CRITICAL ANALYSIS OF RAWLS' THEORY OF JUSTICE IN THE PERSPECTIVE OF DEONTOLOGICAL LIBERALISM

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Abstract

In this research article it will be specifically focused on the Rawlsian deontological liberalism i.e. the "Priority of right over the good." It is to be observed to explore the thesis of right/good contrast in which priority is ordained to right. This deontological outlook itself seems to have been ontologically designed. Since, the liberal deontological thesis; the priority of right over the good is questioned in its exposition. In addition, priority of right over the good is nothing more than a greater good in liberal political conception of justice as fairness.

In above connection, in this article the various aspects of theory of justice as fairness would be discussed. It is generally believed that Rawls has retreated from the universality of liberalism. He reconsiders his earlier position on the universality of Liberalism. In this regard, he realizes that his standpoint should have been historicist and anti-universalistic. Thus Rawls tries to establish compatibility between his theory of justice as fairness and that of socio-political and economic institutions of liberal political society such as United Stats of America.

Furthermore, his claim that the conception of person is non-teleological and deontological would be reframed in critical paradigm of this research. He considers his conception of person as legal (political conception) of person which is culturally specific and historically determined. In connection of the above discussion, it would be exposed in the critical review of Rawls' methodology of a social contract theory expounded by Hobbs, Lock and Rousseau. The social contract theory has exerting influence on the Rawls' original position as a sophisticated version of social contract doctrine. Simultaneously it would be critically evaluated that Rawls' two principles of justice, and see how the two principles of justice are incompatible in his liberalism. Following this critical discussion on political conception of person, Rawls' deontological liberalism would emerge as a hard core of his theory.

Original Position and Two Principles of Justice (Critical Analysis)

The theory of justice is an intellectual attempt on behalf of Rawls to realize the essentiality of the theory of justice as fairness in the contemporary moral and political philosophy. Rawls believes that original position is a theoretical device which provides the ground for the voluntary scheme in which every one is to consider his open choices to express their view points irrespective of the external coercion. Persons would achieve a reasonable contract on two principles of justice; are free, rational and equal. Therefore,

they would be situated equally in order to unanimously scrutinize two principles of justice which will regulate the basic structure of liberal society. Each member of contract situation would select two principles of justice independent of his personal preferences and conceptions of good. Therefore, two principles of justice would be objective and neutral. These two principles of justice are given as under:

1. Each person has an equal right to a fully adequate scheme of equal basic rights and liberties, which scheme is compatible with a same scheme for all, and in this scheme the equal basic liberties, and only those liberties, are to be guaranteed their fair value.
2. Social and economic inequalities are to satisfy two conditions. They must be attached to offices and positions open to all under conditions of fair equality of opportunity; and second, they must be to the greatest benefits of the least-advantaged members of society.[1]

For Rawls, the theory of justice constitutes the fair distributive scheme which dispenses the moral status to the legal political authority, organizations and obligations. However, the original position which Rawls has taken as an essential situation of contract doctrine is not an adequate technique. The original position presupposes the conception of person which is psychopathic[2] who would bargain to serve their own interest not of communitarian interest. Bourgeois interest is prior to any sociopathic interest of general humanity.

In this regard, no contractor would come to have unanimous consent on two principles of justice. Why contractors would not unite into unanimous consensus on principles of justice is because such cooperation is concretized beyond all strains of commitment of social classes in society. And all social classes of society would recognize only those representatives who promise to serve their interest. However, all possess incommensurable conceptions of good and interests in the original position. Therefore, veil of ignorance as an artificial technique is to supersede the natural desires of social being. How would it be reasonable for parties to decide principles of justice without recourse to their overwhelming desirable desires in the original position? Sandel.M believes that:

> Conception in which the self, shorn of all its contingently given attributes, assumes a kind of supra-empirical status, essentially unencumbered, bounded in advance and given prior to its ends, pure subject of agency and possession, ultimately thin.[3]

Veil of Ignorance (Critical Review)

In this way we may reach to another critical juncture in Rawlsian methodology with reference to his conception of veil of ignorance. We have already observed that Rawlsian

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[1] Political Liberalism, New York; Columbia, Press, 1993, pp. 291, 5,6.
[2] Ibid, p. 51
[3] Liberalism and the Limits of Justice. Cambridge University, Press 1982, p. 94

free and rational parties would come to know that there are different classes which are antagonistic in nature, hence one dominates and others are subordinate to the power of exploiting class. After the veil of ignorance is lifted, every one would vision himself into highly diversified basic structure of society through which he would be able to discover his own social standing in either dominating class or exploited class. For instance, if some one belongs to an exploiting class, than he would have greater needs for which he would try to maintain status quo in terms of desiring good amount of wealth and power. As Richard Miller captures the weakness of Rawls' methodology, he holds that when parties get to know of their social standing and their needs in social circumstances, they would be discouraged to prefer their choice of principles of justice because: "...in particular, [their] choice would appear indefensible to them if they are inclined to accept great risk for possible greater rewards."[4]

It follows that Rawlsian persons are unable to settle on two principles of justice due to their being kept in an ignorance of the worth of the principles of justice in general and the difference principle in particular. We have further observed that the class-divided society keep varying degree of self-respect for individuals who belong to antagonistic classes. As Miller gives details of this situation in these words:

