribution of chances, some kind of redistribution is surely called

for. John Rawls, one of the most influential thinkers on social justice, argues for a balance between social equality and individual freedom. However, social equality and individual freedom are frequently seen as in tension, and a perfect balance is seldom considered achievable. The contested nature of the issue persuades David Miller to come up with a pluralistic and circumstantial account of context driven social justice having multiple sources and a wide range of justifications (Miller 2003, 62-63). Social justice is, hence, defined on the basis of lived experience and empirical evidence of people's considered judgments.

Miller has earlier suggested, "The subject matter of justice (is) the manner in which benefits and burdens are distributed among men whose qualities and relationships can be investigated" (Miller 1979, 19). He goes on to describe a just distribution as that in which each individual has exactly those benefits and burdens which are due to him. Thus, social justice also refers to the distribution of advantages and disadvantages in a society and how public and private resources are allocated by social institutions. Miller (2003, 22) also asserts that "justice fundamentally requires us to treat people as equals; or we should understand justice as what people would agree to in advance of knowing their own stake in the decision to be reached. Social justice efforts can not merely be rationalizations of self-interest (Miller, 2003, 87). For him, the concept of social justice is much broader than distributive justice or retributive justice. Though Miller also incorporates equality of civil, political and social rights in his idea of social justice, the meaning of social justice is actually much broader. Generally speaking, one may like to link social justice with fairness and mutual obligation in a society: that we are responsible for one another, and that we should ensure that all have equal chances to succeed in life. More specifically, it should also take into account distributive, interactional and procedural aspects of justice.

The fact that it is the presence of social injustice that necessitates the need for social justice is significant for poverty and social justice debate. As Vittorio Bufacchi quite cogently states:

“Reversing the relationship between social justice and social injustice has major implications for the way we approach some of the key issues in moral and political philosophy. Above all, it means that social injustice is primary, while social justice is derivative. The implication here is that before we can say anything meaningful about social justice, it imperative to have a clear idea of what social injustice is, and why social injustice is the paramount social problem to be resolved” (Bufacchi 2012, 3).

The empirical, psychological, moral and political ramifications of this reversal are quite obvious. Bufacchi goes on to delineate the three dimensions of social injustice, i.e. as maldistribution, exclusion and disempowerment (2010, 6-15). When these three parameters of injustice are taken into account a more comprehensive treatment of the relationship between poverty and social justice becomes possible as inequality, relative and absolute poverty, deprivation, discrimination, exploitation, social exclusion and human rights violation are viewed in the light of the prevailing injustice in a society. Poverty, indeed, is a critical and a central problem for consideration by political philosophy and justice is one of the most important moral and political concepts combining what is morally right” and is disposed to “giving everyone his or her due,” and offering the word “fair” as a synonym. But, such concept only arise and comprehended in their full meaning if one also understands why “everyone is not given his due” along with its synonym “unfair.” It is in this backdrop that one may associate justice with creation of an egalitarian society based on equity and human rights and that also recognizes the equality and dignity of all human beings irrespective of caste, colour and creed.

The Western philosophical tradition, from Plato down to Hobbes and Mill, has generally regarded justice as the most fundamental of all virtues for ordering interpersonal relations and establishing and maintaining a stable political society. In more recent years, social justice has emerged as a concept largely influenced by the thinking and research undertaken by Rawls and Robert Nozick. They are two

of the most important and influential political thinkers in the Anglo-American analytic school of philosophy. Rawls's *Theory of Justice* (1971), a systematic thesis in defence of egalitarian liberalism, and Nozick's *Anarchy, State and Utopia*, a forceful defence of free-market libertarianism, are credited with having ignited the revival of social and political philosophy in the analytic tradition. Schmidt is quite categorical in asserting that "The agenda for current philosophical work on justice was set in the 1970s by John Rawls and Robert Nozick" (Schmidtz 2005, 148). Similarly, Fried (2005) makes the striking observation that Nozick's *Anarchy, State and Utopia* is not "only the central text for all contemporary academic discussions of libertarianism; together with Rawls's *A Theory of Justice* (1971), it also arguably framed the landscape of academic political philosophy in the last decades of the twentieth century" (Fried 2005, 221). Nozick's writings are also said to have greatly impacted the academic discourse on distributive justice (Vallentyne, Steiner & Otsuka, 2005; Dworkin, 2003).

