

A Critique of John Rawls' Social Justice Theory and the Fate of Nigeria's Politics in the 21st-Century and Beyond

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Abstract

In the present, one of the major problems plaguing the Nigerian society is that of social justice. And great thinkers from time immemorial have attempted to discuss the meaning of and the need for social justice in a society like Nigeria. But recently, a contemporary American social and political thinker, John Rawls, is his advocacy for social justice, is very vocal in the need and eventual formation of the social theory concept. Thus, this paper attempts to give a philosophical critique of Rawls' conception and the necessity of the application of his social justice theory in the Nigerian political landscape. This work does not intend to present Rawls' position as the most logical, perfect social and political arguments in the consideration of social justice. But it intends to point out some defects about Rawls' social justice. But the main consideration shall be on the need and relevance of it to the Nigerian nation. In this way, it shall effectively point to the evils that can accompany its negligence.

Keywords: Social Justice, Political Stability, Social Freedom, and Rawls' Theory.

1. Introduction

Ever since the publication of *A Theory of Justice* in 1971, John Rawls (1921-2002), an American philosopher, educator and a foremost contemporary social and political thinker, has not ceased to attract the admiration of many. This is because he is widely regarded to have worked out a sound theory of social justice with his "justice as fairness" principle. It is a truism that Rawls' social theory like most philosophies came because of the challenge of the time. This is to say that in 1863, John Stuart Mill wrote *Utilitarianism* to defend the principle of the greatest possible result of the greatest number. However, when John Rawls came in contact with Mill's *Utilitarianism*, he read it and equally underscored some defects embedded in Mill's utilitarian principles. Thus, Rawls wrote *A Theory of Justice* as an attack on Mill's classical utilitarianism. In it, Rawls attempts to solve the problem of social justice (John, 1999: 353). In doing this, Rawls (1971:17) maintains that "many kinds of things are said to be just ...; for us the primary object of justice is the basic structure of the society".

Rawls' (1971:4) through his social cum veil theory, ardently holds the belief that his philosophy provides a way of assigning rights and duties in the basic institutions of the society as well as defining the appropriate distribution of the benefits and burdens of social cooperation.

2. A Historical Survey of the Notion of Justice

In this write-up, historical survey of the notion of justice shall be considered under three major compartments, namely: Justice in pre-Socratic, Socratic and post-Socratic periods. The probably reason for these divisions is to enable us have a clear picture of justice.

2.1 Justice in Pre-Socratic Era

The way we conceive of justice today is definitely not the same way thinkers conceived it in the past. This explains why in spite of Anaximander's preoccupation with cosmology, he saw there was injustice in nature when and wherever the primary elements (that is, water, earth, fire and air) were in conflict since by this conflict; each element invaded the domain of another. Omoregbe (1991:4) observes that "the conflict among various elements was interpreted by Anaximander as an example of injustice in nature.

Although Anaximander's idea seems fairly clear, the cosmological wave with which it comes makes it at variance with our understanding of justice. Anaximander was thus concerned with cosmic justice. Therefore, as the concern of philosophy shifted from cosmological to man with the introduction of sophism, justice was not left out. In this manner, justice had to move from being a cosmological concern to becoming an ethical issue. This change is so obvious that whenever one mentions "justice" today, we no longer think of fire, earth, water and air as Anaximander would. What this portends is that everyone, both individually and institutionally, tends to search out if he/she is in line with justice, especially in the political ambience.

Another ancient thinker, Heraclitus, was famous in antiquity for his doctrine that everything is in a state of flux. Heraclitus declares: "we must know that war is common to all and strife is justice" (Russell, 1979:60). That war is common to all cannot be denied. The prevalence of armed hostilities both in developed and developing nations attests to this fact. This however does not suggest in any way that we should fold our hands in vain satisfaction with the state of affairs. But can strife which begets hate, destruction and even death be said to be coterminous with or be said to be definitive of justice? It seems more reasonable to believe the

opposite of Heraclitus' view. That is, that strife is itself unjust and can lead to more injustice such as armed hostilities and blood lettings if not terminated. This is why even with the consolation that our understanding of justice is markedly different from that of the ancients, one still wonders on what would be the reasoning behind such a strange, paradoxical assertion as "strife is justice". Cavendish (1964:4) writes of Heraclitus that "he wrote in an obscure oracular style, full of puns and oblique allusions". It was these characteristics of his work that earned Heraclitus the traditional name of the "dark philosopher" (Owens, 1959:42). Thrasymachus is Plato's authorial voice in *The Republic* to represent an opinion, popular at that time in Greece. According to Magill (1990:58), Thrasymachus "represents a position which has since been stated many times in which justice is presented as the advantage or interest of the stronger party".

