

An Analysis of the Concept of Liberty and Equality in John Rawls' Theory of Justice

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[Abstract: John Rawls' theory of justice has shown that the world is unjust and we have the responsibility to minimize the injustice that prevails. He has designed a model of justice in which ensuring the neutral choice of justice principle is required and liberty and equality of all should be preserved. His justice model bases on a hypothetical position named as original position and two basic principles. Apparently, it seems that Rawls' model is a noble one to address the injustice issues in the existing world. But this theory has received several criticisms from many philosophers. This paper has analyzed the concept of liberty and equality in Rawls' theory of justice and has shown that Rawls failed to uphold the promised equal liberty for all. This research has also considered the views of Robert Nozick and Amartya Sen regarding Rawls' theory and has suggested that a proper theory of justice needs to include rectification principles along with the consideration of various contexts and alternatives.]

Figures: 1. Rawls' scheme of justice in terms of fairness
2. Liberty as the prerequisite, the pattern and an end in Rawls' theory of Justice

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Introduction

John Rawls, in his book *A Theory of Justice* (1971), has proposed a system for ensuring justice in terms of fairness. This system bases on a hypothetical mental state named *original position* and two principles focusing on equal liberty and equal distribution of primary goods. Rawls holds that neutral policy making and fair distribution system are the prerequisites for a just society. Policy makers who are able to overcome their personal biasness should make the rules for equal distribution of social goods. They are considered to be rational and should not be aware of any particular fact regarding their positions in a given society. These rational and unbiased policy makers will follow the principle of equal liberty and the principle of just distribution of primary goods respectively (Rawls, 1971, p-11). The principle of equal liberty claims that all human beings in a given society will enjoy equal liberty without any exception. This principle should not be violated in any possible situation. Then the policy makers should make policies that will ensure equal distribution of primary goods and opportunities in the given society. In this case, Rawls allows some exception if required. He claims that in an unjust situation for ensuring justice we can allow inequalities in distributing social goods and opportunities if this makes the situation better for the least privileged. Apparently, it seems that Rawls'

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theory of justice has a noble goal and it considers liberty of all members of a given society with an equal importance. Robert Nozick (1974) has criticized Rawls' theory for being self-contradictory. He claims that within Rawls' system of justice the individual liberty of the members of a given society is violated in vicious manner. It is not possible to uphold individual liberty without upsetting the pattern. Amartya Sen (2009) has shed lights on the idea of *Niti* and *Naya* and has claimed that it is important to focus not only on institutional ground but also on realizability of justice. He has also shown that Rawls' idea of rationality is incomplete since it has considered persons as self-contained. This assumption has influenced Rawls' entire theory of justice, especially his idea of liberty. This work has analyzed the concept of liberty and equality in Rawls' theory of justice and has shown that liberty of thought and conscience is violated in the original position by providing the policy makers a special power of choosing what is good for all and has supported Nozick's (1974) claim about rectification. This paper also suggests that the priorities for different societies are not the same and we need to consider the contexts while choosing justice principles.

1. John Rawls' Idea of Justice:

1.1. Rawls' Definition of Justice and the Necessity of a Theory of Justice:

According to Rawls (1971), justice is the most important virtue of social institutions. A just system is one in which no one's freedom and rights are violated. Even for the greater good violating one's right is not permitted in a just society. The freedom and equality of every single member is considered to have equal significance and concentration. No society is allowed to outweigh the freedom and rights of an individual in any situation. No law or institution can claim to be just by overruling one's freedom and rights even if they are the most competent ones. Equal citizenship and rights which are secured by justice cannot be compromised for political goals and are not amendable for common interests. Rawls holds that the idea of justice, expressed in this way, is intuitional but has a strong impact on us. No matter what, we are convinced about the primacy of justice. He adds that injustice can be allowed if and only if this helps to avoid greater injustice (1971, p-4).

We often assume that a society is based on the mutual cooperation among its members. For the sake of cooperation, the members need to follow some common rules which are required for ensuring the good of its members. Thus, there exists identity of interests since the members are working together for the betterment of their lives. But, at the same time, there is conflict of interests within the same society as there is difference of opinions regarding the distribution of responsibilities and benefits. Therefore, some principles are needed to guide the decision regarding the proper distribution of advantages. According to Rawls, these principles are the principles of social justice and all members of a given society agrees to uphold them (1971, p-4).

Rawls doesn't avoid the problem of difference of opinions regarding the arrangements of mutual benefits. Different social structures and various perceptions of values give birth to different conceptions of justice. It may seem that one system of justice is preferable over others. Moreover, people have different aims and their ideas of good may not be the same. Therefore, it is not easy to come up with an agreement over the principles of justice. Rawls (1971) holds that people comes to an agreement regarding the idea of justice since it is required to pursue their own goals and betterment. If there is no agreement over the distribution of rights and social goods, a person will not be able to advance for his own ends in chaos. It is clear that a just institution or society is the one, in Rawls' theory, that upholds the liberty of all its members and determines some suitable

principles upon which everyone agrees and follows those without any exception for the pursuit of everyone's betterment. These principles can be compromised only to avoid greater injustice. Every member of a given society should respect these principles not only for the betterment of his fellow people but also for the completion of his own good.

1.2. The Basic Structure of the Society is the Subject of Justice:

The subject of justice in Rawls' theory is the structure of a society (1971, p-6). In his consideration the principles of justice are to guide a society to guarantee the freedom and equal rights of its members and to distribute its social goods among them in a manner which will not make one's situation worse. Society is considered usually to be constituted with different political, economic and social institutions. Rawls defines the political constitution and principal economic and social arrangements as the basic structure of society (1971, p-6). These institutions determine person's rights and duties and thus influences one's projection of life. At the same time these institutions are also responsible for inequalities as they define some positions better than others. All people are not blessed to be in some favorable positions by their birth. For that reason, some starts from an advantageous position and are expected to pursue their own good successfully. On the other hand, people borne in less favorable situation have to struggle more to have even a moderate standard of lives. Rawls claims that the principles of distributing rights, duties and benefits which are followed by the major institutions should be justified by the principles of justice (1971, p-6).

Interestingly, Rawls (1971) confines his idea of justice only within the distribution of rights and goods in a closed society which he calls a well-ordered society (1971, pp-7-8). A well-ordered society is already just in the sense that members of this society are presumed to acknowledge the basic principles of the society and act upon those willingly. He avoids the justice issues that concerns law of nation and interstate relations. That means he is not willing to deal with the injustices caused by the aggression of imperialist states and colonial powers. Rather he considers a society in isolation. He expects that if we can determine the general principles that will be effective for minimizing injustices in narrower context will not to eradicate injustice that exists in an apparently just society. These principles will help us to understand the nature of injustice in broader situations to determine the principles to reduce those injustices. I am not convinced about the assumption that considering a society as a closed system will help in future to understand the problem of injustice in broader aspects and I am going to focus on this issue in section-5.

1.3. Justice as Fairness:

Rawls (1971) imagines that people of a given society agrees upon some principles on the basis of which basic rights and responsibilities will be allocated and social goods will be distributed. Persons will decide over rules under which their goals will be pursued better. Rawls holds that while choosing over these guiding principles everyone needs to be free and considered to be equal. He assumes a hypothetical position named as the *original position* in which people are all equal and are free to decide over various principles of justice. He claims that this original position resembles the state of nature in traditional contractarian theories. State of nature is an imaginary state mostly discussed in the social contract theories of Hobbes (1968), Locke (1993) and Rousseau (1987). In this state people are assumed to live freely in the abundance of nature where there was no artificial society and state. Rawls assumes that in the original position people who are free and equal will remain behind the veil of ignorance and will choose the principles which will

guide the major institutions of the society. The veil of ignorance here defines an epistemological state in which people are not informed about their own particular positions in a given society. They will have the general information about the socio-economic and political situations but no particular facts related to their own identity. Rawls is convinced that being behind the veil of ignorance and being free and equal, people will make fair decisions regarding the allotment of rights and distribution of social goods. Thus, he claims that his theory of justice intends to consider justice in terms of fairness. He also holds that his theory of justice is the more abstract formation of the popular social contract theories.