> The existence of special needs for wealth and power, and status typical of an upper class, or more precisely, a dominant exploitive class, might lead one to commit oneself to a weaker constraints on inequality then Rawls in situation like that of original position, in which one does not know actual place and society. Thus the outcome of the original position would be crucially affected by a split between what most people are like and what people in certain common groups are like", the argument continues, "given the typical upper class needs for wealth and power and status, it might be reasonable to choose a less egalitarian contract than on embodying the difference principle even in the light of difference principle."[5]

Thus everyone would prefer his personal interest and may support his own specific social and economic situation even on the expenses of others. The upper classes would not acquiesce into more egalitarian aspect of the principles and may vehemently reject the difference principle. And on the other hand, least-advantaged parties would prefer more egalitarian aspect of the two principles of justice. This would usher into the bias of class-antagonism, and on the other hand such division of an interest would lead strong parties to exploit weaker parties. If we visit the "...Marxist view, it would not be uniquely rational in the original position to commit oneself to help realize the difference principle."[6]
Miller argues that:

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[4] Miller. Richard. Rawls and Marxism. *Philosophy and Public Affairs*. Vol. 3. no. 2 (Winter 1974). P 175.
[5] Ibid. p. 182. Willy-Blackwell Publishing, Research General.
[6] Ibid.

> If, when the veil of ignorance is lifted, one turns out to be a typical member of an exploitative ruling class; one may be unable to accept the consequences of the difference principle or of constraints on inequality of the similar strength.[7]

If such is the case than, Miller further claims that:
Some one in the original position would see that difference principle would be intolerable for him [parties to contract], if he turns out to be a typical member of dominant exploitative class. *He* could not accept, as grounds for commitment to help realize the difference principle, and argument that this commitment, unlike its rivals, will be one he turns out to occupy.[8]

The Rawlsian methodology of original position would *immediately fail* after veil of ignorance is *lifted.* No one would accept the *so-called fair terms and conditions* of hypothetical agreement reached among parties in the hypothetical choice situation. Thus well-off people must be *forced to give up their monopoly and economic hegemony* over the working classes because we observe that "[the] best off people in any of the open society can not be made to give up privileges except by force.[9]
This means that parties would not choose principles of justice in highly class-divided societies, for the reason that these societies may correspond to antagonistic features given below:
1. "No social arrangement that is acceptable to the best-off class is acceptable to the worst off class"
2. "The best off class is a ruling class i.e. one whose interest are served by the major
political social and ideological institutions".
3. "The need for wealth and power typical of the best off class is much more acute then
that of typical of the rest of the class"[10]
4. Even if capitalist class may give some concessions to the laboring swain, nonetheless the\' *would not tolerate the difference principles* which may *lessen* the maximization of *capital* for the owning class.
5. *Liberal state* is like a *night watch dog which only safeguards the private property*
economy as the hard core of liberal economic system. This would not be able to get rid of even *relative poverty* at length and the *gape* between haves and have-nots would
perpetuate the system, if not within, than without. Explicitly first world countries may provide their people the basic medical need and satisfy the nutrition of working class, but on the *expenses of the labor of the third world nations* which are starving to death because of the high malnutrition afflicted by poverty.
6. A capitalist economy *can not work without exploiting the surplus* of the labor of industrial workers in any class-divided society.

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[7] Ibid p.190
[8] Ibid p. 175
[9] Ibid
[10] Ibid p. 170

This leads us to imply that Rawlsian methodology *may fail* because it only *applies* to a class-antagonistic society. No one would accept these principles because they are vehemently ridden of the bias of class dynamism. In this realm of thinking we may find that Rawls is *unable to defend* his method of original construction, even if he believes that the original position is a representative's situation. The background analyses excavates the idea that if the choice of principles of justice is justified only on the basis of public consensus among diverse attitudes and different interests in the liberal democratic society; than we may reach an essential point that Rawls' method of original position could not sustain before the Millers' powerful criticism.

Welfare State Capitalism in Rawlsian Liberal Framework

Rawls defends the system of private property economy because he supports the welfare state capitalism, it follows that the division of society into social classes is inevitable or at least acceptable. For Rawls this would necessitate the priority of negative liberty over all other demands of social justice. Such class divided society would strengthen the very basis of large socio-economic inequalities which Rawls considers, are compatible with strict equality of liberty. However, it is not possible to arrange compatibility between two extremes because of opportunity principles adopted in distributive scheme. This would lead to the idea that difference principle is not preferable to the distributive scheme because the difference principle is either sufficiently egalitarian or moderately egalitarian, or in-egalitarian altogether. Whereas an opportunity principle would necessarily embody the "career open to talent and ability" which may cause the social and economic dissension in the society at the grass root level. Rawls' theory obtains the political democracy and secures its background institutions although fails to consolidate the same principle in the socio-economic realm: **the democracy in the workplace.**

We have observed that the theory of justice necessarily supports the welfare state capitalism, which socialists hold, is the exploitative system based on the class antagonism. Socialists believe that welfare state capitalism strengthens the market as a pricing[11] and influencing the distributive mechanism. So the theory of justice regulates the bare market system which does not socialize property, rather it individualizes the property in terms of the private-property based economy. The basic structure of society-contains the *market mechanism* based on the system of rights *to regard* private property economy as "...more efficient than the command economy and it is consistent with the principle of equal liberty and fair equality of opportunity, whereas command economies [in socialist society] are not...."[12]

The scientific and empirical fact in Rawls theory is that the theory best confers the welfare state capitalism which is prior to command economy or communist regime supporting classless systems in principle. The theory of social justice would necessarily strengthen the system based on interest-based regulations in the class-divided social

[11] Market is empowered to determine the value of commodities in market mechanism without state intervention or little interference.