The State of Nature and the Social Contract Theory

Initially, the contemporary theory of social justice has followed upon the old theory of natural justice and is set in the backdrop of modern social contract theory and natural rights espoused by Thomas Hobbes, John Locke, Jean Jacques Rousseau and Immanuel Kant. Social contract theory, though nearly as old as philosophy itself has, in the early modern period, viewed people's moral and political obligations as dependent upon a contract between them to form a society. The paradigmatic concept of the "Original Position" used by Rawls may very well refer us back to the "state of nature" here and can serve as a point of departure to comprehend the complex idea of social justice. The state of nature is a concept used in social contract theories to denote the hypothetical conditions of what the lives of people might have been like prior to the establishment of organised societies. The state of nature portrays a picture of man as he originally happened to be, devoid of convention and concerned with preserving his own life, motivated to enter a contract with society solely because his life is threatened.

Referring to the pre-political condition of humanity, Hobbes characterises the state of nature scenario with resource scarcity and a competition driven by self-interest, a constant state of war continual fear, a danger of violent death and a “solitary, poor, nasty, brutish, and short” life. (2010, p. 9). Though Locke’s version of the state of nature is much less horrible, he admits it to be more liable to lead to a state of war than a political society. Locke holds quite a different position compared to Hobbes. He believes that we could live in a State of Nature, and life would be possible even without the government. The state of nature for Locke is a state of complete freedom, a state of equality regulated by the Law of Nature. Breaking the law of nature invites punishment and harming others is allowed in the process of self-defence. As explained by Locke “Each Transgression may be punished to that degree, and with so much Severity as will suffice to make it an ill bargain to the Offender , give him cause to repent, and terrifying others from doing the like” (Locke 1993, 176). Rousseau, while agreeing with his predecessors in so far as they focused self-preservation as the main drive in a state of nature, emphasises the power of compassion or *pity*, “an innate repugnance at seeing a fellow creature suffer” that acts as a barrier against harming others. (Rousseau 1993, 73). Against Hobbes' idea of man as naturally wicked, he thinks that men are neither good nor bad, but generally peaceful. Rousseau considered our original state of nature that of self-sufficiency and independence. He sees man declining from a state of independence to one where we depend too much on others. Hobbes believes that we must work from our original state of independence to a better state of interdependence with the sovereign guiding and commanding us. Rousseau, on the contrary, believes that civilization and progress have somehow polluted the goodness which was reigning in the state of nature. “God makes all things good; man meddles with them and they become evil” (Rousseau 1993a, 5). These are the grounds on which he took the idea of social contract further and built his idea of popular sovereignty claiming that the will of the people as a whole gives power and direction to the state.

As for the moral condition of a person in the state of nature and his rights and duties, for Hobbes there is no room for morality, because in a State of Nature there is no space for the Unjust. The natural right of liberty, somehow, justifies everything. Locke, however, brings in a moral dimension by advocating a clear duty not to harm others. Liberty is the freedom to do what is permitted. In a state of nature there are a number of rights to be secured and for Locke the most important is the private property. As for the Law of Nature, both Locke and Hobbes agree that the concept of law implies a law enforcer. Obviously, morality does not exist in a state of nature or in a natural state without government in the same sense it exists within the constraints of an organised state. Understandably, therefore, the social contract tradition is averse to an externally imposed moral authority by God, or by state or even by family and seems to view morality as emerging from an initial consensual consent. There are, indeed, fears that morality of the initial agreement may be vitiated by coercion, propaganda, and family or group influence, etc. Prejudiced decisions could only provide a feeble base for morality. This is the reason why social contract philosophers deliberate seriously about what people might accept if they are not influenced by dominating institutional practices, power structures and ingrained collective habits. It is justified that one should consider what people would accept if they deliberate from a privileged position rather than what they actually accept. The state of nature or the original position is such a vantage point from which it is possible to decide what moral principles people would accept if they were not influenced by social conditions. Ostensibly, this is not the actual state of affairs but a philosophically hypothetical position that rules out an internalised moral position of one's own and aims at a neutral moral stance unsullied by any extraneous element. Social contract also, therefore, is not an actual agreement but a hypothetical one made from the vantage point of complete neutrality.