In this case, justice does not pay; it is only the weak and simpletons who practice it. Otherwise, one would have assumed that Thrasymachus was greatly angered by his observation that a citizen's right to a thing like freedom of movement must not be expressed when the agents of the state (the stronger in this case) wanted to have their right of way. But this assumption would be vitiated once a man is reminded that sophism, a philosophy which Thrasymachus belonged to claimed it could argue to make black look like white. Hence, Thrasymachus' view becomes suspected as it falls into the category of such attempted arguments to make white look like black?

2.2 Justice in Socratic Era

Plato in *The Republic*, attempts to define justice and the conditions for its realization both in the individual and in the state. Justice according to Plato involves a correct relationship of the three parts of the individual's soul, namely: the rational, spirited and appetitive parts. Since the state is the individual writ large, it is to be stratified along the lines of the guardians, auxiliaries and artisans. For the society to be just, the guardians have to rule. For Russell (1979:129), "in Plato's conception, justice consists in everybody doing his own work and not being a busy body". Etuk, after a detailed examination of Plato, writes that "if the republic had been anything other than a utopia, it would have collapsed in no time. For either the soldiers would have rebelled and snatched at the opportunity to rule and savour the trappings of power; or the vast armies of workmen or producers would have kicked against their assigned lot in life; or the "golden" rulers would have grabbed at real gold and silver and so broken the myth" (Etuk, 2000:19).

It is on this note that we move on to examining Aristotle's notion of justice as contained in his *Nichomechean Ethics*. One will readily find a common ground with Aristotle when he, on seeing that justice is a moral virtue that encompasses all other virtues, declares that in justice, every virtue is summed up, that is, justice is the constellation of all virtues. With regards to anything that is to be distributed, Aristotle (1962:3) declares that "if persons are not equal, their shares will not be equal". This means that in the distribution of state goods and social benefits, justice is achieved by giving a man what he deserves. Russell (1979:186) notes that for Aristotle, justice of a master or a father is a different thing from that of a citizen or a son, for a slave is a property and there can be no injustice to one's property. This means that for Aristotle, it is just that certain men such as slaves should be used as means to various ends as their owners may please. The question then is: can a slave holding society validly claim to be just especially when servitude or slavery often comes with the dehumanization of slaves? Slave holders seldom treat slaves as human beings – beings to whom justice must apply. In the relationship of the master and the slave, such values as equality of rights and opportunities, do not come in. It is rather surprising that the teacher of an empire builder should attempt a philosophical justification of slavery.

Aristotle could not escape what egalitarian theorists call "the index problem", which states the proper index for determining equals from unequal. Or put it more rhetorically: what should constitute desert, birth, wealth or wisdom? Aristotle's inability to state in clear terms what should constitute desert makes Etuk (2000:19) to conclude that he did not fair better in his treatment of social justice than did Plato.

2.3 Justice in Post-Socratic Era

It is well known to philosophers that sequel to the Socratic era, was the period when skepticism and cynicism flourished. Caneades of Cyrene (214 – 129 BC), is said to have delivered lectures in Rome in which he expounded the views of Aristotle and Plato on social justice. In his second series of lectures, he refuted all that he taught in the first with particular sneer at Plato's view that the perpetrator of injustice injures himself more than the victim. Caneades thunders: what would you do if you were returning from a battle in which you lost your horse but luckily you find a wounded comrade on a horse? If you were sensible, Caneades replies, you would drag him off and seize his horse whatever justice might ordain. For Caneades, great States had become great by unjust aggressions against their weaker neighbours (Russell, 1979:245). Caneades' view on justice is typical of a skeptic. It carries with it the spirit of the era which was characterized by wars of conquests. But then, the question of world peace and international justice did not arise.