People in the original position are rational in the sense that they will not choose a principle which can make any hindrance to the achievement of particular goods. Since they are not aware of their own position in the society, they would not be able to choose a principle that will benefit him exclusively. He will make a decision which will be equally beneficiary for himself and for others. Rawls claims that “one feature of justice as fairness is to think of the parties in the initial situation as rational and mutually disinterested” (1971, p-12). He adds that the concept of rationality here should be taken in a narrower sense— “taking the most effective means to given ends” (1971, p-12). Rational people in the original position will go for mutual agreement and will choose the principles which will advance the good for all. They will consider everyone equal in terms of responsibilities and will approve of inequalities if and only if it is for the betterment of the least privileged ones.

Now, the problem is each rational person can hold different values and judgments about justice. How to decide which values or judgments are more preferable than the others? One judgment may seem good in a situation while in another some different judgment might be needed to consider. Rawls’ suggestion is that we may need to go back and forth and fix some principles by considering the practical aspects. He names this phenomenon as a “reflective equilibrium” (1971, p-18).

Rawls states two principles in his theory with which every rational person should agree in the original position:

The First Principle [The principle of liberty]: Each person is to have equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others.

The Second Principle: Social and economic inequalities are to be arranged so that they are both a) to the greatest expected benefit of the least advantaged (the difference principle) and b) attached to offices and positions open to all under conditions of fair equality of opportunity (the fair equality of opportunity principle) (1971, p-53).

According to Rawls, these principles apply to the basic structure of the society and guides the allocation of rights and Duties and distribution of social and economic goods. Rawls has mentioned a list of liberties which are considered as basic liberties—political liberties, liberty of conscience and freedom of thought, freedom of the person, right to hold personal property and freedom from arbitrary arrest and seizure. The first principle dictates that all people will enjoy these liberties in the equal manner.

The second principle is about the distribution of wealth, income and various social goods not in an equal manner but to ensure the betterment of all. As people are not borne with equal natural and socio-economic advantages the major institutions should distribute the social goods and opportunities in a manner that will not significantly disturb one’s betterment but will produce a better outcome for all. In this principal, inequalities are adopted to prevent greater injustice and to rectify previously existing injustices.

Rawls (1971) has arranged these principles in a lexical order. The first principle should not be violated in any situation. The second principle dictates that distribution of wealth, income and social goods should be consistent with the concept of basic liberty and equal opportunity. Here the difference principle has priority over the principle of fair equality of opportunity. Rawls holds that a society needs to minimize the natural injustices along with artificial ones and no one should get extra benefit for his natural talents and capabilities. He intends to make space for resolving natural and artificial injustices in the second principle by allowing some inequalities in distribution to give advantages to the least privileged people. Robert Nozick (1974) has criticized Rawls for this difference principle by claiming that Rawls has made a contradiction between two of the principles in his theory of justice. We will focus on Nozick's claim in section - 4.

In the figure below we can see that rational and equal people in the original position chooses the guiding principles for regulating the basic structure of the society. Being unknown of one's particular position in a given society the rational and equal people will choose principles which will guarantee equal liberty for all and just distribution of social benefits. Rawls believes that the difference principle in his theory will ensure fair distribution of social goods. This principle will reduce the natural injustices for which a person cannot be claimed to be responsible. This difference principle intends to ensure that people who are disadvantaged by natural selections will receive a fair share of social benefits and opportunities to thrive. By giving the lexical priority to the principle of equal liberty Rawls wants to confirm that inequalities in distribution are permissible by rational people only to prevent greater injustice. It can be claimed that Rawls' theory of justice intends to ensure justice in terms of fairness and the notion of rationality plays an important role in this process.

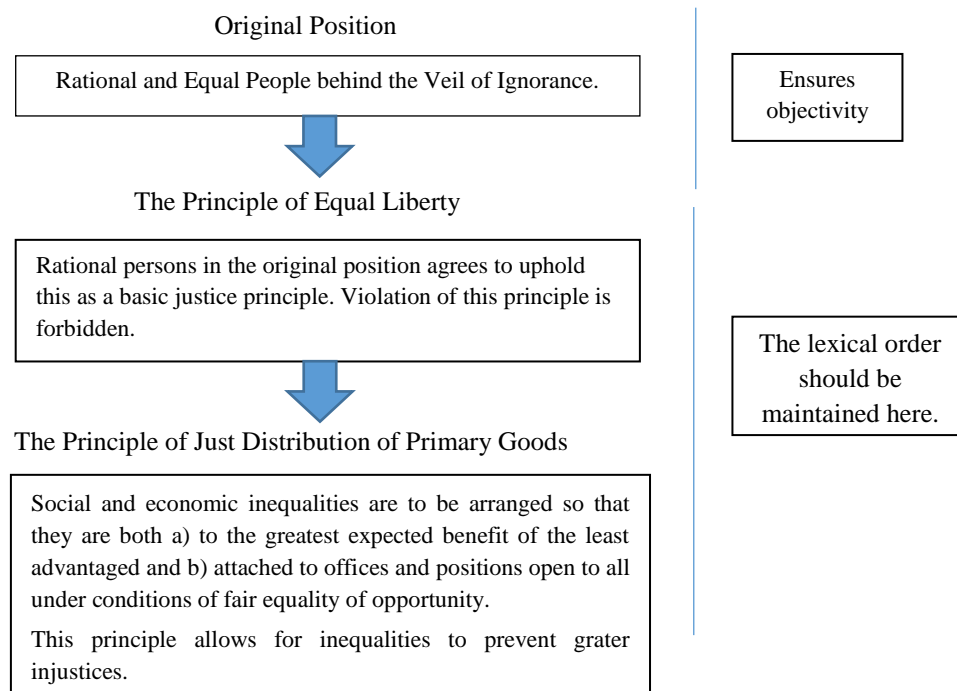


Figure-1 : Rawls' scheme of justice in terms of fairness

1.4. Rationality, Rational Choice and Rawls' Principles of Justice:

In Rawls' theory of justice 'rationality' has a special meaning and use. In his hypothesis about the original position, he has shown that a bunch of rational people will choose the principles of justice. He also claims that his theory of justice is also related to a theory of rational choice. But this research has found that Rawls has defined and used the term 'rationality' in a multiple way. This section focuses on different definitions of rationality and the relation of his theory with the notion of rational choice.

Rationality as pursuit of good: In the first chapter of his book while explaining the basic features of justice as fairness Rawls has claimed that in the initial situation people are considered to be "rational and mutually disinterested" (1971, p-12). He clarifies that the notion of rationality in this context should be interpreted in the narrower sense; namely as in the economic theories. In this sense, rationality means following one's own conception of good to one's level best. A rational person or party is the one who has specific ends and he is determined to earn those ends in a given social context.

Rationality as voluntary agreement with social principles: While claiming his theory of justice to be a more abstract version of popular contractarian theories Rawls (1971) states that equal, rational persons will agree to some general principles of justice for their own betterment. Rational people will agree to be abided by this principle voluntarily. In this sense, rationality is the capability of seeking justice principles and the willingness to uphold them.

