

Contemporary discourse on justice: By John Rawls.

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Abstract:

The Concept of justice is a contestable term. The meaning of the concept evolved historically. Different thinkers defined differently across time and space. In the 19th and early 20th Century within the liberal framework, the utilitarian concept of justice enjoyed wider acceptance. The utilitarian theory of justice holds that a just action or Law is one that maximizes happiness and wellbeing for the greatest number of the people. Prof. John Rawls in the classic work "A theory of justice" a book published in 1971 brought out the inconsistency between the doctrine of social contracts and the utilitarianism. He rejected the utilitarian theory of justice because the theory to him does not take into consideration the consent of every individual means to achieve the aggregate happiness for all. Alternatively, Rawls suggested a theory of justice which he described as a theory of pure procedural justice. He evolved a unique methodology in theorizing his theory of justice i.e. the concept of "veil of ignorance". According to Rawls, the veil of ignorance denotes a pre-societal stage, wherein the individuals do not have knowledge of their self-interest, their source of goods and the ways and means by which their interest may be advanced. At original position, each individual would agree to place himself/herself in the least advantageous position, recommending the criteria in allocating certain rights and liberties, opportunities, power, income and wealth. Thus in the original position behind the veil of ignorance, by a free contract, the theory of justice is agreed upon by individuals. This theory of justice is laid upon the two principles and the process by which the two principles are chosen is a fair process. The first of two principles is the principle of liberty. Deals with the basic liberties of individuals. The second principle of equality having both the provision of equal and unequal distribution of goods in the society. Justice according to Rawls, is the first virtue of social institutions. When these two principles of justice are applied in the basic structure of society, it results in a just society order. Justice is the first virtue of social institutions not the property of individuals.

Key Words: Justice, Social contract utilitarian, moral pluralism, procedural justice, distribution Justice, Veil of ignorance, Primary goods, lexical order

The concept of Justice has been an issue of debate since the days of Plato. The meaning of the concept has never been static. The concept evolved historically. Various thinkers defined it differently. Beginning with the ancient Greek period, according to Sophists, Justice, implies the interest of the stronger. Plato said, Justice means harmonious functioning of the three classes in a society. To Aristotle, justice implies treating equals equally, and unequals unequally..

In medieval times, St. Augustine, explained justice, as relation between man and god from which right relations between man and man follow. In modern time, the social contractual theorist Hobbes. defined justice "working according to law. John Locke described it as right distribution of goods. To Bentham, justice is working in time with law and the chief object of the law is to achieve the greatest happiness of the greatest members.

In the 19th and early 20th century, within the liberal individualist tradition, the utilitarian concept was undoubtedly the most popular. Herein the concept of justice is aggregative. It is noted that of social justice as none of these traditions aim at the collective interests of Individual or for solving their social problems and raising their social standards.

A very important contribution to the contemporary Liberal theory was made by Prof. John Rawls, in his monumental work. "A theory of justice" (1971)

Within the liberal school of thought, Rawls has tried to explain the dichotomy between the doctrines of social contracts and utilitarianism. He upheld the former, particularly from its methodological standpoint.

Samuel Goravith in his essay "John Rawls: 'A theory of justice' published in the book 'Contemporary political philosophers'". argues that the basic objective of Rawls is to provide a coherent theoretical foundations for the conception of justice that can be offered in Opposition to the utilitarian point of view that has been dominant since Jeremy Bentham.

Rawls starts with an elaborate analysis of the principle of utilitarianism. The principle of utility, according to him does not take into account the consent of every individual in the society. Rawls argues that it is based on the prime ground of supporting the interest of only those who are able to Exploit the resources of the State. He rejected the most famous doctrine of the age on the ground of fairness.

Justice according to the Rawls is the first virtue of social institution. He makes it clear that the principle of justice is mainly concerned with the basic structure of the society, not the property of the Individuals. According to this view (Human co-operation makes life better). There is a conflict of interest since persons are not indifferent as to how the great benefits produced by their collaboration are distributed (Background of moral pluralism in us) and makes distinction between public and private sphere.

