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THE VEIL OF IGNORANCE IN JOHN RAWLS PHILOSOPHY: A CRITICAL EVALUATION

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Abstract

Man as a social being wants and appreciates a society that gives room for effective coexistence and this is found in a just society. In his theory of justice, John Rawls opines that the principles of social justice are the fundamental requirements of a just society. For him a well-ordered society is one that has accepted the principles of justice. For there to be fairness the representing parties must remove the possibility of bias in the selection of the principles and act as if they were behind the veil of ignorance. Acting behind the "Veil of Ignorance" means acting from the original position hence, the principle of social justice can be achieved. John Rawls advocates that acting behind the veil of ignorant would ensure justice in the society. This paper aims at exposing John Rawls' veil of ignorance as a means of entrenching social justice in human society and recommends Rawl's theory of justice for a just society. An expository –evaluative method is used to drive home this point.

Keywords: Duties, Equality, Equity, Ignorance, Rights, Social Justice, Veil, Veil of Ignorance.

Introduction

The idea of justice lies at the heart of moral and political philosophy. It is a necessary virtue of individuals in their interactions with others and one of the principal virtues of social institutions. Hence, Thomas Aquinas as quoted by Rawls (1972:3) says that justice is the first virtue of social institutions. The notion of justice is based on the fundamental equality of all men. To this end, Omoregbe, (1993: 112) points out that all men should be treated equally since they are fundamentally equal because this is what justice means. Plato, in the Republic sees justice as a fundamental principle of society and to think of a society presupposes the concept of justice. This is because justice is the standard and rule of actions for a man living in the society. According to Nwoko, (2006:19), Plato conceives of justice as the soul of the state. He opines that an ideal state has to be a just state. Justice in this light, is a permanent quality and attribute of the human soul. According to him, justice has three elements, one consisting of raw appetites another consisting of drives (such as anger and ambition) and a

third consisting of thought or intellect. Plato maintains that in the virtuous or just person, each of these three elements fulfills its own unique function under the governance of reason. Moore and Bruder, (2001: 266). In the ideal or just society, each fulfills his unique function in accordance with the dictates of reason. Hence, justice in the state refers to a situation where the three social classes (Rulers, Warriors and Producers) perform their duties without interfering with the functions of the others. Mukherjee and Ramaswamy, (1991: 71). In a nutshell, Plato's concept of justice describes a society where the citizens know what belongs to them and what they ought to do.

Aristotle sees justice as a complete virtue, though not absolute, it is in relation to one's neighbor. For him, the social character of virtue is universal justice or lawfulness. Both Plato and Aristotle believe that the primary task of the state is to ensure justice. Mukherjee and Ramaswamy, (1991: 71). Aristotle however, distinguishes between distributive and corrective justice. While the former suggests that offices and wealth, rewards and dues are distributed among different social classes according to their contributions based on merit and in line with the constitution, corrective justice is meted out by a judge in matters like contract or criminal law, in which case, the demands of the law is considered in place of the merit of the person. Hence, Aristotle's justice implies that all men should be treated equally before the law, since equality is the basic principle of social justice. Finally, Aristotle says that a citizen is one who shares in the administration of justice. Aristotle, trans by Sinclair (1981: 1252 & 22). Aquinas in his *Summa Theologiae* (11-11-58) sees justice as the firm and constant will to give to everyone his due. The proper matter of justice consists of the things that have to do with our relationship with one another. This means that justice serves as a guiding principle in man's relationship with one another. He says that justice means rendering to each his right; Aquinas distinguishes between particular justice and general justice. While particular justice refers to one's relation to particular individuals, general justice refers to one's relations to others in general, like members of a community.

Thomas Hobbes conceives justice in relation to the sovereign. He opines that men perform their covenants as made, hence justice is seen as keeping covenants. Fear and self-interest are two fundamental motivations which need to be tempered and controlled by an omnipotent sovereign power, therefore, the presence of a sovereign separates a state of nature from a political society. The social contract was made to ensure that no one tramples on anyone. To this end, a just man is one who understands and lives out the principles of the contract. Justice for Hobbes therefore means fidelity to the social contract. For John Locke, justice means man living his life in the society with the fear of God in him, since he is created by God and belongs to God. Man must respect the inalienable natural rights and duties of every person. Therefore, justice implies performing one's duty to preserve life. Moore and Bruder, (2001:161) Jean-Jacque Rousseau's idea of Justice is deeply rooted in his social contract theory. He considers two major stages of man's political development: the state of nature and the state of civil society. According to him, the social contract led to the formation of civil society, where man substitutes justice for his instincts in his conduct, follows some morality and allows duty and rights their place, Hüssel, (1970:3).