Rationality in the reflective equilibrium: As rational people have got their various idea of good and social contexts are changeable phenomena it is normal that people will come up with different judgments about justice supported by specific premises. Rawls holds that with time and changeable social contexts one judgment may seem better than the other (1971, p-18). We can change our preference of justice principles in need by finding suitable premises. In this case, rationality is the means to find a suitable state from where we can decide over principles of justice.

Rationality as choosing common good: Rawls has assumed that a rational person is a person who does not want to maximize his happiness by depriving others (1971, p-27). A rational person in the original position chooses principles of justice which will benefit the members of the society through social cooperation. Hence the notion of justice as fairness opposes the principles of utility.

It seems that the notion of rationality has got different meanings in different contexts. None of these meanings are mutually inclusive but rationality defined in the first two senses can be considered as connected. Pursuit of good for a person requires social cooperation that is ensured by agreements of social principles. However, rationality has a connection with the notion of liberty in Rawls' theory. We will focus on this connection in the next section.

Rawls holds that his theory of justice has a significant connection with theory of rational choice. Rational choice theory assumes that individuals choose a course of action that is most in line with their personal preferences (Amadae, 2016). Rationality here is taken in the narrower sense of choosing a situation suitable for following one's own ends and I have discussed about this above. Rawls has assumed that rational people who are equal and free will choose the principles for distribution of rights and goods. It seems that liberty and equality should be ensured first for the principles of justice as fairness. From the choice of the principles to the execution of rules and laws people need to be free and considered to be equal. In the following section we are going to focus on the notion of liberty and equality in Rawls' theory of justice.

2. Liberty and Equality in Rawls' Theory of Justice

2.1. Definition of Liberty:

In the second chapter of *A Theory of Justice* (1971), Rawls clarifies his idea of liberty. He keeps the dispute about meanings of liberty aside and focused on the relative values of different liberties. He assumes that liberty "can be explained in terms of three items: the agent who are free, the restriction or limitations of which they are free from and what it is that they are free to do or not to do" (1971, p-177). He takes liberty as a system of public rules that determines rights and duties. In this sense persons are free to do something if it is not restricted by constitution and no other individual can interrupt his action. He adds that there should be no restriction regarding basic liberties.

Rawls (1971) considers basic liberties as a whole system, the worth of which is determined by the specification of other liberties. He believes that these liberties can be defined without compromising the central applications of each and without harming the fundamental interest. It is important also to understand the difference between restricting and regulating the basic liberties. Within an institutional setup the basic liberties will be organized by the rational parties or delegates of the institution. According to Rawls (1971), liberty is unequal if a group or person has a greater liberty than others. He insists that liberties for equal citizenship is same for all the members of the society. Basic liberties are free from limitations. But these liberties can be limited only for the sake of liberty and to secure the fundamental interests. When and how to adjust different liberties depends on the perspectives and understandings of the representative equal citizens or delegates. For this reason, it is important to determine who are these representative equal citizens or delegates and how do they qualify to play the role.

2.2. Who are the Delegates?

We have discussed about original position in the previous section and have found that free and rational persons will choose the principles of justice being behind the veil of ignorance. These persons have freedom of conscience, they remain unbiased and are considered equal. They are rational in the sense that they have their own goals and own perceptions of justice suitable with their goals. Since they remain behind the veil of ignorance, they are unaware about the particular facts of their own identity as well as the general facts of their socio-economic and political situations. They are also benevolent agents as they do not want to deprive ones from their own shares to enjoy most the social benefits. In the original position, these free, rational and equal agents choose the principles of justice. Since different persons will come up with different and conflicting principles of justice, they need to prioritize which principles are suitable for a given society or institution. Rawls suggests that rational citizens need to do three things after deciding over justice principles in the original position—1) they need to judge the justice of legislations and social policies. 2) They need to acknowledge that opinions of justice are conflicting and have to determine a suitable constitutional arrangement for the integration of these conflicting views. 3) They must define the basis and limits of political duties and obligations (Rawls, 1971, p-171). For following the process, they need to know about the social theories and general facts about the socio-economical situations. In this situation, they will be considered as a delegate. At this stage, the constraints of veil of ignorance will be removed partially. They will know the general facts about the socio-economic and political situations. But they are not allowed to know the particular facts about their own position within the domain of the society. After going through the entire process, they will determine a way of applying the principles with the help of a political constitution which will secure the principles of justice. This is definitely a

political process by which the justice principles will be applied. While sorting out a political process to ensure justice, a delegate needs to incorporate the liberty and equality of all citizens. After fulfilling the responsibilities these delegates will be allowed to know the particular facts of their own identity and position in the society to pursue their own individual life goals and will be considered equal before the principles of justice.

It appears that these delegates are a little different than the other members of the society. They are assumed to have better rationality and a better sense of justice. Though it is not clarified in Rawls' theory why they are considered to have better capability of reasoning and a better sense of justice. He mentioned of no thresholds to determine who are able to play the role. But he restricted the entry as everyone in the society are considered to be rational equally. He also mentioned that they are equipped with social, economic and political knowledge that help them to prioritize some principles over others. The access to this type of knowledge is nothing natural. To have this type of knowledge the delegates definitely need better education and arrangements for themselves. For this, they cannot be considered to be equal with other persons in a given society. It seems that the principle of justice starts with inequalities which is necessary for coming up with the justice principles. We have also seen that the restriction of liberty is also required in some cases to ensure justice in terms of fairness. But the notion of liberty can be explained and understood differently in the three required phases of Rawls' schema of justice.

2.3. Liberty in the Three Phases of the Rawls' Theory of Justice:

a) The Original Position: In section-1 and 2.2 of this paper, we have discussed about the original position. This hypothetical position has a great significance in Rawls' discussion. For the better understanding of the theory, it is important to analyze this hypothetical position from different angles. In this section, we are analyzing the notion of liberty and equality. These two notions have a deep connection with this position.

It is admissible that Rawls, while talking about liberty in his theory, has considered, original position as a requirement for the entailment of the liberty principle. But in my consideration, the notion of liberty is hidden in the concept of original position. Rawls assumes that only free and rational people being in the original position will determine the principles of justice. In this sense, the deciding parties or the delegates need to have freedom of conscience which is one of the basic liberties. Without having this liberty, it is not possible for the delegates to define the principles of justice and decide over the available principles. Thus, liberty as a concept before being incorporated in the principle of equal liberty plays the role of a requirement or a necessary condition for the principle of liberty. Without fulfilling this condition, it is not possible to arrive at the principle of equal liberty.

b) The Principle of Liberty: The first principle in the theory of justice is the liberty principle. It states that "Each person is to have equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others" (Rawls, 1971, p-53). Without upholding this principle, we cannot move forward to the second principle of justice. According to this principle, basic liberties are equal for all without any exception. This principle intends to ensure political liberty, liberty of conscience and freedom of thought and property rights for all. This principle is generally inviolable and can be compromised only for the sake of liberty. Rawls claims that "the rights and basic liberties in this principle are defined by the public rules of the basic structure of the society" (1971, p-55). Here liberty is a system or pattern of social forms.

c) Liberty is the End: In Rawls' theory of justice, liberty is not only a prerequisite and a pattern, but also an end. Rawls (1971) has insisted on ensuring equal liberty for all to remove injustice. Here liberty is an end in the theory of justice since the theory aims for a just society and intends to rectify the entire social system by upholding the notion of liberty. The obligation of upholding the principle of liberty also makes liberty (of all) an end; not a mere means to achieve some other social advantages.