Thomas Hobbes rightly falls under the modern era of philosophy. He restricts his conception of justice

to the keeping of contracts regarding property. He believes that the law of nature regarding keeping of contracts is the “fountain and origin of justice”. Justice is the keeping of contract while injustice is the breaking of it. In fact, injustice is nothing other than the non-adherence to a contract (Hobbes, 1991:156). For Hobbes, the sovereign should make committing of injustice which is the breaking of a contract more painful than to live justly which the keeping is of contracts (Magil, 1990:234). According to Etuk (2000:21), “Hobbes did not appear to realize that even in dealing with what is one’s own, he was touching on fundamental issues which go beyond external properties, for instance, life itself”. How can we substantiate this? Christian devotees are familiar with the biblical story of the succession of events that led to the death of John the Baptist, which is to have actually taken place around 32 AD. The story of how a king made a covenant to give anything even up to half of his kingdom to his daughter who pleased him so much; and how he was bound to keep this covenant even when it required the head of a man in a tray (*The Holy Bible: Matthew 14:1-12*). To this case, we may ask Hobbes, who do we blame: the king for keeping his covenant or the little girl for the just act of obedience to her mother; or the executioner for legitimately carrying out the order of the King? These successions of seemingly just acts led to such an obviously overwhelming injustice as the killing of a man. Obviously, the king was wrong in the sense of not treating John as the end but rather, he treated the covenant as the end to which John’s life was the means.

Justice in its Greek interpretation means righteousness or rightness. Since human beings are not righteous all the time, the need arises to safeguard and regulate man in his relationship with fellow men. Thus, safeguarding can rightly be seen as the principle of social justice. Banu (2005:3) sees social justice as “a set of division of social advantages and for underwriting a consensus as to the proper distributive shares”. Social justice is a political volatile concept, open to many interpretations because theorists have different conceptions of what “a fair treatment” or a “justice share” should mean. Let us examine Rawls’ social justice which is based on his justice of fairness principle.

3. Rawls’ Principle of Social Justice

Rawls’ social justice is a deviation from the way Plato and Aristotle conceived it. Rawls’ concern is with how social goods are distributed not according to merit, but by equality. Rawls’ first concern, therefore, is with the way the major social institutions generate and accordingly circulate fundamental rights and duties. Hence, the basic thrust of the criterion of need is that the demands and benefits take cognizance of the needs of the people.

Accordingly, Rawls states that the major institutions mean various political associations, constitutions and the socio-economic programmes of the state. Rawls believes that these socio-political and economic institutions can determine the divisions of advantages and social integration of the people in the state. He goes on to indicate that these institutions play vital role in shaping the hopes, ambitions, life-style, aspirations and the rights and duties of men in any given state. What Rawls understands by social justice is that it is the totality of major socio-economic structures as well as the constitution of the people (John, 2009:354).

4. Rawls’ Social Contract

For Rawls to successfully formulate his social justice, he, like all social contractarians, proposes his own version of the social contract. His social contract theory is in opposition to intuitionism and utilitarianism. In developing his theory, Rawls posits two basic principles: the first principle is that of individuals’ right to as much liberty as is compatible with the liberty of others. In his own words, Rawls (1971:215) indicates that the first principle is that which “Each person is to have equal rights to the most extensive total system with a similar system of liberty for all”.

Rawls’ second principle occupies itself with the social and economic inequalities which are to be determined for everyone’s advantage and under conditions of equal opportunity. He declares as follows: “Social and economic inequalities are to be arranged so that they are both: (a) to the greatest benefit of the least advantaged, consistent with the just saving principle, and (b) attached to offices and positions open to all under conditions of fair equality of opportunity” (Rawls, 1971:215).

5. The Veil Theory

In expatiating on these principles, Rawls relies so much on the superstruction of a metaphysical situation by which everyone is placed in an original position behind his *veil of ignorance*. This veil theory is very important for Rawls because it is the only way to ensure justice and fairness in the process of forming a new society. In the new society about to be formed, Rawls creates an imaginary situation in which all the prospective citizens are deprived from certain knowledge about their personal circumstances through the *veil of ignorance*. This means no one in the interim will know exactly what he will become in the new society. Everybody’s knowledge of his circumstantial role, position or profession will only be unveiled when the task of deciding on a viable thesis of governance has been generally agreed upon. The implication is that no member of the proposed society will be aware of his responsibilities or duties until the principles that will govern the society must have been decided.

These principles, according to Rawls, are to be chosen by all members of the society. And among the

membership of this society are men and women of diverse “gifts”: lawyers, medical doctors, teachers, farmers, clerks, carpenters, drivers, mechanics, the rich, the poor, the lazy, the clever, the hardworking, leaders, politicians, etc since men may be tempted to be biased or favour a particular profession or role or position, if anyone were to know in advance what his career or role is going to be. Rawls, therefore, suggests that all must be veiled with ignorance before deciding on the principles. This method of agreement or selection, in Rawls’ opinion, is to ensure fairness and equality in the society. By reason of the *veil of ignorance*, everyone will impartially choose the principles that would be fair and favourable to all. In this way, no one will be afraid of whatever happens to one’s profession afterwards. Once the decision has been reached about the principles of governance, Rawls states that the veil will then be uncovered for people to know their careers and roles in the new society.