[12] Rawls. John. A Theory of Justice (revised edition) oxford university press. Great Clarendon street Oxford 1971, 1999. pp. 270, 275.

phenomena. It inevitably acknowledges and accommodates the antagonism of social classes in liberal political society.[13] We may regard the socialism as a system containing at least in some sense antagonistic social classes, for instance, those that are in direct conflict over the production and distribution of the social surplus product. The post capitalist societies would pertain to social class antagonism not in terms of exploited and exploiting classes but establishing the fact that no ruling strata or elitist would exploit the surplus labor of working class. The difference between these extremes depicts that Rawls seems to have supported the social class even in rigidly Marxist sense; hence such social antagonism is acceptable.

Even though, Rawls may claim that the system of inequalities would constitute benefits to least-favored. Here Rawls would include *State Power* to secure the rights and benefits for the least-advantaged strata of society. However, liberal democratic state arranges inequalities in the market place through the increase in commodity production and thereby imposing reasonable taxes on the entrepreneurs or well-off strata of society. Rawls attempts to dispense immediate benefits to the marginalized class through the taxation and welfare transfers from upper strata of society.

This background *Market Mechanism* and intervening *State* may regard inequalities as benefiting least-favored strata. Despite that, marginalized class has to *lose its self-esteem* when it could not have *equal access* to the primary goods. For the reason that either persons differ in the natural primary goods from the highly talented and capable [skilled] persons or social, historical and political contingencies may affect their self-respect at the grass root level in a class-divided society. Then the absolute priority of liberty over all other demand of social justice would be enjoyed only *by* well-off elitist class on the expenses of social demand of majority of the marginalized strata of society. In this way, we may imply that the priority of liberty may overweigh all demands of social justice.
The priority of negative liberty over all demands of social justice would not mitigate the huge gape between haves and have-nots in the Marxist terminology. Following this Rawls has preconditioned the socio-economic development of the marginalized strata in the society which must first of all reach certain level of material wealth. This further implies that Rawls' defense of the welfare state capitalism and well-ordered societies to the effect that all members of society must be able to carry through their minimally-decent level of well-being. This claim seems to be trivial in the sense that how *least-advantaged strata could gain* great advantages and maintain their decent-standard of living in a society which is highly pluralist and divided into rich and poor groups with their different needs and incommensurable interests.

Thus, if the negative liberty is prioritized over the demand of social justice, than the distributive scheme would be affected because security rights and substantive rights may be violated at the grass root level by the elitist social strata in their favor. Moreover, we have already depicted that the difference principle is not tolerable to the exploiting strata of either well-ordered or a less well-ordered society.

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[13] Though. Rawls does not use the term class or classes as such in his theory; instead he uses the term of social strata. Therefore, Rawls adopts the view of main stream "bourgeois" (Capitalist) social theory with respect to the term "class."

Accordingly, we may presume that Rawlsian system of basic liberties is incompatible with the large socio-economic inequalities. The liberal theory fails to uphold that liberties are equal or enjoyed by all on the equalitarian basis. This means equal liberties, with reference to the system of large socio-economic inequalities, are equal only in name formally but not in reality.

On the contrary, members of well-off strata possess good amount of capital at their hand. They are able to express their liberty in accordance with their capacity of consumption. Thus, more they control material wealth; more are they free to enjoy the fruits of their liberty. This implies that the well-off class or individuals extract benefits of their freedom on the basis of their material wealth they possess. On the other hand, the less well-off people or group would enjoy their freedom for no effect because capital is the hard core of capitalist economy in any liberal democratic society to determine to what extent is people of the society to be free. So, the unsympathetic inequalities would be inadvertent consequences of such a disruptive scheme.

Unfair Distributive Scheme

Rawls and even reformists Marxists may not believe in the strict equality. However, *it is something surprising in Rawls that the first principle is more egalitarian then the second principle.* Moreover, Rawlsian second principle may *turn out* to be *incompatible* with the first principle because of the system of inequalities *with reference* to the principle of equality of opportunity for all. However, difference principle is a *quite problematic* with *reference to its applicability,* because the difference principle more considers the group interest rather then individuals'. As Dworkin believes that equality resource theory must be observed at this level. Theory is designed to enforce "[the] fundamental requirement that only an equal share of social resources be devoted to the lives of each of members [of society], as measured by the opportunity cost of such resources to others."[14]

So, he maintains that Rawls' theory *fails* to provide fair allocation of social resources for the individuals who have been *excluded from* the productive class; hence they are *deprived* because of their being *naturally disabled.* The naturally disabled people are *contingently affected* by the natural primary goods, talents and abilities. Therefore, they are unable to have *equal access* to the *distributive scheme* of social primary goods or to have *share* in the allocation of socio-material benefits in such class divided society.

Even though, Rawls may defend himself through the fair equality of opportunity principle and that of redress principle.[15] The principle of redress is designed by Rawls. He says that "...undeserved inequalities call for redress and since inequalities of birth and natural endowments are undeserved, these inequalities are to be compensated for".[16] He further claims that the principle of redress:

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[14] Dworkin. Ronald. What is Equality? Part 2: Equality of Resources, *Philosophy and Public Affairs.* Vol.10, No.4 (fall 1981) Willey-Blackwell Publishing. JSTOR. p. 338.