The social contract theory provides for the people in the state of nature an agreement that defines the basic rights and obligations of people in the civil dispensation of a society. Political obligation,

therefore, could only be comprehended if we conceptualise the state of affairs before societies were organised under lawful governments. This would better enable us to appreciate the reasons why people were motivated to form organised societies and the principles that led from a pre-political condition to an established society. There are, therefore, three distinctive elements essential for the social contract tradition: (i) the pre-political scenario; (ii) the political order that prevailed just as people emerged out of the pre-political condition, and (iii) the present flawed world order. Because of the inherent connection between the three elements, there are implications for what is just and fair in the present circumstance as well as the grounds for critically evaluating or justifying the existing state of affairs.

Generally linked to the liberal tradition in Western political theory, the social contract theory assumes freedom and equality for all and the ensuing rights for those entering into a contract. The concept formulated on the metaphorical grounds of a state of nature assigns political legitimacy to naturally free and equal citizens to exercise power only according to the principle of mutual consent. An attractive justification of political power reconciling the freedom and equality of each citizen and the state power, the social contract theory has the potential to be generalised to the level of relations beyond people to the one among states. For the legitimacy of the state, leading figures like Hobbes, Locke and Rousseau have indeed been credited with furnishing ideas like institutionalised power, the authority figure and the general will respectively. Political and moral obligations, therefore, depend on a contract among people to form a society. The social contract theory, no doubt, has dominated the history of modern Western moral and political thought. Later thinkers like Kant and Rawls, however, played a crucial role in applying it in the international domain. In fact, Rawls and Nozick, two of the most eminent US political philosophers of the late twentieth century are also the most prominent heirs to the social contract tradition.

John Rawls and a Theory of Justice

John Rawls emerged on the twentieth-century political philosophy scene with a series of influential publications that helped revive interest in the social contract theory that lay dormant under the impact of criticism by Hume and utilitarian thinkers. Hume dubbed it as a convenient fiction and talks about the farce of sovereign authority, contending that consent “has very seldom had a place in any degree and never almost in its full extent. And that therefore some other foundation of government must also be admitted” (2006, 460). For Locke, the most significant exponent of philosophical liberalism, consent is not necessarily a prerequisite for a pre-existing state of nature while Hobbes' version is more of a reaction to the threat posed by the natural condition. How can political obligation, political legitimacy and political authority be derived from such an artificially contrived consensual agreement of free and equal people. The pejorative comment made by Oakeshott (1975, 25) seems appropriate that the social contract is a doctrine of “will and artifice.”

Rawls's Kantian version of social contract is said to have led to Rawls's epoch-making work *A Theory of Justice* (1971), though only scant direct influence is discernible in the initial drafts made in the 1950s and 1960s. Relying on a Kantian understanding of persons as free, equal rational agents with autonomy, Rawls assigns a person the capacity to reason from a universal point of view. Consequently, a person is said to have the particular moral capacity of judging principles from the vantage point of impartiality. The revised version of *A Theory of Justice* articulated and defended a comprehensive formulation of egalitarian liberalism rejuvenating the social contract tradition in the 20th century. Kant's influence on Rawls is most pronounced after the later incorporated several essays in *A Theory of Justice* leading up to a political shift (1980) visible as he published “Justice as Fairness: Political Not Metaphysical” (1985) and the Idea of an overlapping Consensus” (1987). This is the time termed by Taylor as “The maximal Kantian influence as Rawls's Kantian period” (2011, 4). During the period, a deep Kantian influence can be traced in some of the main Rawlsian ideas as is evident in his ‘priority

of right over the good', the Kantian theory of constructivism, the distinction between the Reasonable and the Rational in Political Liberalism, the rejection of the world state and the idea of a 'realistic Utopia,' etc. It was during the fag end of his career that Rawls tried to apply his theory of justice to international relations in the book entitled *The Law of Peoples*.