Rawls further warns that once the veil is taken away and the people have come to know their (new) roles and positions in the new society, the principles cannot be amended or changed. That means whether the principles of governance favour a particular person or not, every person is duty-bound to accept it since he was a party to its formulation (John, 2009:356). It must be understood that another benefit of the *veil of ignorance* is that it gives some kind of direction and unbiased focus to all professions and posts in the choice of the principles to govern men in the new society. In this manner, Rawls holds that there will be an inward working, a kind of conscience, telling everyone to be fair in his or her decision. This issue of fairness in judgment is necessary since one may turn out to be the victim of oppressive principles he might have decided for.

In the opening paragraph of *A Theory of Justice*, Rawls declares that justice is the first and indispensable virtue of social institutions. This is because no matter how efficient or well-arranged a social institution is, it must be reformed or abolished if it is unjust. We must see the society as a cooperative venture for mutual advantage. That is, members of the society should be seen as equally cooperating with the individuals for the production of primary social goods. These social goods are rights, liberties, powers, opportunities, income and wealth. There arises a problem of distributive justice since individuals are not indifferent with regards to how the product of their cooperation is to be distributed. The condition of fairness obtains when no party to the agreement is at an advantaged position over others in furthering his own interest. Such a fair position is what Rawls (1971:11) calls “the original position” which he wants us to understand as a hypothetical condition which requires us to visualize the negotiators of the basic terms of political association, conducting their negotiations behind a *veil of ignorance*. That is, having no knowledge of their individual life conditions such as talents, intelligence, sex, race, class, religion, wealth and conception of the good.

Sterba (1989:407) observes that “the veil of ignorance has the effect of depriving persons in the original position of the knowledge they would need to advance their own special interests”. Rawls (1971:12) writes that “since all are similarly situated and no one is able to design principles to favour his particular condition, the principles of justice are as a result of a fair agreement or bargain”. We must ensure that we arrive at a reflective equilibrium in our resultant conception of justice. This is a situation in which our intuitions about justice are harmonized with our principles. The parties in the original position would also agree. The first principle commonly called the liberty principle is prior to the second which is known as the difference principle. Social goods are to be equally distributed unless an unequal distribution is to the advantage of the weakest members of the society. This is why Rawls (1971:62) sees justice as “simply inequalities that are not to the benefit of all”. People are born into different social positions with different character traits, physical and mental. These are natural and social contingencies that the society ought to equalize in the distribution of social goods and benefits. Rawls’ justice as fairness is a rejection of utilitarianism since when there is a conflict between individual rights and general well-being, utilitarianism holds that it is the claims of the latter which counts. We definitely agree with Rawls that what makes us to acquiesce in an erroneous theory is the lack of a better one. But how better Rawls is in this “better” theory is our next concern.

6. The Critique

It should be stated that just the same way Rawls’ social justice attracted the admiration of some philosophers; it has continuously attracted various criticisms. Rogers (2000:10) has observed that the British Commission on Social Justice is quite explicit in rejecting Rawls’ strictures against letting individuals profit from their natural skills and endowments. Rogers accordingly poses the following puzzles: what is the reason that despite its commendability, Rawls’ theory has not had any great impact on the “real” world? Why has Rawls’ work appeared to be dead as a political force having enormous influence only at the theoretical level? Even Rawls’ himself during the 25th anniversary of *A Theory of Justice* which was marked with a super splendid large conference at Santa Clara, equally expressed concerns about the fact that political liberty is not almost infinitely greater for some than it is for others. Joshua Cohen, a former student of Rawls is quoted as saying that “Rawls’ hopefulness has been shaken by the world; his feelings have soured” (Rogers, 2000:8). Even at these criticisms, intellectual descendants of Rawls are of the view that Rawls’ time has come; that his ideas are so powerful and profound not to have an effect on any real societies.

Rawls' principle of liberty explained in the previous pages gives priority to securing basic freedoms: freedoms of thought, conscience, speech and the likes. But conspicuously absent among these basic liberties, is the freedom to appropriate what one has produced through individual talents or to inherit or pass on one's possessions. To Rawls, the absence of these liberties is no oversight or inconsistency as the difference principle answers the question of distributive justice posed here. Robert Nozick has criticized Rawls for not counting the freedom to appropriate the fruits of one's labour among basic liberties. Another criticism leveled against Rawls is that of the entitlement theory which is associated with the difference principle.