[15] Rawls has used this term in theory 1971, which meant that undeserved inequalities are compensated.

[16] Rawls. John. A Theory of Justice. Op,cit. pp. 100,101.

> holds that in order to treat all persons equally, to provide genuine equality of opportunity, society must give more attention to those with fewer native assets and to those born into the less favorable social position... in this principles greater resources might be spent on the education of the less rather then the more intelligent, at least over the certain period of life, say the earlier years of the school.[17]

However, neither the Principle of redress nor the Principle of equality of opportunity would be able to provide *sufficient basis of substantive equality* for all at any level. Even the attaining of educations is not an *adequate source* to bring about equality. For the reason that the class divided society may entangle the socio-economic distinction at the very grass root level between the well-off class and that of least-advantaged class whereas disabled would remain highly affected by the class system of society. Liberal state may provide good amount of social and economic resources for the material development of the disabled persons or that of marginalized class at the initial stage. But question remains that, would it *absolutely get rid of the* all socio-economic problems of either marginalized strata of society or the disabled persons in future time *when there remains no more initial distribution?*

We may understand that, neither the difference principle nor equality of opportunity principle would eliminate the uneven social circumstances of society. No matter, it may lessen the effects of the some kind of exploitation in the distributive scheme.

On the other hand difference principle is either *insufficiently egalitarian or less effective egalitarian principle* in another sense due to difference principle *permits* greater inequalities [to undermine the self-respect and moral autonomy of the persons]. My Emphasis. Even though, Rawls claims that the principle of equality of opportunity must not only be equal in a very formal way but it must be equal substantially. As he puts it in theory that:

> Those who are at the same level of talent and ability, and have the same willingness to use them, should have the same prospect of success regardless of their initial place in the social system that is irrespective of the income class into which they are born. In all sectors of society there should be roughly equal prospects of the culture and achievement for every one similarly motivated and endowed the expectation of those with the same abilities and aspirations should not be affected by their social class.[18]

We may still construe that the system of inequalities in the highly pluralist and class divided society would affect the expectations and aspirations of those with similar talents and abilities because social and natural contingencies will envelop their initial circumstances of income and wealth. For instance:

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[17] Ibid.
[18] Ibid. p.73.

> One can still be inclined to say that such inequalities remain unfair. We have two children of equal talents and ability and yet in virtue of their distinct class background and their life prospects are very different indeed.[19]

The social and economic circumstances of individuals belonging to different class-structure would have the similar chances in principle but they would be unable to translate these theoretical chances to strengthen their socio-economic prospects because of their *initial situation may play vital role* in either *satisfying* their expectations irrespective of the individuals' social standing or *deteriorate* their social and economic position from the point of view of their initial place in the society. This uneven posture of the theory of justice may fail to bring about just distributive scheme, as Nelsen says:

> Rawls argues, that in sufficiently favorable and still only moderately affluent circumstances, where his two principles of justice are taken to be rational ordering principles for the guidance of social relations, it could be the case that justice, and indeed a commitment to morality would require the acceptance as just and as through and through morally acceptable and in no inconsiderable disparity in the total life prospects of the children of unskilled labors, even when those children are equally talented, equally energetic and so on. If conditions are of certain determinate sort, a just society, he claims, could in such circumstances tolerate such disparities.[20]

Nelsen further argues Rawls theory of justice as fairness may not satisfy the basic conditions of fairness at the great extent- hence theory may require that the basic liberties must not be restricted in order to sustain or implement (absolute or moderate) fair equality of opportunity. Rawls may yet hold that:

> ...so long as the institutions of family exist....[21] It is a far cry to carry through the demand substantially throughout the well-ordered society. [22] And, he further recognizes the fact that institutions presently exist...they are riddled with grave injustices.[23]

However, *difficulty does not end here* because we observe that the issue of *applicability* of the difference principle in the *liberal societies* in general and *capitalist societies* in particular is *problematic*. The liberal political society consists of massive *class antagonism* in terms of opposition between children of the unskilled labor and children of entrepreneurs who may *undermine* the issue of acceptance of the principles [difference principle in particular]. Thus, theory couldn't nullify the dangers of socio-economic dissension because such "...class based inequalities are inevitable" in capitalist societies.[24]

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[19] Nielsen. K, Equality and Liberty. A Defense of Radical Egalitarianism. Row man and Allen held. Totowa, Princeton University Press, 1984. pp. 88- 89

[20] Ibid. pp. 82- 83

[21] Rawls. John. A Theory of Justice. Op cit. p.74

[22] Ibid.

[23] Ibid. p.87

[24] Nelsen. K. Equality and Liberty, op cit. p. 86.

Than there is no question of difference principle either to be best fit for the capitalist society or for the *post-capitalist .society.*[25] Rather difference principle turns out to be problematic and ambiguous with reference to applicability of principle of equal liberty and fair equality of opportunity principle in a socially antagonistic society.

Although, Rawls may try to nullify the effects of uneven social conditions which are determined under the influence of heavy economic inequalities. Even first world nations [well ordered societies] are highly struck by these heavy inequalities.

Anti Globalization of the Principles of Justice

Now we may shift our discussion round the problem of *negative liberty* to the *anti universal* aspect in Rawls liberalism that is culturally specific and historically determined.