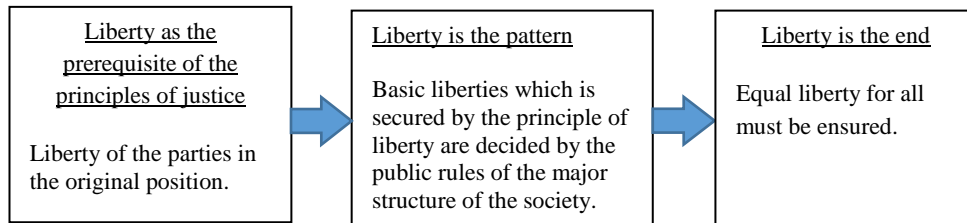


Figure-2: Liberty as the prerequisite, the pattern and an end in Rawls' theory of Justice

Figure—2, above, shows the significance of liberty in different phases of Rawls' theory of justice. In the original position, liberty of the delegates is the prerequisite for defining the principles of justice. The basic liberties which are secured by the principle of liberty is determined by the public rules and these rules constructs a pattern. Finally, liberty is ensured by the application of justice principles without allowing any exception for liberty principle.

2.4. Liberty and Restriction:

Rawls insists that the principle of liberty should be satisfied first among other principles of justice. I have already explained the reason behind this prioritization of liberty principle in the previous sections. Rawls has maintained that liberty can be restricted only for the sake of liberty. In this section, we will focus on the circumstances that justifies a restriction of liberty.

Restriction can arise from natural or accidental phenomena which are beyond control. Since social and political situations are not constant and we have less control over natural disasters and changes, restrictions that rise from these phenomena are beyond justification. According to Rawls, in this type of problem we just need to find a just way to face the given restrictions. Rawls adds that some societies are unjust either in the institutional level or in the individual level. But he believes that human beings in their community choose justice at the end. Whether a society is just or unjust depends how well-ordered the society is. In a well-ordered society injustice is less likely to occur.

Rawls (1971) claims that every society is different and for that reason it may seem that it is not always possible to comply with the lexical priority of liberty principle. He explains that the problem lies not within the theory but in facing the situation with prudence. He adds that it is possible to separate the two aspects of the theory of justice. The ideal part of the theory is assumed by Rawls to comply strictly with the justice principles in a well-ordered society. On the other hand, in the non-ideal part just principles are chosen first and then the parties go for an adjustment principle for an unjust situation.

However, Rawls sticks to the priority of liberty by claiming that liberty can be restricted only for the sake of liberty. But he does not deny that the viability of basic liberty is context dependent. We must try to reach to a situation in which no restriction on

these liberties will be allowed. Rawls allows some restrictions from a given social pattern to confront the cases of exploitation of liberty principle in the hands of irrational persons. He adds that this type of restrictions is justified for the sake of common interest only and warns that this restriction should not be understood as a permission to assault an individual and his thoughts.

Like liberty, equality is also considered a pre-requisite for the system of justice as fairness (discussed in section 2.3). The delegates in the original position are required to have liberty and to be treated as equal. Their conceptions of justice are to have equal consideration and then sorted in accordance with the requirement of a given society. All the delegates will have equal freedom of thought and conscience. Thus, it can be said that equality of the delegates in the original position is the pre-requisite for Rawls' model of justice. Again, the difference principle intends to fix the existing inequalities. It seems that equality, like liberty, is also a purported aim in the same model of justice.

2.5. Equality and Liberty in Rawls' Theory of Justice:

Let us consider the second principle to understand the nature of equality in Rawls' theory of justice. The difference principle is to correct the natural inequalities. No one determines in which group they will belong by birth. We have no control over the nature to determine who will be gifted with natural talents and capabilities. According to Rawls, the talents and capabilities which are gifts from nature cannot be capitalized for getting extra benefits. The person borne in a privileged family, getting better trainings and arrangement, will leave the person behind who is from a less privileged group. Rawls consider these cases as inequalities and intends to fix them by applying the difference principle. He holds that this is the principle of mutual cooperation. The talented and privileged ones will work for the common good. If their participation makes the best for the least privileged ones then they can be provided with better trainings and facilities. This procedure does not increase inequalities in the society but leads to equalities as the privileged ones will not only cooperate for themselves but also for the less privileged and will contribute to produce common good. In this way, we can fix the inequalities caused by natural allocation of talent and resources.

Rawls (1971) shows that this difference principle provides an interpretation of the principle of fraternity and in this interpretation the more advantaged persons will take any extra benefit only under the condition that this will make the best for the least privileged ones.

According to Rawls, the concept of equality applies to the three levels—1. Administration of institutions 2. Substantive structure of institutions and 3. Questions regarding the entitlement of equality (1971, pp-441-442). Equality at the first level is applied in a neutral manner and no exception of rules regarding equality is accepted. In this level, equality is less controversial from the common-sense perspectives. In the second level, equality is determined by the principles of justice. Rawls considers this level to be the most controversial one since this requires basic rights to be equally distributed for all. Finally, the third level deals with questions regarding equality, especially which beings are entitled to equality. Rawls holds that equal justice is entitled to those who have a sense of good and for pursuing that good they cooperate with each other on the basis of principles selected by them (1971, p-442).

The second principle, in Rawls' theory of justice, involves a notion of equality in which distribution of social goods favors the privileged in some cases. But the aim here is not to benefit them twice but to involve them in the process which will benefit the least advantaged in the long run. The first principle in Rawls' theory involves the notion of

equality which applies to all without any exception. This type of equality is fundamental and is owed to moral beings. Both of these principles are required to deal with the issues regarding inequality. The priority of first principle over the second means that we have to respect the notion of equality in the fundamental sense. But we need to follow the second principle in a situation where we can benefit the least privileged by allowing fair distribution of goods and opportunities rather than going for fundamental equality.

It is clear from the discussion above that liberty and equality are the two central ideas in Rawls' theory of justice. From the original position to the execution of justice principles these two notions are necessary to maintain the entire procedure and to mitigate existing injustice. I have already discussed (in section 2.2 and 2.3) that in the original position the parties must be free and equal. The liberty and equality of the delegates are required in this position for the determination of justice principles. If the delegates are not free and equal in the original position it wouldn't be possible for them to choose the principles since they wouldn't have freedom of conscience and thought and their perceptions wouldn't be considered with equal significance. Being behind the veil of ignorance the free and equal parties will define the justice principles. Since it is normal for different persons to have different perceptions of justice conflicting principles should be assessed carefully to pick the favorable principle that will maximize the benefit of the least advantaged. Rawls (1971) holds that no rational party will pick a principle which may cause any problem for pursuing his own good. Therefore, the parties in the original position will agree to the liberty principle and will consider a fair system of equal distribution of wealth and opportunities so that all members of a society can pursue their own goods.

In the system of justice, we are concerned here that the liberty principle is prioritized over the difference principle. The fundamental notion of equality is incorporated by the first principle of justice and the fairness of distribution is invoked by the difference principle. The notion of liberty is more important than equality to be upheld in Rawls' theory of justice. But that does not mean that the concept of equality can be compromised.