The problem of justice consists in ensuring a just distribution of primary goods which includes rights and liberties, power and wealth, means of self respect and so on. The distribution of such goods in a just society will depend on the principle of justice reflected in the system of rights, laws processes and positions that constitute the society as functioning political entity. Rawls in this way has described his theory as theory of pure procedural justice. It means that once certain principles of justice are unanimously accepted. The distribution resulting from their application be just. The merit of Rawls theory of justice lies in the fact that he has not only brought out inconsistencies of the utilitarian concept of justice but he has advanced an alternative moral prescriptive and critical theory.

Rawls has evolved a unique methodology for arriving at an unanimous procedure of justice. He takes recourse to the contractual theory and presuppose a stage in which Individual live before a social order based on the principle of justice is established. He calls this stage as original position in which "veil of ignorance" prevails. The term ensures that the Individual in original position have no knowledge of their self interest, their sources of good and even the ways and means by which their interest may be advanced and led to discrimination in the society. But the individuals have the general information about the existing principle of justice and its defects. In these circumstances, they are obliged to evaluate every principle solely on the basis of general considerations:-in the words of Rawls "No one knows his place in society, his class position, or social status, nor does he know his fortune in the distribution of natural assets and abilities, his strength and intelligence and the likewise nor does anyone know his conception of good, the particulars of his rational plan of life, or even the special features of psychology such as his aversion to the risk or liability or optimism or pessimism i.e. no one knows who they are or what they will be in the" future society".

However, it is taken for granted that they know general facts about human society. They understand political affairs and the principal of economic theory, they know the basis of social organization and the laws of human psychology.

Each individual wants to promote his or her interest but are unable to distinguish them from anyone else. They are self-interested, not egoistic. They chose the least dangerous path in such a state of uncertainty.

In other words, each individual will hypothetically place himself/herself in the least disadvantageous position, recommending the criteria in allocating primary goods—certain rights and liberties, opportunities and power, income and wealth, and self-respect—which will in the true with the advancement of the least advantaged.

Lastly Rawls argues that the negotiators are free in the original position to consider any and all principles provided they ensure at the conception of justice as fairness. It was probably this contractarian aspect of Rawls' theory which made the greatest impact wherein the theory first became known. It came to them as a real surprise even, a revelation that contractarian thought might be put to contemporary use.

Thus, in the original position behind the “veil of ignorance”, by way of contract, the theory of justice is agreed upon. This theory of justice rests on the two principles and the process by which the two principles are chosen is a fair process.

The first of the two principles is the principle of liberty—it deals with the basic liberties of individuals. This principle posulates that nobody's liberty shall be sacrificed for the sake of any other's benefit. These liberties are the rights of individuals—such as the right to freedom, assembly, property and political rights. Before making other principles to be fulfilled, we should confirm ourselves that the first principle is achieved and called it priority principle (Maxima).

Rawls' second principle is the principle of equality, having both the provision of equal distribution and the unequal distribution. Rawls says that the fruits of the basic structure of the society must be equally distributed among the citizens and the position and the office of the institution must be equally open to all.

He further says that there should be fair equality of opportunities to all members of society. The inequality provision of the distribution principle stresses that inequality of income, power, opportunities and service of the basic institutions is permitted provided it is for the benefit of the least advantaged class of the society. In other words a special reward for extra-ordinary ability and effort of any individual can be granted as just only if it results in the greatest benefit of the least advantaged.

However, it is to be borne in mind that Rawls' principles are presented in a lexical order which means that they come in order of priority—he stipulates two priority rules to make clear the respective importance of the various elements in two principles. The first priority rule establishes the priority of liberty, allowing liberty to be restricted only for the sake of liberty.

The first principle must be satisfied before the second is invoked. The second priority rule establishes the priority of justice over efficiency and welfare. Secondly within the second principle, the principle of fair equality of opportunity takes priority over the principle of greatest benefit to the least advantaged (also known as difference principle).

To Rawls,

“All social primary goods—liberty and opportunity, income and wealth and the basis of self-respect—are to be distributed equally unless an unequal distribution of any or all of these goods is to the advantage of the least favoured.”

Having identified the two principles of justice, Rawls in part-II of his book provides a substantive implication of adopting these principles by describing a basic structure which satisfies them.

Justice according to Rawls is the first virtue of social institutions. When these two principles of justice are applied to the basic structure of society it results in a just social order arrangements and it may be such that it is able to convince people to sacrifice their personal interest for the poor class of the society.

In its practical aspect, this type of social order Rawls find in a democratic society.

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