Rawls, primarily known for his theory of justice as fairness, tries to formulate basic principles of justice to govern a modern social order. The main thrust of his version of social contract is "justice as fairness" and is incorporated in *A Theory of Justice* and goes beyond the bounds of legitimacy of political authority of the social contract theory Locke and Hobbes argued for. He superimposed his position by a thought experiment positing a hypothetical position called the Original Position along with an epistemological characterization termed as the Veil of Ignorance and his view, later, grew into what he called 'political liberalism.' Rawls clearly explains how these principles of justice as fairness work in *A Theory of Justice*:

"In justice as fairness the original position of equality corresponds to the state of nature in the traditional theory of the social contract. This original position is not, of course, thought of as an actual historical state of affairs, much less as a primitive condition of culture. It is understood as a purely hypothetical situation characterised so as to lead to a certain conception of justice. Among the essential features of this situation is that no one knows that no one knows his place in society, his class position or social status, nor does anyone know his fortune in the distribution of natural assets and abilities, his intelligence, strength, and the like. I shall even assume that the parties do not know their conception of the good or their special psychological propensities. The principles of justice are chosen behind a veil of ignorance. This ensures that no one is advantaged or disadvantaged in the choice of principles by the outcome of natural chance or the contingency of social circumstances" (Rawls 1999, 11).

Rawls's use of the hypothetical model of agreement is deliberate so that the decision made by the hypothetical may be treated as philosophically pure. With a rich description of the imaginary people, their decisions could be construed as morally good meeting basic requirements of fair and unbiased selection. Unlike the traditional consent based idea of social contract that emerges from the standpoint held by Hobbes, Locke and Rousseau, Rawls clearly asserts his predilection for its hypothetical nature as conceived by Kant. In recent years, the term *consent* has tended to be replaced by *agreement* and the focus of political philosophy has been shifted from individual obligation to social or public morality. Rawls, however, makes it predominantly a matter of deliberative justification. The choice of the "rational persons in the initial situation" is, for him, to settle the question of justification ... by working out a problem of deliberation" (1999, 16). It is, then, a matter of converting the justificatory problem into a deliberative problem. Justification of a social agreement requires all rational agents agreeing to the arrangement. But, justificatory criteria can only be met if the reasons of the citizens differ, yet they deliberately agree to endorse an arrangement. The crux of the matter resides in Rawls's concept of reasonable pluralism as it obtains in a society of disagreeing rational, honest and thoughtful individuals where he believed it to be the natural "outcome of the free exercise of human reason under conditions of liberty" (Rawls 1996, 144). The disagreement among rational individuals takes place on conceptual, evidential and social grounds. Reasonable pluralism is a term coined by Rawls in his later works when he revised the conception of justice laid out in detail in *A Theory of Justice*. In *Political Liberalism* (1996), he openly admits that reasonable pluralism has been a significant omission in the earlier version of his theory of justice. Rawls uses the term to denote the fact of a plurality of reasonable, though irreconcilable, moral, religious, or philosophical doctrines in his comprehensive liberal doctrine that advocates moral autonomy in both public and private domains.

Reliance on the hypothetical model of agreement is the second important aspect of contemporary social contract theory. An impartial

abstraction, like Kant's categorical imperative, and Rousseau's general will, it also exemplifies representation of a moral point of view. For Rawls as well the social contract is not an actual or historical contract. For him, the questions of justification are not to be settled by actually eliciting the response and the attitude towards existing social arrangements but by answering the question: *Would* these arrangements be the object of an agreement if citizens were asked?" His claim that people *would agree* to such principles under certain specific conditions is challenged by Dworkin who asserted that: "A hypothetical contract is not simply a pale form of an actual contract; it is no contract at all my hypothetical agreement does not count as a reason for enforcing the rules against me, as my actual agreement would have". (Dworkin 1975, 17-18). Dworkin thinks that the purpose purported to have been served by the device of hypothetical agreement might as well have been served without it and the position can be justified independently of it. That is the reason why this device is often dubbed as 'metaphorical' or 'heuristic" (Scanlon 1976, 17; Morris 1988). Notwithstanding this obvious flaw in the practical deployment of abstract contract theory, while O'Neill defends her interpretation of the Kantian ethics, she raises some serious objections against the hypothetical consent:

"If treating others requires only hypothetical rational consent, we may . . . find ourselves overriding the actual dissent of others, coercing them in the name of higher and more rational selves who will consent to what is proposed. Other difficulties with this strategy arise from the varied conceptions of rationality invoked. Many conceptions of rationality presuppose a given set of desires. If these are the actual desires of the consenter, appeal to hypothetical consent will not overcome the worry that a consensus may be iniquitous or reflect local ideology. Yet if there is no appeal to the consenter's actual desires, but only to some hypothetical set of rationally structured desires, then the theory may be too weak to determine what would rationally be consented to" (O'Neill 1985, 257-258).

The fears expressed by O'Neill cannot be rejected as baseless. What will happen if we refuse to agree with what Rawls has to say? Would then justice have to be sought in an even greater degree of dissent? Let us see the following statement in *A Theory of Justice*:

“The consistent application of the principle of fair opportunity requires us to view persons independently from the influences of their social position. But how far should this tendency be carried? It seems that even when fair opportunity . . . is satisfied, the family will lead to unequal chances between individuals. Is the family to be abolished then? Taken by itself and given a certain primacy, the idea of equal opportunity inclines in this direction. But within the context of the theory of justice as a whole, there is much less urgency to take this course” (Rawls 1999, 447-448).

Rawls seems to be of the opinion that the relevance or otherwise of the actual people's dissent or consent may not matter at all. What matters is whether the fully rational would consent or not. Rawls tries to skirt around the problem by allowing us to imagine real people in deliberation while considering the original position. The problem can be avoided in case it is not imaginable, and the family can be abolished. O'Neill's criticism is, it may be noted, motivated by her desire, in Kantian fashion, to rule out the role of passions and desires in any possible consent:

“When we see morally required actions as those to which others either actually or hypothetically consent, we implicitly view morality as partly contingent on desires. Another actual consent will usually reflect his or her wants or preferences on which a rational ordering is hypothetically imposed. Yet it seems implausible that treating others as persons can be of *prime* moral importance if it amounts only to avoiding what they do not want or would not rationally want. In a moral theory in which wants are basic, the notion of treating others as persons carry no independent weight. In Kantian terms we might say that the notion of a person doesn't matter in a heteronomous moral theory. If wants or rationalised

preferences are morally fundamental, consent is of derivative concern” (O’Neill 1985, 260-261).

The insightful comment by Onora O’Neill happens to make a significant distinction between Kant and Rawls. It appears that Rawls parts company with Kant here and tries to look for a middle ground between utilitarianism and deontology within the precincts of social contract theory (Rawls 1999a). As pointed out by Weber, “Rawls’s approach to STC seeks a middle ground between utilitarians and deontologists (between those focusing on individual liberties, happiness or wants, and those focused on duty and law)” (Weber 2007, 59). Rawls, like Kant, grounds his conception of justice on categorical imperative. On the other hand, Kant depends on reason to justify consent as against Rawls reliance on legitimacy. It may also be clarified that otherwise too Rawls wanted to emphasise the priority of his concept of justice as compared to utilitarianism. His argument, generally, intends to show the inadequacy of utilitarianism if the social contract apparatus of the Original Position and the Veil of Ignorance are not incorporated. He further expresses his dissatisfaction with the unconcern shown by utilitarianism with how welfare is distributed over the population. But, then the onus is on Rawls to provide, other than utilitarianism, a satisfactory alternative account of social justice.

Principles of Justice

Rawls has applied the artificial device of the so-called *Original Position* to develop his principles of justice, fair to all and formulated from behind the *Veil of Ignorance* hoping that all would adopt a *maximin* strategy to maximise the prospects of the least well off. Aimed at solving the problem of socially just distribution of goods in a society (Distributive Justice), the two principles are developed as the *liberty principle* and the *difference principle*. Rawls’s first statement of the two principles, in order of priority, reads as follows:

First: each person is to have an equal right to the most extensive scheme of basic liberties compatible with a similar scheme of liberties for others.