The special conception of justice embodies principles of justice which may apply to those well-ordered open societies. These societies are conceived to be highly advanced in industrial infrastructure and in the base of science and technology. So, there is no question of applying principles of justice to the *cross-cultural* societies of the world. Hence, only the capitalist societies would accept the principles of justice only because the citizens attend the *maximum wealth* in such societies and the principles of equal liberty are to be exercised effectively. As Rawls writes in his theory of justice:

If the persons in the original position assume that their basic liberties can be effectively exercised, they will not exchange their lesser liberty for an improvement in their economic well-being, at least once certain level of wealth has been attained''. And argument continues in the same paragraph, the demand of equal liberty can be accepted only if it is necessary to enhance the quality of civilization so that in due course the equal freedom can be enjoyed by all.[26]

He believes that liberal societies have attained the level of wealth and civilization such that they allow the principles of justice *to regulate* the basic social political and economic institutions of the well-ordered society. Moreover other societies have not *attained* the *well-being* to that level. Therefore, they could not adjust with the political conception of justice.

Rawls does not have any project to apply his theory internationally or cross-culturally. He *claims* that the principles of social justice apply only to a cooperative ventures for mutual advantages. Only the liberal political states are supposed to have been involved through the fundamental social cooperation in terms of social cooperative scheme. The possibility of the *universality of application* of his principles of justice is *excluded.* Consequently, it

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[25] Post-capitalist societies are those societies which consist on the system of command economies, such as Soviet Union from 1917 to 1991.

[26] Rawls. John. A Theory of Justice. Op cit. p. 542

nullifies even conceptual basis of politico-socially integrated global order, for instance, the international society altogether.

Whereas, Thomas Scanlon may yet believe that the Rawlsian conception of "cooperative venture for mutual advantages is to include the *regularized commerce* in the international economy", he further argues that:

> Whenever there is regularized commerce, there is an institution in Rawls sense i.e. public system of rules defining rights and duties etc...Thus the difference principle would apply to the world economic system taken as a whole as well as to particular societies within it.[27]

The argument is *not sufficiently stable* because we see that Rawls is *not concerned* about the *global application* of his theory, though he may have presumed it in 1971, Theory of Justice as fairness. However, he retreated from the universality of liberalism in general and international application of his difference principle in particular. He says:

> No society can be a scheme of cooperation which man enters voluntarily in a literal sense; each person finds himself placed at birth in same particular position in some particular society and the nature of this position materially affects his life prospects.[28]

Thus, in this respect, his theory merely applies to what we may *discover* the liberal democratic societies, particularly American society at large. Rawls may find it stable and more confirmable that a liberal political society(s) is/are cooperative within their basic structure because of their plural background. And *pluralism* is the permanent feature of the liberal political society. Therefore, we can not confuse his conception of "cooperative venture for mutual advantages" with the basic structure of non-cooperative international society. So, Rawlsian position appears to be untenable and trivial at this level. Still, some writers may hold that the difference principle may apply both at a national and international level. For instance, Amdur. R. states that:

Although it is not absolutely clear what Rawls means by a cooperative venture for mutual advantages, it would seem that by any sensible definition this term must encompass relation between the inhabitants of different states engaged in ongoing commerce. Sometimes, Rawls himself seems to realize this. At one point, he implies that it will be necessary to extend the theory to deal with more difficult international questions, once the narrower, more manageable problem has been solved.[29]

This argument may collapse because the international application of the two principles of justice would *require the -world state* or *Global well-ordered society, which exists no*

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[27] Scanlon. T. Rawls Theory of Justice. In Reading Rawls. (Denial, ed.) "Right, Goals and Fairness." JP, Stanford University press Stanford . vol.76, no.9 sap. 1979. p. 202.

[28] Rawls. John. A Theory of Justice. Op cit. p. 13.

[29] Amdur. R. Rawls' Theory of Justice. "Domestic and International Perspectives". *World Politics,* vol. no.29 April 1977. Cambridge University Press. p. 453.

where, nor could one expect the future of its existence in near time to come [my emphasis]. The two principles of justice could apply only to the common constitutional or political order. *The question of international application is vague and empty gesture* because principles of justice would apply to *what?* Or *to whom* these principles would *regulate?* Therefore, it is impregnable to say that theory could apply to an international order or principles do embody *solutions* of the *existing problems of the global society* which is nothing more than *vacuum in the human history.* Thinkers like Peffer believe that Rawls theory is potential enough to apply to a *cosmopolitan culture*[30] or the cross-cultural political and *post capitalist societies.*

It follows that Rawls' theory does not address problems of developing nations. Rather it is obvious *that first world enjoys benefits of unprecedented scientific accomplishment* on the expenses of *third world nations* which are *extensively afflicted* by the problems of starvation, malnutrition, and deprivation of the basic socio-material needs.