Immanuel Kant in his *Metaphysics of Morals* presents his view that "every action which by itself or by its maxim enables the freedom of each individual's will to coexist with the freedom of everyone else in accordance with a universal law is right" Nozic, (1974, IX). He also adduces that the "categorical imperative" is synthetic and a priori, deducing its character from the concept of law Irele, (1993:28). Edmund Husserl proposes an understanding of justice within the same context of Rawls' veil of ignorance. He advocates

for a universal phenomenology of consciousness that studies the structures that are the same for every consciousness, by developing a transcendental phenomenology whose purpose it is to investigate phenomena without making any assumption about the world by 'bracketing' or 'excluding' one's presupposition about the existence, which he called "phenomenological epoche". Pettit (1980:180), scrutinizes the three accounts of social justice: the proprietarian justice, the utilitarian account of justice and the contractarian account of justice and find them wanting. He concludes that the student of justice should concern himself with the questions about the nature of human needs. Justice for him therefore means being concerned about the needs of man that can improve his condition of living in the society. The missing gap however, is that none of the literature reviewed clearly and succinctly explain how justice can be achieved. Putting together all their principle, it appears that justice may not be truly entrenched.

The Veil of Ignorance and the Principles of Justice in John Rawls

Who is John Rawls?

John Rawls was an American Professor of Political Philosophy (1921: 2002). He believed that rational people would adopt his principles of justice unanimously if their reasoning is based on general considerations without knowing anything about their own personal situation. Such personal knowledge might tempt them to select principles of justice that may give them unfair advantage like rigging the rules of the game. Rawls refers to this kind of reasoning without personal biases as the "veil of ignorance". The questions that come to mind here are: how far did Rawls succeed with this veil of ignorance? What is its practicality? What is the rationale behind the veil of ignorance? John Rawls proposes a new society in which everybody will be involved in the development of the society. No member of the society knows what he is going to become until the principle which will be determined by the people will determine the distribution of rights, duties, privileges and the entire good of the society. Before these principles are made, the representing parties are placed behind a "veil of ignorance". This "veil of ignorance" is the absence of bias and personal sentiments, geared towards ensuring justice and fairness in the society.

This paper sets out to evaluate some of the issues raised by Rawls with regards to the "veil of ignorance" John Rawls as a member of the social contract tradition presents his original position before stating his conception of justice, by using the idea to present the characteristic features of the people. This position according to him is the initial situation of human beings which refers to the point where human beings in their natural state are with their sense of morality and reason, first find themselves in a condition of fair equality and choice, Rawls (1972:120). The people in the original position live in the atmosphere of fairness and equality in their relationship with one another and it seems reasonable to suppose that the parties in the original position are equal. This is because all had the same right in the procedure for choosing principles, each making proposals, submit reasons for acceptance and so on. Rawls also presents the hypothetical original position as a thought experiment to replace the imagery of a savage "state of nature" of philosophers like Thomas Hobbes. In social contract theory, persons in the state of nature agree to the provisions of a civil society. In Rawls's theory, the original position plays the role that the state of nature does in the classical social contract tradition of Thomas Hobbes, Jean Jacques Rousseau and John Locke. In the state of nature it might be argued that certain persons would be able to coerce others by virtue of the fact that the stronger and more talented would fare better than in the state of nature. This coercion is sometimes thought to invalidate any contractual arrangement occurring in the state of nature. Rawls, (1972:19)

In the original position, Rawls adduced that representatives of citizens are placed behind 'a veil of ignorance', depriving the representatives of information about the individuating characteristics of the citizens they represent', Rawls (1972:119). Hence, the parties representing the people would be ignorant of the talents and abilities, ethnicity and gender, religion or belief system of the citizens they represent. This is the original position, the people are ignorant of their abilities and so do not exhibit any partisan interest in reaching any decision. Though, they are rational, Rawls placed them behind the veil of ignorance. According to Omoregbe, (1993: 267), the people are ignorant about the positions one is to occupy, what profession or career is going to be or what each is going to become in the society until the society is determined and people are going to choose the principles themselves. Rawls maintains that these principles are chosen from behind the "veil of ignorance" and once this is done, the representative parties are acting from the original position. However, Rawls posited that the people knew that they have the capacity to develop and act in accordance with the concept of the good and a sense of justice. This implies that the parties possess the qualities of a moral person. Being aware of this, any decision they arrive at, despite any constraints will be just to everyone. Recognizing that social institution distort our views, Rawls saw the need for a justificatory device that would give a critical distance from them by using the original position to obtain critical leverage (<https://www2025>). Rawls, therefore concludes that those in the original position would all adopt a maximum strategy which would maximize the position of the least well off. It is important to note that the agreement that stems from the original position is both hypothetical and non-historical because the principles to be derived are what the parties would under certain legitimate conditions, agree to not what they have agreed to. It is non-historical because it is not supposed that the agreement has ever or indeed could actually be entered into as a matter of fact.