Second, social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all. (Rawls 1999, 53).

Now, Rawls is facing specific questions about how to specify basic rights and liberties and how to regulate social and economic inequalities across the entire life of people. He was concerned about what would be democratic society under historical conditions. He did not want to posit a utopian vision of justice; rather he wanted to offer a "realistically utopian" theory of social justice in the context of a political philosophy that probes "the limits of the practicable political possibility." (Rawls 2001, 4). Searching for the answers to these questions, Rawls proposes to restate the two principles of justice proffered in *A Theory of Justice*:

Each person has the same inalienable claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all; and Social and economic inequalities are to satisfy two conditions: first, they are to be attached to offices and positions open to all under conditions of fair equality of opportunity; and second, they are to be to the greatest benefit of the least-advantaged members of society (the difference principle) (Rawls 2001, 42-43).

The restated principles of justice provide, as should be expected, a more careful articulation and reformulation in terms of maximum equal basic liberties for all and equal distribution of social and economic goods. Justice demands provision of such liberties conditional to the equal distribution of goods thus precluding the situation where such liberties are distributed in unequal measure. The lexical priority of the first principle is intended to justify placing limits (if any) on basic liberties only if it is intended to enhance other basic liberties. The second principle, besides ensuring equality of economic and social opportunity, also guarantees that the inequalities would only be admissible if these are to the advantage of everyone. The last condition representing a strongly egalitarian conception is what is famously known as "the difference principle," the notion that

a socio-economic difference separating one member of society from others must be beneficial to all, including the one on the lowest rung. The second part, called “fair equality of opportunity,” requires that socio-economic advantages must be connected to positions in the society to which all members would have an equal access. The prioritisation of the principles of justice suggests that, to Rawls, equality is the most important element of social justice. Rawls has given reasons for such an ordering of the two parts of the second principle:

“This priority means . . . that the second principle (which includes the difference principle as one part) is always to be applied within a setting of background institutions that satisfy the requirements of the first principle (including the requirement of securing the fair value of the political liberties), as by definition they will in a well-ordered society. The fair value of the political liberties ensures that citizens similarly gifted and motivated have roughly an equal chance of influencing the government's policy and of attaining positions of authority irrespective of their economic and social class. . . .” (Rawls 2001, 46-47).

The priority assigned by Rawls to “fair opportunity as prior to the difference principle,” has come under criticism on egalitarian grounds, though it can be justified because he was trying to formulate a mixed conception of justice. It is interesting to note that Rawls entire theory of ‘Justice as Fairness’ was criticised by libertarians such as Nozick. If strict egalitarianism were to be treated as the paradigm principle of distributive justice calling for the allocation of equal material goods to all citizens, the Rawlsian alternative was the Difference Principle which allowed divergence from strict equality only when the inequalities in question would make the least advantaged in society materially better off than they would be under strict equality. Though equality or fair distribution gets precedence in importance in Rawls’ ordering of his principles of justice, the difference principle is the culmination and conclusion of Rawls’ thought experiment where from behind the veil of ignorance, one would like an equal division of all resources among all positions in a

society without knowing which position one would want to occupy. The only justification for inequality would be if such an inequality permits the poorest members of society to be better off. While the thought experiment may be employed as a paradigm on political legitimacy in the context of a liberal, democratic philosophy, the difference principle may become the key device for distributive justice.