Liberal Authoritarianism

However, Charles Beiteze contends that Rawls' theory could be successful at reconciling the diverse interest of *developed world* with the interest of third world *marginalized nations.* As he writes:

> There is nothing in Rawls' reasoning to suggest that we can only have moral ties to those with whom we share membership in a cooperative scheme. It is possible that other sorts of considerations might come into justification of moral principles. Rawls himself recognizes this in the case of natural duties.[31]

Though. Rawls may hold that the duty of support is a primary natural duty which refers to the international redistribution. As Rawls argues that the duty of mutual aid requires us to "...Help another when he is in jeopardy, provided that one can do so without excessive risk or loss to oneself."[32]

For Rawls, in the bargaining situation the mutual aid means every individual has to perform his natural duty in a cooperative venture to give benefits to others individuals as well, because he could expect the same from them in return. This implies that Rawls does not infer that the duty of mutual aid is natural duty for the nations of the world states. On the contrary, he believes that individual cooperative states would recognize this duty to aid each other in jeopardy, if need be. *There is no universal yardstick of the principle of mutual aid.* No developed nations are supposed to be *obliged* by the *international law to necessarily help third world nations* and to wriggle them off the starvation, malnutrition or any *socio-material deprivations.* Rather first world nations of welfare capitalists state would only come forward to help third world nations only because *little mutual aid would highly benefit and secure the interest of first world nations.* So, it is understandable that

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[30] A cosmopolitan culture is the culture of the expected universal society.

[31] Beiteze.C.R. A Theory of Justice. Political Theory and International Relations. Princeton University Press. Princeton. N. J. 1979. p. 141

[32] Rawls. John. A theory of Justice. Op, Cit. p.114

first world nations may follow the principle of mutual aid within *a restricted circle* not exceeding to the boundaries of the third world nations. Thus, the *mutual aid is collective natural duty* of *liberal individualistic western man and women* to help each other, provided that they are not to be disadvantaged by aiding others in the time of need. Therefore, Rawls is *not concerned for* the third world nations; he tires to dispense justice to *culturally specific and historically determined individualistic man of the west.* In either case, we may excavate the fact that Rawlsian theory of justice is not to provide universal defense of liberalism, nor does it entail that welfare state capitalism would help third world nations through the substantial redistribution of wealth from the developed nations by way of trade reform, cancellation or rescheduling of debts, massive development aid etc.

The Capitalist nations do not want to *impoverish* themselves through transferring material wealth to underdeveloped or developing nations. They would not accept the international redistributive scheme to reduce their amount of *disposable income* in order to strengthen the economic base of third world nations. [My Emphasis], thus he confines his theoretical and intellectual discussion on theory to be *principally applicable to a well ordered society.* This implies that Rawlsian contracting parties have good reasons in the original position to believe that they would act on the principles of justice only at the national scale. Thus, they [the citizens of developed nations] could not accept the satisfaction of difference principle at the international scale because they would fear the self-impoverishment, if they chose the principles of justice with international scope. Therefore, Rawls avoids a universal defense of theory in general and the difference principle in particular in order to save the citizens of the first world nations from any impoverishment.[33]

Even, one may still hold that globalization of difference principle and theory of justice as a whole is favorable in Rawlsian liberal framework. The people of developed nations would give up substantial advantages in favor of down-trodden people of the third world nations. They would do it only in order to combat the *greater evils* such as *Terrorism* emanating from the *deprived world.* The people of third world nations think that they are extensively deprived of their wealth. And powerful capitalist states are to exploit the material resources of these nations at large. *They feel that they are unjustly treated.*[34]

So far, we have observed that Rawls does not have answer for these non-liberal nations who are inhumanly treated by the exploitative nations. Nor does it venture out to address the problems of the third world nations. Rather, he tries in his theory of justice as fairness to justify the capitalism.[35]

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[33] This is a reason that the theory of justice strengthens the capitalists societies which may be just within but are replete with the grave injustice in relations to the world in general and third world nations in particular.

[34] Here we feel that western societies apply Kantian categorical imperatives when they interact with each other, but they fail to do so when they establish their hegemonic foreign policy, than follow the principle of the "Will to power" architect of Nietzsche. [My emphasis].

[35] We do not mean that Rawls' has empowered capitalist states to exploit the resources of third world nations. We have only said that his theory fails to address the problems of third world nations which

Deontological liberalism

We have observed that the exposition and analysis of the various aspects of the theory of justice as fairness demands that the doctrine should be further examined under the ethics and metaphysical perspectives. The reason is that any theory is socially and practicably justified under some hide of ethical and metaphysical import.

Further, in order to arrive at the central contention of this study, it is essential to go through an exposition of the Kantian conception of self. The reason for this is that Rawls' conception of person seems either to transgress from what they derive from the Kantian conceptions or to distort the Kantian grounds on which Rawls conceptions stand.

The philosophical analysis shows that the theory which presumes deontological ethics is to extract the idea of primacy of justice. It presumes the primacy of justice in the sense that justice is primary among other political, religious and comprehensive moral doctrines. For Rawls the political conception of justice strengthens the society being composed of diverse associations of the persons who possess different conceptions of good and differ in their particular interests and aims. Rawls may bring it in these words, "[the] society is best arranged when it is governed by principles of justice that do not themselves presuppose any particular conception of good."[36] On the full deontological politics, the socio- political justice presumes the system "...in which priority of right is derived in a way that does not depend on any particular values and ends...."[37]

When problem of priority arises between right and good, then politico-legal framework is prioritized over the non-political or moral order. It follows that the two principles of justice do not authenticate any one's conceptions of the good, but only confirm the concept of right.

We would try to excavate that the deontological conception of justice which is influenced by the Kant. In order to understand Rawls' deontological liberalism, we must fathom the Kant's philosophical interpretation *of primacy of justice* and that *of priority of right over the good.* Moreover, both the moral and foundational priority of justice hangs together in the Kantian paradigm. Justice is not to be confused with other moral values which are substantively dependent on the particular conceptions of good in society. Rather, justice [priority of right] in Kantian sense, outweigh moral comprehensive values, because the principles of justice are not subject to the underlying goods that persons do assert, pursue and reconstruct in their independent capacity of choices.