Rawls believes that individuals who are more productive due to their natural endowments have no right to greater rewards. The difference principle is an agreement to consider the products of natural talents as a common asset. Younkins (2004:3) writes that "in this view, an individual's natural endowments are not considered to be his own, but rather, the product of the society". In formulating the difference principle, Rawls obviously misses certain facts about the human talent. For instance, he fails to recognize that talents are not a common pool; the aptitude that one person enjoys does in no way lessens the number or magnitude of abilities that are available to another. My talents are not acquired at your expense and to exhibit the talents nature has endowed one with, is a matter of choice. Individuals should live with the consequences of their choices. Those that work hard and earn more should not be required to subsidize for those that choose more leisure and hence, less income. Thus, there must be proper incentive for hardworking workers. Failure to do this may constitute injustice in the social setting.

Rawls' posture towards natural endowments leaves us with the suspicion that he is trying to make envy an acceptable emotion. Since the products of natural endowments are the properties of the society, the society ought to redistribute them in order to redress the inequalities of natural distribution. Rawls (1971:101) opines that "we see then that the difference principle represents, in effect, an agreement to regard the distribution of natural talents as a common asset and to share in the benefits of this distribution whatever it turns out to be". This is why Younkins (2004:3) is very vocal on this issue as he writes that, "A practical implication of the difference principle is that the society must redistribute income up to the point where the wealth of the representative poorest individual, is maximized. In other words, the state should tax and redistribute the wealth of more advantaged up to the point where their incentive to produce more, disappears.

Even if all persons were to begin with an equal social position as imagined in the original position, they will end up with different social positions, income and wealth as a consequence of their choices. Any attempt at redistribution or equalization would give some persons less than they merit. How can this be fair? Rawls seems to trade on the legitimacy enjoyed by Aristotle's discussion of distributive justice in *Nicomachean Ethics*. Aristotle's context is statist; that is, distributive justice is something the state dispenses. The state has the wealth and income it must allocate in the interest of the common good. But how did the state come to acquire them? Did it violate justice in doing so? These questions need to be answered first before we come to how we ought to frame our offer of forcibly expropriated goods. In the economic sphere, after production and exchange of what is produced, there is no remainder from which we can distribute without violating individual's rights to just entitlements. In a society of voluntary exchange as Von-Mises (1996:32) puts it "there is no such thing as an appropriation of portions out of a stock of ownerless goods. The products came into existence as somebody's property. If one wants to redistribute them, one must first confiscate them".

The idea of exclusive ownership of property seen in the entitlement theory is the only idea with which we counter redistribution necessitated by the difference principle. Magill (1990:681) states that the central thesis of Nozick's *Anarchy, State and Utopia* is that "only a minimal state, one which limits its functions to the common defense and protection against crime is morally justifiable and distributive justice is satisfied whenever a person is entitled to his holdings". Anyim (2002:95) has rightly questioned Nozick's idea of a minimal state arguing that only an extensive state can bring about enhanced distribution of goods. We can isolate the entitlement theory from this attack since just entitlement which is our concern does not cover property acquired through unjust means. The entitlement theory holds that; (i) A person who acquires a holding in accordance with the principle of justice in acquisition is entitled to that holding; (ii) A person who acquires a holding in accordance with the principle of justice in transfer from someone else is entitled to that holding; and (iii) No one is entitled to a holding except by repeated application of principles "i" and "ii" above. The complete principle of distributive justice would state simply that a distribution is just if everyone is entitled to the holdings they possess under the distribution (Nozick, 1974:151).

Magill (1990:682) is of the view that "if social products fell like manna from heaven, the difference principle might be a suitable rule for their distribution. But it is not the appropriate model of deciding how to divide up the pie when the contributors to the pie are known". If the least advantaged persons are starving, I have no duty to share my food with them. You can appeal to my generosity but no one has any right to seize my food and share it equally among us. Rawls was not only preoccupied with providing a safety net for the weak in a way people would want to see a safety net for the weak, but that talents and hard work are rewarded. Nobody complains about the earnings of a Bill Gates, a Michael Jordan, a Christian Ronaldo, a Tiger Woods, a Wayne

Rooney, a Lionel Messi, a Samuel Peters and all popular heroes. Rawls himself shares the honour of writing *A Theory of Justice* with no other. We are left to wonder whether he would accept that this honour be shared equally among his colleagues at the Harvard University; let alone, the educationally least advantaged people. Since for him, our capacity or hard work is not legitimately ours and we do not deserve the products for our talents; they should be shared to the least advantaged. We are not sure that Rawls would agree to this arrangement. For while it would be unjust to coerce Rawls to accept it, we are not sure he would grant us same freedom.