Distributive Justice and Poverty

The idea of distribution of wealth and services lies at the base of the genesis of equity and equality as the main focus of social justice. Originating with the natural law and culminating in the modern concept of rights, it is a struggle for socially just distribution of goods. Poverty exists at record-high levels in absolute terms, disproportionately affecting the most marginalised groups in societies underscoring the presence of injustice across the world. The issue of distributive justice has an inherent importance in the wake of various forms of distributive injustice like world poverty, hunger and other manifest deprivations. Does distributive justice imply absence of poverty and inequality? If social justice is construed as a notion in contrast to the injustice in a society, it should value equitable treatment of people and their rights and a fair allocation of available goods and resources without being constrained or facilitated by the considerations of gender, ethnicity, belief, political affiliation, social status, or other individual and social distinctions. It is, therefore, natural to find social justice being increasingly characterised by equating it with the concepts of liberty, equality and equal opportunity in a society. As a consequence, its application in the political and economic domains also denotes realignment of rights and distribution and redistribution of goods and resources from the advantaged to the dis-advantaged. A fair allocation of resources as the goal of distributive justice, therefore, takes into account the diversity of community members, the total amount of goods available as well as the procedure and pattern of distribution. Rawls has focused this equitable distribution of resources very early in his *Theory of Justice*:

For us the primary subject of justice is the basic structure of society . . . the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation. By major institutions I understand the political constitution and the principal economic and social arrangements. . . .The basic structure is the primary subject of justice because its effects are so profound and present from the start. The intuitive notion here is that this structure contains various social positions and that men born into different positions have different expectations of life determined, in part, by the political system as well as by economic and social circumstances. In this way the institutions of society favour certain starting places over others...” (Rawls 1999, 6-7).

Is it, then, a question of rules and procedures that make the distribution fair and just or the final outcome of such a distribution? What if a sense of injustice arises in a state of relative deprivation when people feel that others are at an unfair advantage and a fair share is denied to the others? This is very much likely to happen in case of those whose basic needs are not fulfilled and when there is a wide gulf between the "haves" and the "have-nots." Is it, then, a matter of luck that one's social status, and family influences should influence the amount of benefits one receives in life. If the main goal of Rawls is to establish a just state, the relationship between poverty and justice assumes becomes a matter of fundamental importance. Even if the goods available are to be distributed in a reasonable manner, the question of what constitutes a "fair share" remains a disputed one. Rawls provides a rather weak and a negative account in his discussion of distributive justice by introducing the concept of “luck” and the metaphor of social and natural lotteries of which a revealing overview has been given by Knight and Stemplowska (2011, 2-9). The underlying idea is that every person's starting point in society is the outcome of a social lottery (the political, social, and economic circumstances into which each person is born) and a natural lottery (the biological potentials each person is born with). Rawls says that the outcome of each of a person's social and natural lottery is, like the

outcomes of ordinary lotteries, a matter of good or bad “fortune” or “luck” (Rawls 1999, 64). Hence, since one cannot possibly merit, or deserve, an outcome of this kind, people's starting positions cannot be justified by appeal to merit or desert. But, how can Rawls reconcile it with his idea of natural liberty in which formal equality of opportunity is maintained so far as all have at least the same legal rights to all advantaged social positions.” But, the question is: how it can be construed as just when it permits distributive shares to be improperly influenced by the outcomes of the social and natural lottery.

The negativity of Rawls position, in this regard, is considerably diminished when the concept luck is understood sans its egalitarian overtones. One may look at Rawls characterization of natural talent as a matter of luck in a more positive light if their distribution is regarded as a “common asset and to share in the benefits of this distribution whatever it turns out to be,” meaning thereby that those “who have been favoured by nature, whoever they are, may gain from their good fortune only on terms that improve the situation of those who have lost out. The naturally advantaged are not to gain merely because they are more gifted. . . Thus we are led to the difference principle if we wish to set up the social system so that no one gains or loses from his arbitrary place in the distribution of natural assets or his initial position in society without giving or receiving compensating advantages in return” (Rawls 1999, 87). This line of argument, however, provides Rawls only half a solution to his problem. The principle regulating distributive equality, though taking the paradoxical form of permitting inequalities, nevertheless remains essentially egalitarian as the difference principle does because it treats inequalities between parties as acceptable only under a social arrangement that is most beneficial for the worst off.