There is no doubt that Rawls has depicted a noble plan to face injustice. But his theory is not absolutely free from inconsistencies. I have discussed in the section 2.2 that delegates or parties who determine the principles of justice are considered more dignified and more rational over others who haven't got the privilege to choose the principles of justice for the society. Delegates are to have a special sense of justice but Rawls' hasn't clarified how we differentiate them from others who don't have that. It seems like a mere assumption that the parties or delegates who will choose the principles of justice do have a super sense of justice and their capacity to reason is better than the average people. Since the reason behind this special selection is not explained and examined it can be claimed that Rawls has started his theory of justice by violating the liberty of an average person. All the members of a society are not considered equal in this manner. Rawls has introduced the delegates over the average people without proper justification of the process of selecting the delegates.

Rawls (1971) defines rationality by the idea of good. For him, a rational person is one who has a rational plan to attain his good. He claims that rational people will agree to the principles of justice for pursuing their own good as well as they will adopt their concept of good with the concept of common good. In this way, these rational people will work on the basis of mutual cooperation. People who are privileged will make sacrifices for the least privileged since rational people will not go for maximizing their benefits by making the situation worse for the disadvantaged. Rawls has only assumed this on the

basis of the claim that people in a well-ordered society works within a scheme of mutual cooperation. If the willingness of the rational people to sacrifice for the wellbeing of others is the essence of their rationality, then Rawls would not need the temptation that their sacrifice will not go in vain, they will get the benefit of their sacrifices. It seems that this is just a mere assumption that rational people willingly sacrifice for the benefit of the least privileged. And if this is just an assumption or expectation then by forcing people to sacrifice in the name of mutual cooperation is nothing but the violation of their liberty. Again, by forcing a person to sacrifice for the least privileged Rawls is considering them as means to achieve a better share for the least privileged. That is, the advantaged group here is not the end but a mere means.

Rawls (1971) claims that liberty can be restricted only for the sake of liberty. But it is hard to define which liberty can be sacrificed for another basic liberty. It is true that all people are not equally rational in a society. The problem here is that there is no concrete threshold to judge who are up to the mark in the scale of rationality and who are not. For this we cannot determine in a given context whose liberty should be restricted and who's not. John Stuart Mill's idea of liberty may help us to understand this issue better.

3. Mill on Liberty

John Stuart Mill in his book *On Liberty* (1859) has discussed about idea of civil liberty, its relation with the individual and the expected role of authority. His discussion can help us to understand the nature and importance. Mill has agreed that all people are not equally rational but every opinion should be counted. He holds that control of an appropriate authority over individuals is required for the betterment of the community. That is, some restrictions over individual liberty can be allowed on the basis of sufficient grounds.

Mill (1859) defines liberty for individual as the freedom to pursue his good. The authority should not impose any restriction on individual until his way of pursuing his own good is harmful for others. People cannot be obliged to do anything because it will make any good to him. People are free to decide and act over his own life. Mill claims that, "Over himself, over his body and mind, the individual is sovereign" (1859, p-13). Obligation rises if an individual's action affects others. He adds that liberty applies only to rational human beings. He has determined three basic liberties and holds that the society which does not uphold these liberties cannot be claimed to be free. These three basic liberties are-

1. The freedom of thought and expression: Every human being is free to think and to have feelings on all subjects. Liberty of speaking and writing is inseparable from the freedom of conscience.
2. The freedom of tastes and pursuits: Each human being is free to design and lead his life according to his own taste until it harms others. Even if others think that what an individual is doing is absolutely stupid, he can stick to his own style.
3. The freedom to unite: So long as the involved members are of age, the involved members are not forced, and no harm is done to others, people are free to unite (Mill, 1859, pp-15-16).

To sum up, every single human being is the protector of his own life and liberty is the freedom of pursuing one's own good in his own way until he is harming the freedom of others to pursue their goods.

In the second chapter of his book Mill (1859) has focused first on the historical consequences of ignoring opinions of others. He claims that an opinion cannot be denied

just because it is contrary to one's belief and preference. Denial of an opinion is justified only on the ground of reason. Mill (1859, p-19) argues that no human opinion is infallible. No matter how many are favoring a particular opinion the opposite one always deserves a consideration. No one can assure that truth cannot be relied on the other opinion. Silencing the expression of an opinion is a great evil. Mill states that,

The opinion which it is attempted to suppress by authority may possibly be true. Those who desire to suppress it, of course deny its truth; but they are not infallible. They have no authority to decide the question for all mankind, and exclude every other person from the means of judging. To refuse a hearing to an opinion, because they are sure that it is false, is to assume that *their* certainty is the same thing as *absolute* certainty. All silencing of discussion is an assumption of infallibility (Mill, 1859, p-19).

Human beings often make mistakes while supporting their own views. They think that they are supporting their views with reason while they are arguing from beliefs and preferences. Other people supporting their views make them feel confident about the merit of their views while most of their supporters did not take the pain of thinking.

To have a comprehensive knowledge of a subject a person should listen every opinion and investigate into it from various perspectives. He must not confine himself within the dominant view on that subject. Even the opinion of an average person should be counted. It is true that all humans are not alike in intellectual capacities. Still the practice of thinking must be encouraged. Mill has stated four distinct grounds on which freedom of thought and expression are relied:

First, if any opinion is compelled to silence, that opinion may, for aught we can certainly know, be true. To deny this is to assume our own infallibility. Secondly, though the silenced opinion be an error, it may, and very commonly does, contain a portion of truth; and since the general or prevailing opinion on any subject is rarely or never the whole truth, it is only by the collision of adverse opinions that the remainder of the truth has any chance of being supplied. Thirdly, even if the received opinion be not only true, but the whole truth; unless it is suffered to be, and actually is, vigorously and earnestly contested, it will, by most of those who receive it, be held in the manner of a prejudice, with little comprehension or feeling of its rational grounds. And not only this, but, fourthly, the meaning of the doctrine itself will be in danger of being lost, or enfeebled, and deprived of its vital effect on the character and conduct: the dogma becoming a mere formal profession, inefficacious for good, but cumbering the ground, and preventing the growth of any real and heartfelt conviction, from reason or personal experience (Mill, 1859, p-50).

After discussing these four arguments for liberty, Mill (1859) concludes that there should be the freedom of expression. But he also restricts the domain. If people stick to the fair discussion, they must enjoy the freedom to express. He admits that to maintain such a standard in practice would be difficult. But he claims that no law can restrict discussions and public opinion must look at individual cases.

3.1. When to Restrict Liberty and How to Decide?

Mill (1859) argues that since the society gives protection to its members, people as members of a society must follow some rules defined by that society. None should hamper other people's rights. The members should carry the burden of defending the respective society fairly. We can criticize a member if he does any harm to others while not violating their rights. In this way, society has an authority over the behaviors of its members if that affects the well-being of others.

According to Mill (1859), if the behavior of a person only affects the person himself or the ones who are his stable-mates by their choice, society should not have any concern about those acts. Such acts should be permitted. The member of the society should encourage others to live their lives to the fullest. Society should not keep a person away from pursuing his own interest. This does not mean that we should not speak about what we see as faults in other people's acts. We should definitely warn others about those activities and we can avoid that person involved in faulty actions and behaviors. But we have no right to deal with that person with anger or resentment if his actions only affect himself.

Mill (1859) agrees that some actions and behaviors may affect the well-being of others. If the action not only affects the person himself but hurts the majority then the person should face moral reprobation. Mill explains this issue with the example of a person who could not pay his debts due to his extravagant living (Mill, 1859, p-75). He says that since the person has failed to fulfill his duty to his creditors, his behavior is subjected to punishment. But he should not be punished for his way of living. This is his personal choice and that should be respected.