The Notion and Practicability of the Veil

Rawls avers that the idea of the original position is to set up a fair procedure so that any principle agreed to will be just, whose aim is to use the notion of procedural justice as a basis of his theory. A just society for him is one that has accepted the principles of social justice which assigns rights and duties to every member of the society. But to arrive at these principles of social justice, the parties in the original position must act from behind the veil of ignorance, whose aim is to present principles that will guide man in his relationship with others and the principles are selected without personal sentiment or bias. Rawls, (1972:136). He says that people will unanimously adopt the principle of justice if their reasoning is based on general considerations without knowing anything about their own personal situation, because personal knowledge of their situation would affect their judgement. Hence, the procedure of reasoning without personal biases is what Rawls calls the "Veil of Ignorance" Rawls, (1972:136). This veil blinds people to all facts about themselves that might becloud what notion of justice is developed, because this veil at the end leads to principles which are fair to all. The necessity of the veil of ignorance is to ensure justice and fairness to all the careers, professions, or positions in the new society. For instance, if a particular person knows what his career in the society is going to be, he will be biased; he will choose the principles that will favor that career, but since one does not know, one will choose the principle that will be fair to all. Rawls believes that once the principles have been chosen and the veil of ignorance is removed, so that everybody knows his career, his profession, and his position in the new society, the principle cannot be changed. Omoregbe, (1993:268).

The Principles of Justice

Rawls believes that justice as fairness is offered to people who are neither saintly, altruists, greedy, nor egoistic, since human beings are both rational and reasonable. This means that human beings have ends they want to achieve and are happy to achieve them if they can, in accord with mutually acceptable regulative principles. But given how different the needs and aspirations of mankind often are, how can they find principles that could be accepted by all? Rawls presents a model of a fair situation for making this choice. He concludes that the two principles of justice would be especially attractive.

- i. **The First Principle:** each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others.
- ii. **The Second Principle:** social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be everyone's advantage and (b) attached to positions and offices open to all. Rawls, (1972:60). While the first principle of justice is called the equal liberty principle, the second part (A) is called the difference or maximum principle and part (B) called the principle of efficiency.

Rawls's principles allow for inequality in wealth and position, provided the opportunity of attaining high positions is equally open to all. The first principle is egalitarian; the 'A' part of the second principle makes benefits for some proportionate to their contribution towards benefiting the least advantaged persons, whereas the 'B' part of the second principle is egalitarian, since it distributes opportunities to be considered for offices and positions in an equal manner.

The Principle of Fairness

Apart from the principles for institutions, Rawls advocates for the principle of fairness. He says that this principle can be used to account for all requirements that are obligations as distinct from natural duties. Rawls, (1972:181). There are two parts to this principle of fairness: the first states that institutions must be just, while the second characterizes the voluntary acts. The first part formulates the conditions necessary for this voluntary act to give rise to obligations. The principle of fairness holds that man is not bound to unjust institutions, or at least institutions which exceed the limits of tolerable injustice. In conclusion, Rawls opined that once a society has been organized around a set of fair rules, people can set about freely playing the game without interference. Consequently, a society that adopts the principle of fairness will experience tremendous development.

Evaluation

Rawls' theory of justice came in response to classical utilitarianism. This is because utilitarianism failed to secure a fair distribution which intuitively everyone wishes to see realized in every political system. Rawls presents the original position from where the representative parties will select the principles that will be fair for everybody in their daily activities. However, He fails to consider the problems that may emerge from his idea of the original position. He feels that everybody will be satisfied with the principles selected from the original position. But one of the problems is this: will there not be some people who may not be satisfied with the decisions or principles arrived at? Where then is the sense of justice in this case? This may lead to the problem of subjectivity in the sense that the representative parties may see their decision as justice, while some members of the society may see it as injustice because they are not satisfied for their own personal reasons. If the people in the original position are deprived by the "Veil of Ignorance", of information about the particular

person or persons they represent, how can they provide solutions that can be relevant to them? Rawls fails to understand that for one to provide a solution to a particular situation, one should be well-acquainted with the environment - the problem or needs of the people - otherwise, one may be suggesting or presenting principles that may not be relevant to the people.