The distributive principle in Rawls’ scheme of things does not assign a fundamental status or value of moral determinants to merit, deservingness and responsibility: “Even the willingness to make an effort, to try, and so to be deserving in the ordinary sense is itself dependent upon happy family and social circumstances” (Rawls 1999,

64) because “the effort a person is willing to make is influenced by his natural abilities and skills and the alternatives open to him” (Rawls 1999, 274). Rawls’s standpoint does not seem to have been motivated by a hard determinist thesis that everything has a pre-existing cause or causes that determine it to be what it is, since human beings exist in nature, human acts and choices are as determined as anything else in the world, that human actions are events, and that being determined in this sense people cannot be held morally responsible for their actions. The epistemic claim that Rawls seems to have made here is unlikely to furnish reliable grounds to assert to what extent an individual is genuinely morally responsible for the outcomes of his actions. Neither can we hope to have the requisite information at the institutional level to make reliable global judgments so as to implement a feasible project of justice based on deservingness. Strangely enough, Rawls withdraws the role of the individual agency and responsibility at the same time refusing to allow setting up of institutions for rewarding the deserving.

Rawls linking of responsibility with his account of primary goods has come under a lot of adverse criticism for its inconsistency and implausibility in the wake of interest in the role of responsibility shown during the last decade of the 20th century by the liberal-egalitarian tradition. While considerable doubt has been raised on the selection of primary goods as the distributive justice matrix, a lot of attention has been directed on formulating a suitable notion of responsibility (Richard Arneson 1989, G. A. Cohen 1989, Ronald Dworkin 2000). Anderson (1999), Scheffler (2003) and others have made a clear distinction between choice of individuals’ distributive shares for which they are responsible and the compensation for the disadvantaged as per their undeserved circumstances thus making an invaluable contribution to Rawls’ unfinished account of responsibility.

Much of the negative criticism levelled against Rawls, however, evaporates if we distinguish between distributive equality as a necessary implication of the foundational moral commitments of a

theory of justice (as well as directly derived distributive equality) and *indirectly derived distributive equality* where we cannot automatically infer any injustice from distributive inequality. Rawls' theory, if construed as only indirectly derived distributive equality, takes him largely out of the above brand of criticism while at the same time making his account of responsibility less problematic. As has already been mentioned, primary goods can only form part of a matrix in an egalitarian dispensation from the particular context of Rawlsian constitutional democracy as the basic structure of society or the way in which the main political and social institutions of society fit together into one system of social cooperation regulated by the original position from behind the veil of ignorance in a lexicographic order. (Rawls 2001, 42-43). The indirect model of the theory of distributive equality emphasises the Rawlsian thesis that the specific social context underscores the specific egalitarian metric made relevant by the context and to be applied within that context. This is in clear contrast to Peter Singer's direct theorising in terms of maximising utilitarianism in the tradition of Jeremy Bentham while refusing to allow contextualization to enter into his scheme of things (2005). Starting with a principle of equal consideration of interests (Singer 1993) and understood in terms of utilitarian well-being, the immediate distributive implications for him are maximising well-being rather than equalising it. Singer's account of well-being and its distribution is not driven by a specific political or social context; on the other hand it is largely an argument against allocating such a relevance to the specific context.

Rawls's idea of basic structure of society, conceived as a constitutional democracy, views distributive justice as issuing forth in the joint relationship of social cooperation. The original position, acting as a non-historical, heuristic device, is intended to uncover fundamental ideas (latent in common sense) of freedom and equality, of ideal social cooperation and of the person in search of a deep basis of agreement among people like us to how our society should be organised (Rawls 1980, 519). If the device is to be used every time a good is to be divided, the parties to the original position will be

limited to those subjects to the coercive control of the political power of the state because a respectable treatment will be contingent upon whether the individuals share a coercive or a cooperative structure. Simultaneously with this and distinct from his concept of political justice in his *Theory of Justice*, Rawls explains political power in conjunction with the well-known “liberal principle of legitimacy”, claiming it to be “fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason” (Rawls 1996, 136-137). Rawls's heavy dependence, in his later writings, on the notion of “reasons that all can accept” is quite remarkable: “our exercise of political power is proper only when we ... reasonably think that other citizens might also reasonably accept those reasons” (Rawls 1999a, 579). The principle of legitimacy as part of Rawls's account of public reason in pluralist societies has a limited though controversial purpose of answering the question of reasonable pluralism.

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