Another question is: who the least advantaged persons really are? Schaller (1998:172) asks: “but who are the least advantaged in Rawls’ theory?” In *A Theory of Justice*, it is true that circumstances over which people have no control should not adversely affect their lives prospects. But one may legitimately question what Rawls means by a “low-skilled person”. Why is the person so low-skilled? How low is the “low”? Is it the consequences of his choices that make him so low skilled? Who is poor? These so-called least advantaged persons may for all that Rawls has shown on the contrary have everything they are entitled to having. Nozick believes that on the contrary the difference principle is unacceptable because it prohibits a large class of activities which are not unjust and this prohibition constitutes intolerable limitations on individual liberty. The difference principle indeed offers terms on which the less endowed would be willing to cooperate but it does not offer terms on which the better endowed would be willing to cooperate (Magill, 1990:682). Also there are some theoretical problems in Rawls’ social justice. Rawls explicitly states that the original position is hypothetical. Etuk (2000:22) states that if this confession is meant to forestall any objections that may be raised against the utopian nature of the initial equality then one may consider the objection silenced. But in that case, the theory of justice built on this provision becomes empty.

One finds common grounds with Rawls (1971:13) when he observes that “no society can, of course, be a scheme of cooperation which men enter into voluntarily in the literal sense”, because the society is of course, involuntary and our place in it largely beyond our control. But then, after a period, Rawls (1971:223) suffers from dropoutism especially when he states: “...a society satisfying the principle of justice as fairness comes as close as a society can be in a voluntary scheme”. Etuk (2000:23) strengthens this objection with the view that “the society which we call the state which is much implicated in any discussion of justice is not a voluntary scheme and never will be either. People are born into the state not by their choice nor can they check out at will”. A well ordered society of justice is characterized by fairness, one of the relevant principles of justice, which is publicly accepted by everyone. Vaggallis (2005:13) writes that “ever since the publication of *A Theory of Justice*, Rawls has been modifying his conception of justice as fairness. He realizes that the kind of stability that would be needed in a democratic society that is marked by a pluralism of reasonable but comprehensive moral views is inconsistent with the account of stability given in Rawls’ *Theory*”.

Rawls comes to realize that his *Theory of Justice* is inconsistent. He also comes to realize that while the liberal society is meant to permit a great diversity of value systems, the arguments he advances for it would only ever appeal to those who accepted one set of values (Rogers, 2000:21). This shows that a well ordered society of justice tagged as fairness is an unrealistic ideal for a democratic society. The admission of this truth is the focus of Rawls’ *Political Liberalism* in which he imagines that it is possible for persons with conflicting but reasonable views to reach an “overlapping consensus” in which justice as fairness is the account, that is, most compatible with their views. Peffer (1990:304) is one of Rawls’ admirers that write that “Rawls’ implicit assumption that all major groups within democratic societies can actually reach a consensus on his theory of justice or any other is almost laughable”. It is not cleared that justice as fairness would be able to achieve an overlapping consensus with other views. For example, would utilitarians ever accept an overlapping consensus with justice as fairness? We now turn to the question of relevance.

7. Relevance of Rawls’ Social Justice and the Problem of Political Stability in Nigeria in the 21st Century and Beyond

The study as well as the adaptation and/or application of Rawls’ social justice have become very pertinent in Nigeria especially if one considers the fact that behind the instability of our polity, necessitated mostly by unjust distributive shares, is the social justice factor. Rawls’ social justice, however, is often challenged for lacking is practical relevance. But even Rawls’ critic cannot deny that he has had an enormous impact on political theory. We can locate the relevance of Rawls’ work on the important question it raises especially about utilitarianism. Let us examine the relevance of social justice to the Nigerian society in the 21st century and beyond. Historical circumstances have made the Nigerian society a culturally heterogeneous society; that is, a society divided along ethnic lines. This is because the Nigerian state is one of such states that was forged and maintained by the political will of an alien power. This explains why most (if not all), for instance, are first of all regarded as Ibibio, Hausa, Igbo or Yoruba before he or she is expected to act as a Nigerian. It is only social justice that can restrain the urge – the tendency for the majority ethnic groups to dominate and marginalize the minority. In emphasizing the need for social justice, it is necessary to observe that social conflicts arise when groups possess or have

confirmed the suspicion that the state has short-changed or deprived them of accruing social benefits, rights and entitlements. In Nigeria, the truth is that some have been denied their rights and privileges. The Niger Delta peoples are a case in point.