Mill (1859) claims that social interference is likely to be wrong. He writes, "...there is no parity between the feeling of a person for his own opinion, and the feeling of another who is offended at his holding it;..." (Mill, 1859, pp- 79) People are generally intended to extend the boundary of unjust moral policing. He warns that we should pick a principle carefully. If we wish to impose our values on others, we should be ready to accept those values picked by others. We can speak about activities that we don't like and try to change one's mind but we can't apply force while doing so.

3.4. Rawls vs. Mill:

It is clear that Mill has reservation against the restriction of individual liberty until it is harmful for others. All individuals are free to think and express their thoughts, act upon their thought and pursue their own good without any obligation if it does not concern others. In this sense of liberty, Rawls seems to agree with Mill since he has defined liberty as following one's rational plan to achieve the good of their lives. Both Rawls and Mill urge that individual must enjoy equal basic liberties without any exception. Any exception of this should be justified on rational and moral grounds. Both of them seems to agree that restriction of any basic liberty can be allowed if and only if it hampers that of others.

Both philosophers have answered the question regarding the entitlement of equal liberty in the same manner. Equal liberty is entitled to moral beings, not to animals and barbarians. In Rawls' theory, a person who is rational is also moral. A moral person cannot expect to be benefitted by harming others. Therefore, justice principles are entitled to moral persons. Mill (1859) urges that equal liberty is not allowed in the barbaric societies. Liberty is entitled to rational persons who are also respectful to moral values.

But Rawls (1971) claims that any notion of liberty based on utilitarian principle will ignore the liberty of people who has choice different than what maximum number of people chooses for themselves. He believes that the idea of liberty in his theory of justice consider the liberty of all members of the society in the equal manner. But in section 2.2, I have shown that delegates in the original position have the advantage to invoke their goods in the justice principles since they are the ones who decide the justice principles for all. Thus, they enjoy a superior level of liberty than the average common people. Since the common people do not have direct access to the initial level of choosing the justice principles, their notion of good cannot be directly invoked into the justice principles.

One may argue that delegates choose the justice principles by being behind the veil of ignorance and as they are not informed about the particular facts of their positions in the society, hypothetically, they wouldn't be able to design the principles to comply with their own good. But Rawls has claimed that delegates are rational people with the clear idea of their own goods. They are just unaware about the present situation in the given society. Hence, it is possible for one to be in the favorable position to fix the general principles of justice compatible with their own notion of goods and being privileged over the common people. It seems that the objection raised by Rawls against the notion of liberty based on utilitarian choice theory is applicable for his own theory. The liberty of common people has got lesser access to the principles of justice than the liberty of delegates who chooses those principles.

It seems that the hypothetical state in Rawls' theory which were to guarantee the neutral determination of justice principles fails to do so. The design of the original position cannot protect the liberty of conscience and participation of all members of the society in the equal manner. In the next section, we will consider Robert Nozick's (1974) argument against Rawls (1971) and Amartya Sen's (2009) view on liberty and equality.

4. Nozick and Sen on Liberty and Equality

Robert Nozick (1974) holds that though Rawls (1971) seems to uphold the spirit of liberty for all, he actually has violated people's right to decide over their own property. He has proposed a different view of acquisition of holdings in his book *Anarchy, State and Utopia* (1974). He also argues that state should be minimal and less extensive to preserve the individual rights and basic liberties. Amartya Sen (2009) appreciates Rawls' idea of justice as fairness but hasn't agreed with the process of ensuring that. He argues that liberty is following one's plan of good without any obstacles caused by inequalities. Removing these inequalities should be the goal of a theory of justice.

Before analyzing Nozick's view on distributive justice, we need to go through his views on individual rights. According to Nozick, a rational human being cannot be used as mere means in certain process just as any inanimate objects (Nozick, 1974, p-32). Like Kant (2002), he maintains that human beings are endowed with a special type of dignity that they can only be considered as ends. He considers human beings as self-owners. We have seen in the previous section that Mill also has defined human beings as their own guardians. It seems that both Mill (1859) and Nozick (1974) consider human beings to own their own body, mind, talent and property.

As people are self-owners and are considered as ends then they must have certain rights. He follows Locke (1993) in claiming that people have the rights to their lives, liberty, and the fruits of their labor. Nozick assumes that these rights are able to put constraints on others regarding the treatment of a self-owned person (Nozick, 1974, Chap. 2). Other people cannot harm a person physically and cannot force him to work for them against his own will. It is only the person himself who will decide for whom he will work or not.

Nozick accuses modern liberal states for considering people as slaves and thus being immoral. The welfare states steal the worth of labor from the citizens through taxation. According to Nozick only the minimal states are morally justified (Nozick, 1974, Chap. 3). A minimal state only provides protection to its citizens but cannot regulate them. The state has no right to dictate how a person would spend or use his own money and property.

On the other hand, critics of the libertarian minimal states that it allows far too little for the government. They claim that a more-than-minimal state is necessary in order to

fulfill the requirements of distributive justice. It is held that the state, simply must engage in redistributive taxation in order to ensure that a fair distribution of wealth and income in the society. Nozick's answer to this objection constitutes his entitlement theory of justice.

Nozick (1974) argues that in distributive justice it seems to imply that there is some central authority who distributes to individuals the shares of wealth and income that pre-exist the distribution. Of course, this is not really the way such shares come into existence, or come to be distributed, at all; in fact, they come to be, and come to be held by the individuals who hold them, only through the scattered efforts and transactions of these innumerable individuals themselves, and these individuals' efforts and transactions give them a moral claim over these shares. Talk about the distribution of wealth covers this up, and unjustifiably biases most discussions of distributive justice in a socialist or egalitarian liberal direction.

Nozick (1974) holds that a more adequate theory of justice must contain principles of justice in holdings. He has proposed three principles for holdings—

1. A person who acquires a holding in accordance with the principle of justice in acquisition is entitled to that holding.
2. A person who acquires a holding in accordance with the principle of justice in transfer, from someone else entitled to the holding, is entitled to the holding.
3. No one is entitled to a holding except by (repeated) applications of 1 and 2 (Nozick, 1974, p-151).

The justice in acquisition is maintained if the history of acquisition and transfer is just. If any injustice took place in the past that should be rectified. Without the rectification of the previous injustice no holding will be considered as just. The bearer of a holding acquires his property through a historical process. But, Nozick hasn't provided any precise method to follow while determining initial acquisition. He seems to uphold Locke's (1993) labor theory of property acquisition. Locke holds that we need to place a limit upon how much of natural resources we can use for ourselves. We need to leave some resources for others. Nozick (1974) seems to redefine this limit on the basis of certain welfare goal but fails to fix the starting point. Locke (1993) started by assuming that the earth is a common property to all. But Nozick attempts to explain the baseline of acquisition.

However, any survey of the history would reveal that the current distribution of property is not fair and is the consequence of theft and conquest. Nozick (1974) explains, historical entitlement is subject to the principle of rectification. It is not possible to trace all the injustices that occurred in the past. Hence, the application of justice principles will be very limited if we don't assume that the least privileged are the victims of historical injustices.

Nozick explains and defends the entitlement theory by using a famous thought-experiment involving the basketball player Wilt Chamberlain (Nozick, 1974, pp- 160-164). Let us imagine a society in which the distribution of wealth fits a particular pattern of equal distribution and let us assume that this distribution is just. He calls it D1. Suppose that Wilt Chamberlain is a member of the society. In his contract with his team, he has mentioned a condition that he will play if the audience gives twenty-five cents in a box kept at the gate of the stadium and the money will go to him. Suppose, again, that in that season, one million fans are ready to pay the money to watch him playing. There will be a new distribution, D2, in which Chamberlain will have \$250,000. That is, he will receive more money than others and this breaks the previous original pattern in D1.