In this sense, deontological liberalism presumes the basis in which absolute priority [primacy of justice] and the sanctity of individual rights is asserted. From the perspective

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are being exploited by the capitalists' countries. Therefore, theory is Eurocentric which strengthens the sense of Western-mania.

[36] Sandel. M. Liberalism and the Limits of Justice. Op Cit. p.1.

[37] Keeney. Patrick. Liberalism. Communitarianism and Education. Reclaiming Liberal Education. Augusta Publishing, Lted England., 2007. p. 81.

of this scheme justice is described to have been derived independently of any determinate conception of the good which is seen as morally overriding by the virtue of its foundational priority.

Rawls and deontological liberalism

So far we have been preoccupied with the Kantian transcendental idealism and the transcendental conception of self. Rawls derives a main influence from the Kantian philosophy. Even though. Rawls does not give up Kantian methodology; he reshapes it by theoretically attempting to preserve the moral force of Kant's metaphysical ethics within the scope of empirical theory. In theory Rawls says that:

> ...to develop a viable Kantian conception of justice, the force and content of Kant's doctrine must be detached from its background in transcendental idealism [and recast within the] canons of reasonable empiricism.[38]

Rawls" central aim of liberal theory is to strengthen the liberal politics without "metaphysical embarrassment", and to arrive at a deontological ethics with a "Humean face."[39] In short, what is *required* is a view which *affirms* the *priority of subject,* yet situates the subject closer to the *lived world of human experience,* than what Kant's ideal metaphysics allows. Rawls may *yet fail to encounter theoretical vulnerability* which his theory would face. We would bring it to the light that Rawlsian deontological liberalism is vulnerable because of its being associated with Kantian [metaphysical] subject, because "[the] deontology with Humean face either fails as deontology or recreates in the original position the disembodied subject."[40]

We may find some difficulties in this Kantian deontological liberalism because Kantian conception of justice is based on transcendental idealism; hence his conception of person is metaphysically, a-historical and a-cultural. As Rawls writes in his theory of justice literature that it is difficult "to develop a viable Kantian conception of justice."

As sandal holds that the significant role of the liberal theories in general and liberal political conception of justice in particular, is to strengthen a liberal politics independent from all metaphysical leanings that is to arrive at a deontological ethics with a Humean empiricism.

This implies that Humean influence depicts the meaning of subject which is empirically situated in the thoroughgoing lived world of experience or that of world of facts, because Kant's metaphysics fails to situate subject in the spatio-temporal order. Therefore, deontological liberal such as Rawls would prioritize his political conception of justice and that of conception of person within the Humean paradigm rather than Kantian. Rawls' attempts to rejuvenate his theory and liberates it from the Kantian ideal metaphysics in this theoretical order.

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[38] Ibid. p.51
[39] Sandel. M. Liberalism and the Limits of Justice. Op Cit. p. 14.
[40] Ibid. p. 14.

Nonetheless, we observe that Rawls' project may not succeed, because it is verily difficult for Rawls to salvage the priority of right without recourse to the difficulties of his theory of person encountered in Kant's transcendental deduction. Simultaneously we analyze that it is not a simple or easier task for liberal philosopher to preserve the primacy of justice without recourse to metaphysics. In this way, Rawls may not *circumvent* the *charges arbitrariness, if he tries to avoid the transcendental idealism on the one hand, but follows Kant in scrutinizing the categorical foundations of his social ethics on the other.* It would lead Rawls to the unacceptable position that to find an Archimedean point, the morality should become contingent and unjustifiable in this framework.

Rawls may still try to defend himself by simply positing the notion of a-historical and disembodied subject who is supposed to have capacity to choose, and his capacity is not to be determined by arbitrary desires and personal end of self. We have already observed that Rawls deontology presumes the subject to be free, equal and an adult calculator, ignorant of his specific standing in social world, and therefore, barred from constructing particular claims. Rawls believes that such persons are able to formulate method of distributing social goods in accordance with the impartial strictures of the principles of justice. Rawls believes that political agents are to choose under the veil of ignorance, which is a method *to detach agents from their particularities* and *specific recognition in the personal history, natural endowments and of social status.*

Contemporary liberal thinker *insubstantially* claim that they can preserve the autonomy of subject and the thesis that "right is prior to good", without recourse to the metaphysics. Rawls uses the method of original construction in which, the *self is removed from the actual social world.* In other words, *if a subject is autonomous, he is free from all those desires and ends which doom into the contingencies of birth place, and time.* Likewise, we observe that self is *not absolutely removed,*[41] from the choices that individuals make through some general understanding about the world. This is so because ethics requires an empirical world where social agents interact. Rawls may defend the primacy of justice within this empiricism.

Deontology needs ontological foundations

We reach to an important point that the deontological liberalism [as Rawlsian liberalism] avoids any ontological account of self and society.[42] It objectifies the priority of right over the good. However, this ontological liberalism requires the ontological basis. We would confine our discussion to this thesis here.

Sandal says:

> It, therefore, is governed by the principles that do not presuppose any particular conceptions of good. What justifies these regulative principles is not that they maximize the general welfare or ultimate virtues or otherwise

[41] It means that self is partially removed from the empirical world.