That a society with majority and minority ethnic groups is bound to be unjust without a systematic application of social justice is a fact we cannot deny. But there is a more important question: if it is the case that minority ethnic groups need to transcend the limit of justice, then how will this transition be made? Is it through violence seen in hostage taking, suicide bombings and the blowing up of oil wells? Or will genuine social transformation be achieved by peaceful means befitting humans imbued with reasonability and dignity? How can we balance the desire to reach our goals in relation to the means we ought to adopt? How can we avoid the contradictions that arise when the cause is as invidious as the effect or when the cure is as terrible as the disease? Etuk (1992:103) in "God, Justice and Minority Groups in Nation Building" writes that "a nation that wishes to forge ahead and attain economic progress can ill-afford... the display of anger and hostility; because in the task of nation building, the goodwill of every citizen should be held at a high premium".

There have been complains of political domination and ethnic marginalization in Nigeria. These serve as important indicators that all is not well with the Nigerian social justice system. There is need for national reconciliation which is the only path to national unity. Ujomu (2003:32) states that "enduring national reconciliation can be achieved only through social justice". This is true because the only partnership that can be enduring, stable and viable is one in which all participants are happy, satisfied and have a sense of belonging. Rawls' social justice on the whole is a sincere and commendable attempt at improving the lot of the less-privileged through a modified capitalist theory. The impartiality of Rawls' principles makes his theory both just and commendable to any competent person. Rawls' stand on the marriage between morality and politics is a big contribution to the central problem of socio-political philosophy, namely: the possibility of justice in a political environment.

For sometimes now, a lot of thinkers like Aristotle, Machiavelli, Nietzsche, Hobbes, Marx, etc have been greatly engrossed in their attempts to explicate the rationale behind unjust and immoral means employed to settle social problems; but it is Rawls who has clearly indicated the fact that any strong and lasting political thesis must be anchored on morality. By his assessment of the capitalist system as unjust because of the inhumane manner by which the poor within the system are exploited to the advantage of the rich, Rawls has successfully singled out himself as a strong advocate of the liberal capitalism. Omoregbe (1991:152) has clearly stated that Rawls' social justice is one which "tries to take callousness, heartlessness and indifference to the plight of the poor, out of capitalism and thereby make it more morally acceptable. Its premise is that there is inequality in society and, in this circumstance, the most moral cause of action is not to do anything that will worsen the already bad condition of the poor. Indeed no action, no social arrangement or change should be allowed to take place unless it is going to improve the lot of the poor".

This is where I quite agree with John (2009:364), that in a society where certain basic rights are given to certain advantaged people, it is not expected then that social goods and rights be extended to everyone in the society. But Rawls has sufficiently proved that it is morally defensible for the society to re-distribute the social goods for the benefit of all without necessarily abusing the procedure or without allowing the exercise to become a gross violation of any kind of rights due to certain privileged people. Moreover, Rawls has shown that the idea embedded in the re-distribution is of intrinsic value to the whole society as it will be sublimated into solid moral duties like liberality and generosity.

The contemporary Nigerian society stands a better chance in the application of Rawls' thesis. The benefits therefrom would be enormous. For instance, his theory can rightly void the temptation to abuse political powers for money, filial considerations and for ethnic and parochial interests. The twin yoke of poor management and corruption, which can be classified as one steady culture in different parts of the world that has stood the taste of time is a sad commentary on Nigeria's political system. Thus, Rawls' philosophy has provided the world, especially Nigerian nation with the necessary machinery which can stop the phenomenon of inept leadership and unrestrained looting of the treasury by rulers and other public office holders. This untoward and daunting scenario for so long now has substantially contributed to the present global economic straits which Rawls' idea is capable of salvaging it.

The greater challenge facing the world today in socio-political matters has always been how to organize herself more democratically. This is true because politics in Nigeria has always been in disarray owing to the obduracy and pervasions of her politicians. And one of the problems of democracy in Nigeria is not with the launching of it, but its maintenance. Political experience in the post-independence Nigeria, for example, has shown that democracy cannot flourish in this country except Nigerians are ready and willing to abide by certain certified norms and principles. Hence, the need for a proper utilization of Rawls' political concept has become more challenging than ever before. Another important issue is the incumbency factor which is nothing more than a euphemism for the abuse of office and which has greatly betrayed Nigeria's attempts at governance. This issue can be corrected through a proper understanding of Rawls' social justice. In this case, a single term proposal can

be fashioned out for leaders in Nigeria and/or a situation in which executive powers and immunities would not be bestowed on individuals but in a body (John, 2009:365).