Nozick says, D2 is just and Chamberlain should get the extra amount of money (1974, pp- 160-164). Because, in D1 every member was entitled to what he had. There was no injustice then and this led to D2. Moreover, the audience paid the extra twenty-five cents voluntarily. Thus, the transition from D1 to D2 was voluntary and for this reason, there should not be any objection. Those who didn't want to pay to watch Chamberlain playing, still have their money. Thus, there is no injustice.

It seems that the claim that a just distribution system must have a certain pattern made by the non-entitlement theories of justice collapses. The Wilt Chamberlain example clearly shows that a distribution can be just without following any particular structure or pattern. It seems that if individuals are allowed to use their holdings freely, it will destroy any distributive pattern supported by non-entitlement theories. Thus, it can be claimed that, patterns destroy liberty. If we want to follow any pattern, this will definitely involve coercion. This is not merely a regrettable side-effect of the quest to attain a just distribution of wealth; it is a positive injustice, for it violates the principle of self-ownership. Distributive justice, properly understood, thus does not require a redistribution of wealth; indeed, it forbids such a redistribution. Accordingly, the minimal state, far from being inconsistent with the demands of distributive justice, is in fact the only sure means of securing those demands.

According to Nozick, typical theories of distributive justice require a certain structure and often ignores the history of distribution (Nozick, 1974, p-155). On the other hand, the entitlement theory of justice considers the history and does not advocate for any pattern. Though the distribution of wealth is determined by some factors of history, it has nothing to do to make sure that the hard workings get the most. What this ensures is that people should get what they have and this is compatible with the three principles of justice in holdings.

4.1. Amartya Sen's Criticism of Rawls' Theory of Justice:

The first objection raised by Sen (2009) is that the 'original position' generates a hypothetical situation. In practice it may not be successful to include various conflicting demands of a large plurality. He has explained this issue with an example involving three children and a flute (Sen, 2009, pp-12-15). The genuine demand of Anne, Bob and Clara cannot be avoided on the basis of some superficial argument which don't base on the removal of poverty and one's persuasion of own good. Since, resources are limited, it may not be possible to meet the demands of all.

Sen (2009) suggests that the concept of justice must consider the actual way of living of the people. An ideal theory of justice needs to consider and compare various alternatives. He argues that there is a contradiction in Rawlsian liberty principle. Rawls has given priority to the liberty principle. Later he has considered the equality principle and the equity principle. In his theory liberty is the inviolable principle that people should never compromise. But when he considers liberty as 'primary good' he considers it as a form of a mere facility. It seems that in the same theory liberty is considered as the end and means simultaneously. Sen raises the question, why liberty should be prioritized over hunger, starvation, medical neglect, and lack of education etc.? Sen maintains that it is also important to note that in his theory Rawls only focuses on ownership of property and avoids the idea of merits.

Sen argues that the Rawlsian model of justice is unable to give space to the plurality of demands (2009, p-9). Again, if we wish to fit the heterogeneity of interests the model will not sustain. He considers this the basic flaw of the Rawlsian model. Institutional rules can't ensure justice if they are not connected with the way people behave and act.

According to Sen, justice is actually connected with the way people live, not only with the basic institutions that surround the people (2009, p-67).

To shed lights on different ideas of justice Sen (2009) focused on two notions of the early Indian Jurisprudence, *Niti* and *Naya*. The idea of *Niti* is related to the behavioral appropriateness and institution while the idea of *Naya* is related to the practical way of living and the consideration of context. Sen differentiates between these *Niti* and *Naya* by referring to a historical incident (2009, p-21). Ferdinand I, Roman emperor in the sixteenth century claimed: 'Let justice be done, though the world perishes'. This is an example of a strict form of *Niti*. No matter how much catastrophe would be brought by the process of ensuring justice, we must proceed. But who will be benefitted if the world perishes? Sen argues for a realization-based perspective of justice (2009, p-21). He holds that we need to understand the importance of the prevention of injustice in the world. It is not only about following some institutional formal principle; it is about the complete understanding of our need and reason behind injustice and to resolve those reasons. The broader perspective of *Naya* would generate the actual social realization that has been created through the institutional process. This will give space to diversity.

5. Justice, Liberty, Equality and the Consideration of Contexts

We have seen that the idea of justice is closely connected with the notions of liberty and equality. These two key factors are invoked differently in different theories of justice. It matters a lot how these notions are arranged and aimed in various principles. Different societies have different structure and requirements. Thus, it is important to invoke these notions differently in principles of justice not in a unique manner but in a relative way. In the following sections, I will try to support this claim that will also address the question whether a system of justice needs to follow only one pattern or not.

5.1. Liberty and Equality: The Prerequisites or the Ends?

It is clear that liberty and equality are the two significant elements of justice theory. People in this unjust world are suffering for the irrational decisions made by so called world leaders. Races, nations and states are fighting with each other for serving the purposes emerged from greed, shamelessness and the stupid wishes to show their power and to prove the supremacy over each other. Where religions were to bring peace and harmony, people shower with the blood of his own kind for disputes regarding authenticity and superiority. Since resources are scarce and we need immense amount of various energy to maintain luxurious lifestyles people are ready to kill and torment each other and the extent of their brutality knows no bound. It is legitimate for a rational person to agree with some general principles to protect their basic rights without harming others. The necessity of just principles rises here. We need to find a way to resolve injustices in various sectors not only for our own selves but also for other species. Here in this paper, the theories of justice analyzed are mostly concerned with injustices regarding rights and wealth. Whether these theories concern the rights of other species is a different concern and for now I have kept this topic aside.

Philosophers, like Mill (1859), Kant (2002), Rawls (1971), claim that liberty and equality should be the addressed first to deal with injustice. We have seen that not only the political and social philosophers and economists of contemporary period but also moral philosophers from previous century have focused on the importance of equal liberty.

We have seen that in Rawls' theory of justice, liberty is the prerequisite as well as the end. In the original position he intends to design unbiased principles of justice with

the participation of equal and free legislators. These decision makers choose the principles of justice which will ensure the good for all. Thus, liberty is the prerequisite in Rawls' theory of justice. Again, liberty is the end in the same theory since this aims to maintain equal liberty for all. Rawls understood that for ensuring liberty it is important to maintain a fair share of wealth. Thus, he argues for fair distribution of goods and opportunities to reach for equality. We have noticed here that Nozick and Sen have criticized Rawls' theory for violating liberty by invoking the difference principle and for holding that any society will accept the principles without any exception. But both of them have agreed that any just system must incorporate equal liberty for all.

Liberty may not be required in a theory as prerequisite but liberty is definitely the end of all justice theory. In a society which is less well-ordered liberty for all can make the situation worse in the very beginning. This type of society needs to be prepared first to understand the value of liberty for all. Otherwise, it may end up with a bloody consequence. Once they have got to realize the value of liberty for all they will ensure it within their own social system. Though this consideration will push us to the relativity of the principles of justice, at the end justice will be ensured. Therefore, in my consideration, liberty should not be the prerequisite for justice principles but must be the end. It is not necessary that justice principles are applicable only in well-ordered society where liberty and equality are guaranteed to some extent. We can start with a barbaric society and design justice principles according to the requirements of that society and eventually making it a just society in which everyone will be able to pursue their good. If we can ensure equality, it will result in equal liberty. But the problem is, inequality is predominating in the world and the cause often lies in the past.