[42] Rawls also avoids the epistemological account of self, because he thinks that such a self would give metaphysical characters to his conception of person.

> promote the good, but rather that they conform to the concept of right, a moral category given prior to the good, and independent of it.[43]

It *appears* from the above argument that society is *just* only when it does not prioritize particular *ends* or *desires* in the mechanism of *teleos.* We find that in its *very nature,* the basic structure of a "...just society seeks to provide a framework within which its citizens can pursue their own values and ends, consistent with a similar liberty for others."[44] For Sandel, the priority of right over the good has twofold criteria, as Sandel claims:

Firstly: The priority of right means that individual rights can not be sacrificed for the sake of general good.

Secondly: The principles of justice that specify these rights can not be premised on any particular vision of the good life.[45]

This theory is all about the significance of "right" but what must be the originating source of this right is the "self which is an autonomous law-giver. The relevant problem is that the right must have foundations within the history or culture of a particular society: otherwise the issue of priority hangs perpetually. How would one even recognize the right is prior to good in a *void?*

In this sense we observe that if "Priority of Right over the Good" must be known in relation to a culture, traditions, taboos, customs and a history of particular linguistic community, then the right can not be contrasted to the good. The reason is that right is again reducible to what society allows legitimately, otherwise it does not allow what is illegitimate or come in direct conflict with the existing body of rights which rational persons are supposed to have chosen in conformity with existing values of community.

This implies that right is not independently formulated; rather it is inevitably rooted into the seeds of social and political system of the linguistic society. *Right has the historical roots* within a *linguistic community* to which it *regulates.* In this sense, *right* and *good* both have *historical backgrounds. As good is embedded within the cultural parameters of society so the right has traditional roots within the locus of community.* Therefore, we come to the *essential point* that the *conception of right which Rawls prioritize in his scheme of justice has historical roots within American society.* It further follows that the *"right" in liberal deontological thesis is, indeed a highest order good of the liberal particular society.* Neither the priority matters, nor the contrast of right/good is problematic. Right has the same roots as do the conception of good. No one can *articulate either right or good independent of a linguistic community* because *self is* not "...a full being/s in this perspective until we can say what moves us, what our lives are build around...."[46]

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[43] Sandel. M. Procedural Republic and Unencumbered Self. *Philosophy and Public Affairs* Op. Cit. p.83
[44] Ibid.
[45] Ibid.
[46] M. Taylor. C. Sources of Self. The Making of Modern Identity. Oxford University Press. UK 1982. p. 92.

In this sense linguistic community determines human behavior, influences their choices and molds their rational as well as desirable actions to particular leanings. So, the right and good can not transcend these particular leanings of society. Simultaneously, good is prior to right on the condition that as Taylor says:

Where good means the primary goal of consequentialist theory where right is decided simply by its instrumental significance for this end, then ought indeed to insist that the right can be primary to the good. But we use good in the sense of this discussion where it means whatever is marked out as higher by a quantitative distinction, than we could say that the reverse is the case, that in a sense the good is always primary to the right...the good is in its articulation, gives the point of the rules which define the rights.[47]
This implies that neither right is prior to good, nor good be independent of the right. Good is indispensable to the articulation of right, which is deeply rooted within the core of a linguistic community, because "...rights are always practiced in a community..."[48]

Even Rawls himself realizes in his later work- political liberalism, that citizens can not "...view themselves apart from certain religious, philosophical and moral convictions."[49]
It seems that Rawls' discussion of citizenship in this political conception of justice resolves the issue of incumbency and unencumbancy of the self. Although, we observe that dual aspect of self would sink it into the complexity of metaphysics. However, if we detach his conception of self from the metaphysical realm, it may lead to the meaningless conception of self. Rawls may confuse metaphysical conception of self with that of sociological one.

It implies that the self which is autonomous is defined as free, rational and equal persons. These three qualities are the necessary conditions for the Rawlsian man and women in the original position. Freedom, rationality and equality of man are metaphysical characteristics of the Kantian and that of Rawlsian men and women either in the state of nature or in his methodology of original position described as a contract doctrine. And simultaneously metaphysical or transcendental self is reshaped in to political conception of person as citizens of a political democratic state. On the one hand self stands prior to his ends, and on the other, he is subjugated to the determining forces i.e. of socio-political institutions in the basic structure of democratic society.

This leads us to identify his vulnerability to reject ontological aspect of incumbency of self. All at once, the ontological priority of right over the good is worth refutable. The democratic society would indeed prefer one conception of justice over other [many] conceptions of justice, goods, and comprehensive moral doctrines in the highly plural society such as USA. Every member [citizen] of the liberal democratic society is obliged to acknowledge the liberal thesis "prioritization of right over the good" before he/she enters the liberal system in a democratic society.

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[47] Ibid, p. 89
[48] Raz. J. The Morality of Freedom. Clarendon Press Oxford. 1986, p. 21
[49] Rawls. J. Political Liberalism. Op. Cit. p.31

Thus we come to the concluding point that prioritization of right over the good is itself the manifestation of dominance of the one conception of highest-order good over other conceptions. In this way "prioritization of right over the good" is itself a manifestation of greater good of a liberal political society. This thesis of the prioritization of right only exists in the liberal society of USA in particular and Western states in general. This is the reason why Rawls has shifted from the universality of liberalism and prefers the relative applicability of his theory of justice as fairness.