Lastly, Rawls' social justice can be used to correct the injustices perpetrated by certain leaders. The readily example in this case is the issue of military genocide in Odi (Rivers State) in 1999 and Zarki Biam and its adjoining communities of Gbaji, Anyii, Vasse and Iorfa (all in Benue State) of Nigeria in 2001. These atrocities have really shown the degree of political debauchery on the part of some leaders. From the backdrop of the discussions, the following puzzles must be resolved: (i) Has any reasonable government in the history of world civilization ever used soldiers to conduct mass murder of innocent and defenseless civilians? This question is so crucial because Odi was but a direct battle-line engagement. Zarki Biam was a direct mass murder and killing under the pretext of peace keeping. Odi and South-South communities have contributed to the Nigerian economy and development more than any other community or region in Nigeria; (ii) In spite of the South-South outstanding contributions than any other region in Nigeria, what has been the reward by each succeeding government? In Ogoni-land, the place was devastated during the dreaded era of Sani Abacha. At the end, nine of the leaders were murdered by the Federal Government of Nigeria. In Akwa Ibom, just like other South-South States there is no federal presence: no road, light or any federal institution. There is no compensation for the exploitation of their land which has brought excruciating pains and suffering to the people and its environs; and (iii) Just like Odi, the Tiv people of Taraba and Benue States after contributing so much to the development of Nigerian Army more than any other ethnic group, were given a military genocide as a reward. This takes us to other sets of puzzlements as we ask with Terry Waya (2001:17): "Has President Obasanjo ever sent soldiers to quell riots where major tribes were involved, even where the police and soldiers were killed as in the Yorub-Fulani riots in Lagos, Christians and Muslims in (Jos), Kaduna and Kano?... Why should President Obasanjo, Generals Theophilus Danjuma and Alexander Ogbomudia not face the International War Crimes Tribunal?"

It was widely reported that the natives (the Tiv people) killed 19 soldiers of the Nigerian Army, thereby provoking the massacre of Tiv people by the federal troops. But a critical investigation reveals the truth: that 54 soldiers were arrested and killed. The natives have "mistaken" all the soldiers for the fakes that have been terrorizing them in the past. The questions then are: if only 19 out of 54 were identified as soldiers of the Nigerian Army, what about the remaining 35? Were they the Tukuns (Tiv's arch enemies)? Who gave them military uniforms and guns to fight the Tiv people? Is there any evidence that the Nigerian Army has been misused consistently to kill Tiv people whenever there is a conflict between them and the Jukuns? In 1995 and 1999, Kuteb, a major Tiv tribe in Takun Local Government Area of Benue State was almost annihilated by the Army-backed Jukun militia.

Any government that cannot face the facts or reasonably confront issues is not a responsible one for that matter. Nigerian leaders must, therefore, be very careful else they will be caught up by the retributive justice. One should remember Victor Malu, the former Chief of Army Staff, who led the military battalion that sacked Odi, a sleepy Bayelsa community and its environs were sacked to their foundations by the same army he served, used and/or misused. Commenting on Malu and the idea of retributive justice, Godwin Adindu (2001:27) seems to understand not only the social justice of Rawls but also the poetic justice when he admits *inter alia*: "... the General who was a point man of Abacha in the tyrannical regime that turned Nigerians into wandering minstrels; today, Malu is receiving the same treatment he had watched the Abacha regime met out to his opponents". I strongly believe that no one should be deceived: what the Babangidas, the Abachas, the Obasanjos and the Jonathans are doing now, sooner or later and even in death, they shall all face the music.

8. Conclusion

In this work, we set out to have a critique of Rawls' social justice. Having seen how philosophers in time past conceived of justice, we have seen some flaws in Rawlsian treatment of justice. In seeking to answer the question of relevance, we have examined the Nigerian society and have seen that given her historical antecedents, social justice is the only way to the much envisaged national unity. As for Rawls, his theory serves some practical purposes; distributive justice is not an area where an idea is good in theory but not in practice; if the difference principle is not good in practice then it is not a good theory either. Thus, the Nigerian socio-political philosophers, religious and political leaders as well as all and sundry should strive to see the need of utilizing Rawls' materials to present a peculiar philosophical outlook for the Nigeria of 21st century. This recommendation, in my opinion, is with a view to realizing her cooperate dreams and aspirations of just individuals in a just state. But more than this, it must be said that Rawls has made an invaluable contribution to the world. Indeed, he has singled out himself as a powerful force that cannot be easily ignored in our quest for social justice.

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