5.2. Inter-state Relation, Justice, Liberty and Equality:

Rawls (1971), in his theory of justice, has assumed society to be a closed system, separated from other societies. But is it possible to imagine a society which is not somehow influenced by other societies? Again, war, economic and cultural imperialism have changed many societies through the ages. We can find the justification of this claim just by looking back to the world history. Before colonization Indian subcontinent was rich in economy. But the scenario changed after the establishment of British colony. The British East India Company got a free access to all its resources and started to impose British values and culture on Indians for 200 years. During this long period of time, Indian society received reformations both positive and negative. Some values have changed entirely, some partially. The agrarian economy converted to a more complex system of economy for industrializations. A different system of class also evolved as an unavoidable consequence. Examples like this are not rare in the history. We have also seen devastation of entire civilization only to attain a free access to various resources, fuel and energy. We cannot ignore these histories of injustice. In addition, there are powerful states which have a control over the resources of other weaker states. Apparently, these weaker states are regulated by an authority which is native in origin. But the authority has no direct control over its resource and distribute it among its citizens. Rawls' theory ignores this type of societies too. The liberty of the people living under similar situations cannot be attained without resolving political, economic and cultural imperialism.

Some may claim that Rawls' theory of justice is a domestic theory of justice. But can we consider a domestic system of justice to be just which only focuses on the distribution of wealth that is available at present. We have seen that Nozick (1974) talks about rectification of historical injustice. I agree with Nozick's claim here. If a theory is considering about resolving the issues of injustice, it requires to go through the

rectification of previous injustice. A domestic theory of justice will not work if it focuses only on the present situation of a society. We need a workable theory of global justice which will take into account the interstate relations and to resolve unjust intervention.

Definitely it is not an easy task to go through the process of rectification. But the hardship of the process should not cover the injustice that took place in the past and let us continue its legacy. Without this rectification and a balance of power the noble goal of justice theories to ensure liberty and equality for all will remain only as an academic ambition.

5.3. Equality Needs to be Ensured for the Sake of Liberty:

According to Sen (2009), justice is allowing every rational person to pursue their good. The obstacle to a just system is nothing but the inequality. A theory of justice needs to suggest how to restore and preserve liberty for all by resolving inequalities. In making a reexamination of inequality in our times, Sen (1995) makes a paradigm shift beyond what others consider income equality and equality in distribution of resources. Sen considers the heterogeneousness of human beings a space to evaluate inequality. Human diversities are the consequences of various needs and capacities due to different conditions. Sen argues that:

We begin life with different endowments of inherited wealth and liabilities. We live in different natural environments – some more hostile than others. The societies and the communities to which we belong offer very different opportunities as to what we can or cannot do. The epidemiological factors in the region in which we live can profoundly affect our health and well-being (Sen, 1995, p-20).

Sen has acknowledged that the personal heterogeneities, difference in physical and mental abilities are important variables for measuring inequality. Sen confronts John Rawls equality of incomes by giving an example of a situation where a disabled man and an able-bodied man are given equal incomes. However, the disabled person cannot function in the way the able-bodied person can. Our global society has a lot of diversities caused by cultural, religious, social, and natural environment. We need to study the context first and then we should fix the priorities. Without taking measures for resolving various inequalities, it is not possible to ensure liberty for all.

5.4. Theory of Justice, if Domestic, Must Accommodate Common People's Participation:

Social structures do not have any universal pattern. Each and every single society is somehow unique. Some societies are well-ordered, some are not. Some society can maintain social security scheme, some do not have sufficient access to resources to have a scheme. It is also notable that no theory can perfectly eliminate injustice. But we all have dreams and hopes to catch the life that we consider good. I am not definitely talking about a life that sounds fancy. But there are people who have the ability to live a life of superstar billionaires as well as people struggling hard to arrange a meal. Injustice in domestic levels takes place because of the corruption and greed of the persons assigned for distribution of available resource. For example, for the lack of rational and proper rules and proper monitoring common people have to pay higher amount of tax to cover up the loss caused by money laundering. Money laundering leads to huge amounts of money remaining unaccounted for and untaxed and causes higher tax rates in general than would normally be necessary and higher costs of living as a result. Thus, it greatly harms honest taxpayers, distorts commodity prices, results in misallocation of resources and expose

financial institutions to greater risks than normal, etc. The problems felt by the common people in their daily lives is often ignored by the higher authorities and the government. The opinion, experience and participation have a very small place in the procedure of policy makings in various sectors. A theory of justice must find a way to make more rooms for common people and to share their idea of good. Without the consideration of the existing injustice, available resources and common people's understanding of wellbeing a domestic theory of justice is likely to fail.

Conclusion

It can be concluded that Rawls' principle is not flawless though have a noble goal. Rawls have considered some of his assumptions to be the case. Both Nozick and Sen have observed and objected some of them. The two principles of justice mentioned by Rawls cannot be deduced necessarily in all situations and for every society. It has been shown in this research that the original position is not sufficient to guarantee the objectivity and neutrality of justice principles. Rawls has given the delegates the authority to choose the principles for the common people and thus keeps a very small place of participation for the commoners in the decision-making processes. In this way, his theory fails to consider all people with equal dignity and rights. Again, the difference principle in the same theory has considered the advantaged people as means to benefit the least privileged. Thus, Rawls' promise that all people are considered in the equal manner in his theory of justice seems to be broken. It is also suggested, in this research, that any theory of justice needs to resolve inequality to preserve liberty for all while taking the special situations and requirements into careful consideration. Finally, this research has shown that a theory of justice must include a rectification principle and should keep more space for the direct participation of common people in the decision-making process.

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[সার-সংক্ষেপ: জন রলসের ন্যায্যতার তত্ত্ব অনুযায়ী পৃথিবীতে অ-ন্যায্যতা বিদ্যমান এবং এই অ-ন্যায্যতার মিমাংসা করা আমাদের দায়িত্ব। তিনি ন্যায্যতার একটি মডেল নির্মাণ করেছেন যেখানে ন্যায্যতার নীতি নির্ধারণের ক্ষেত্রে নিরপেক্ষতা নিশ্চিত করা এবং সকলের স্বাধিকার এবং সমানাধিকার রক্ষা করার

আবশ্যকতা বিদ্যমান। তাঁর এই মডেল দাঁড়িয়ে আছে ‘Original Position’ নামক একটি কল্পিত অবস্থা এবং দুটি মৌলিক নীতির উপর। আপাত বিবেচনায় রলসের এই মডেলটিকে অ-ন্যায্যতার সমস্যা সমাধানের একটি আদর্শ মডেল বলে মনে হয়। কিন্তু, অনেক দার্শনিক এই তত্ত্বটির সমালোচনা করেছেন। এই প্রবন্ধটিতে রলসের ন্যায্যতার তত্ত্বে স্বাধিকার এবং সমানাধিকারের ধারণার বিশ্লেষণ করা হয়েছে এবং দেখানো হয়েছে যে রলস তাঁর তত্ত্বে প্রতিশ্রুত সকলের সমান স্বাধিকার উপভোগ করবার বিষয়টি নিশ্চিত করতে ব্যর্থ হয়েছেন। এই প্রবন্ধটিতে রলসের তত্ত্ব সম্পর্কে রবার্ট নোজিক এবং অমর্ত্য সেনের দৃষ্টিভঙ্গীও আলোচনা করা হয়েছে এবং এই সিদ্ধান্ত দেয়া হয়েছে যে ন্যায্যতার একটি যথাযথ তত্ত্বে সংশোধনমূলক নীতি এবং পরিস্থিতির ভিন্নতার বিবেচনা অন্তর্ভুক্ত থাকা আবশ্যিক।]