Rawls' original position is a utopic society because such a society does not exist. He merely uses it to establish a standing theory from which justice can be derived. There has never been a time when people came together to decide what they should do by contract in an egalitarian society. Egalitarianism, which Rawls presents, is good, but it has some factors militating against its perfect execution, it goes against the natural tendencies of individuals, because most people would not like to be equal with their neighbors, since everybody strives to be better than others. Andem, (1993:95), Fukuyama, (1992:289), corroborated this by saying that human beings are inherently unequal, and to treat them as equals is not to affirm but to deny their humanity. Hence, human transcendence and instability will not succumb to strict egalitarianism. Rawls did not highlight the possible problems that could impede the selection of fair principles in the original position. The first problem is that there are cases where not all the parties are equally competent to make use of the information available to them in the formation or implementation of the principles of justice. Also, there are cases where the ability of the parties to contribute to the corporate venture they are structuring may differ in ways that also contribute to inequality in their bargaining power. Difference in character traits of the parties may also be an obstacle to recognition of the fairness of the distribution effected by agreement freely concluded on the basis of adequate information about the implications of competing schemes. Macleod, (1984:712).

On the notion and practicability of the veil, Rawls says that once the veil has been removed, the principles cannot be changed. This creates the problem of absolutism. Since human beings are transcendental and the society is dynamic, there is the possibility that the principles that work today may not work tomorrow. Hence, any principle derived from the original position should not have an absolute character. On the rationality of the parties, we should know that to place self-interested rational persons behind the veil of ignorance is a hectic task. As long as they are rational, it implies reason and knowledge. Self-interested rational persons behind the so-called veil of ignorance may not act without any prior knowledge. This prior knowledge may not be unfair, but the application is what matters, hence, prior knowledge of good and evil may enable them initiate principles that may lead to appreciation of good and avoidance of evil in the society. Rawls fails to understand that the veil of ignorance is not a thinking machine that wipes away man's prior knowledge, rather, it is a situation where the representative parties are encouraged to put their prior knowledge and personal biases aside for a better outcome. Rawls insists that the principles must be chosen from the original position for them to be fair and advantageous to all in the society. However, the questions are: is it possible for everyone to be satisfied with the principles that will be selected from the original position? Are the representative parties the totality of the people? Will some people's views not differ? How fair would these imagined principles be? Will this not amount to injustice? If an unfair or unjust act that is to everyone's advantage is justified, then Rawls will fall into the same error of the theory of "the end justifies the means" the problem of utility which he intended to correct in his theory.

Rawls' principle of fairness implies that man has an obligation to the rules of an institution, especially when it is just or fair. However, he does not solve the problem that will accrue from this idea if one is not cautious. The idea implies that once there is fairness in the

society, people can go about freely exercising their rights without any interference. The problem here is that there may be the possibility of the abuse of rights and freedom. Rawls should have known that for an effective social cooperation, there must be lawful interference of man's rights and freedom. This interference is the moderation of man's exercise of his rights for the sake of the rights of others. From a Marxist perspective, Rawls' theory appears as an apology for the status quo, because it contrasts justice from existing and forecloses the possibility of injustice embedded in capitalist social relations, private property or the market economy. From the feminist perspective, criticism of Rawls is largely focused on the extent to which his theory could account for injustice and hierarchies embedded in familiar relations. Rawls argues that justice ought only to apply to the "basic structure of society". From the feminist point of view, he falls into the problem of not accounting for the injustice found in patriarchal social relations and the sexual divisions of labor.

Conclusion

Rawls tried to envisage a just society which will accept the principle of distributive justice as its basis of development. For the principles to be fair, it must be chosen from the original position and from behind the "veil of ignorance". This veil of ignorance is the absence of bias and personal prejudice. The veil of ignorance is like something which stops one from learning the truth about something important. Therefore, if "veil" and the "veil of ignorance" are accepted as they have been defined, the principles of justice that are important in social cooperation cannot be selected from behind the veil of ignorance. Despite the problem inherent here, Rawls' idea of the veil of ignorance as a means of selecting the principle of social justice has its implication in the contemporary society. It means the absence of biases, personal prejudices, tribal and sexual sentiments, partiality, and discrimination with "honesty" as a means of achieving justice. This is because honesty would inspire people to apply the golden rule that says, do to no one what you would not want done to you." This principle should be the basis of distributive or social justice in a social cooperation. This can be effectively realized not from behind the "veil of ignorance" as Rawls proposes, but from the idea of honesty and sincerity of action. The aim of Rawls' theory is the good of everyone in the society, making sure that everybody is given a fair treatment based on the fundamental equality of man. This should be the concern of every government that wants its society to develop. The society should not encourage discrimination or unfair distribution of goods and social justice. Rawls tries to solve the problem of distributive justice as seen in utilitarianism and proposes that of fairness. Hence, his principle of justice is necessary for social cooperation and nation building, though the idea of the "veil" needs to be modified because it is a hindrance. The veil may be substituted with honesty as a means of achieving justice. This is because honesty would inspire people to apply the golden rule that says, "Do unto others what you would have them do unto you." This principle should be the basis of distributive or social justice in a social cooperation. This can be effectively realized not from behind the veil of ignorance as proposed by Rawls, but from the idea of honesty and sincerity of action."

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