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## John Rawls's Theory of Justice and its Relevance in Indian Context

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### Abstract

*Social justice denotes the equal treatment of all citizens without any social distinction based on caste, color, race, religion and so on. It means absence of privileges being extended to particular section of the society and improvement in the conditions of the backward classes and women. A just society provides people with the basic minimum conditions to enable them to live healthy and secure lives and develop their talents as well as equal opportunities to pursue their chosen goals in society. This paper makes an attempt to explore John Rawls's theory of justice and its relevance in Indian context. Rawls takes justice to be the first virtue of social institutions. He concentrates on the domain of social justice and on how to access a society's major social institutions, its basic structure. He insists that justice prevails only when every departure from equality can be rationally justified. He gives two principles of justice one is equal liberty principle and second is divided into two parts, first is fair equal opportunity principle and second is difference principle. These very two principles of justice preferred by Rawls seem to completely fit in Indian constitution. The chapter of fundamental Rights particularly the articles 14, 15, 16, 17, 21, 22 and article 46 seems to reflect the ideas of Rawls. In India positive discrimination in the form of reservation policy for socially and educationally backward classes and reservation of one-third seats for women in all the local elected bodies shows some co-relation with second principle of Rawls Theory of justice, which holds that social and economic inequalities are to be the greatest benefit of the least advantaged members of the society. This paper also attempts to briefly analyze the impact of reservation policy on Indian society.*

### Keywords

Basic structure, Difference principle, Positive discrimination, Least advantaged members.

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## **John Rawls's Theory of Justice and its Relevance in Indian Context**

### **1. Introduction**

*"Genuine equality means not treating everyone the same, but attending equally to everyone's different needs."*  
– Terry Eagleton

Justice involves the well-being of all people and giving each person his due. Justice in contemporary era is concerned with determining logical criteria for the allocation of goods, services, opportunities, benefits, power and honors as well as obligations in society. Basically, justice is concerned with the allocation of benefits as well as burdens. If in a society deep and persistent divisions exist between rich and poor, it would say that social justice is lacking there and that society would consider unjust. Social justice is the equal distribution of resources and opportunities in which outside factors that categorize the people are irrelevant. John Bordley Rawls was an American philosopher and he developed a conception of justice in his classical work "Theory of Justice". In his theory he observes that justice is the first virtue of social institutions. The primary subject of justice is the basic structure of society, the way it is organized. He gives two principles of justice one is liberty principle and second is difference principle. These two principles propounded by John Rawls seem to be fit in Indian constitution. The term 'justice' in the preamble of Indian constitution embraces three distinct forms- social, economic and political, secured through various provisions of Fundamental Rights and Directive Principles. The Indian reservation policy for the improvement in the conditions of backward classes (SC,STs and OBCs) and women shows a clear reflection of Rawls second principle of justice in which he holds that social and economic inequalities are to be the greatest benefit of the least advantaged members of society. The positive discrimination in the form of reservation has its own advantages and disadvantages in Indian society.

### **2. John Rawls's Theory of Justice: The Basic Idea "Justice as Fairness"**

John Rawls begins his most important work 'Theory of Justice' with "justice is the first virtue of social institutions. A theory however elegant and economical must be rejected or revised if it is untrue; likewise laws

and institutions no matter how efficient and well-arranged must be reformed or abolished if they are unjust.”<sup>1</sup> The primary subject of justice is the basic structure of society, the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social co-operation. The basic structure comprises the main social institutions – the constitution, the economic regime, the legal order and its specification of property, the family in some form, and how these institutions cohere into one unified system of social co-operation.<sup>2</sup>

Rawls used the hypothetical contract approach which is found in Locke, Rousseau and Kant philosophy. He maintains that the principles of justice are those principles that would be agreed to under fair bargaining condition, a hypothetical situation that he calls “original position”. They are fair in the sense that all parties to this original agreement are in the state of equality. In this original position there is ‘veil of ignorance’ that prevents the parties from knowing about their prospective social positions. This is important because in such a state of ignorance, the parties to the agreement cannot skew the principles to their own advantage, because they do not know whether they belong to upper class or lower class. This ensures that no one is advantaged or disadvantaged in the choice of principles. The principles of justice are the result of fair agreement or bargain which explains the propriety of the name “justice as fairness”. It conveys the idea that the principles of justice are agreed to in an initial situation that is fair.<sup>3</sup>

John Rawls’s theory of justice is not a full theory of justice, but a theory of the justice of institutions, not of the justice of persons or individual acts. Rawls thoroughly speaks of his principles of justice as principles of justice for institutions, as distinct from principles for individuals.<sup>4</sup>

### **3. Primary Social Goods**

In Rawls’s theory the measure of individual benefits is the individuals holding of multi-purpose goods known as “primary social goods”. He defined these goods as those it is rational for a person to want more than less of, whatever else he wants. Primary social goods are held to consist mainly of “the basic rights and liberties covered by the first principle of justice, freedom of movement and free choice of occupation protected by fair equality of opportunity of first part of the second principle and income, wealth and social bases of self-respect. Rawls’s public criterion of justice assesses individual well-being in terms of social primary goods.<sup>5</sup>

According to John Rawls, primary social goods are the sorts of things that any rational person will want more rather than less of, whatever the particularities of his life plan. Further Rawls makes the stipulation that only index of primary social goods is to be taken into account in evaluating the conditions of a representative man in a system of social institutions.<sup>6</sup>

The idea behind the social primary goods is that there are certain things which are means to very wide range of ends and which as a result it is rational for anybody to want, whatever his particular ambitions, tastes or beliefs might be.<sup>7</sup>

#### **4. Two Principles of Justice**

In his theory of justice, Rawls identified two principles of justice. The first principle is called the equal liberty principle and the second is divided into two parts, first is equal opportunity principle and second is difference principle. The first principle is applying to the political order of society and assesses it according to the extent to which it secures certain basic rights and liberties to its members. The second principle applies to social and economic order of society. The first statement of the two principles reads as follows:

- ▶ **First:** each person is to have an equal right to the most extensive scheme of basic liberties compatible with a similar scheme of liberties for others.
- ▶ **Second:** social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all.<sup>8</sup>

The equal basic liberties which Rawls give in first principle are: "political liberty (the right to vote and to hold public office) and freedom of speech and assembly, liberty of conscience and freedom of thought, freedom and integrity of person, which includes freedom from psychological oppression and physical assault and abuse, freedom of movement, right to hold personal property, protection from arbitrary arrest and seizure."<sup>9</sup>

The first part of the second principle holds that the social structure that shape the distribution of opportunities, offices income, wealth and in general social advantages must satisfy the requirements of 'fair equality of opportunity'. The second part of the second principle is the famous "difference principle". It holds that "social and economic inequalities are to be to the greatest benefit of the least advantaged members of the society."

The difference principle says that inequalities are just if and only if they are part of a large system in which they work out to be advantage of the most unfortunate representative man.<sup>10</sup>

## 5. Relevance of Rawls's Theory of Justice in India

The Constitution of India, like the constitution of United States includes the chapter of guaranteeing fundamental rights to all the citizens. These rights are justiciable and cannot be violate. Indian judiciary is guardian and protector of these fundamental rights.<sup>11</sup>

The Indian Constitution was framed much before the coming of the book 'The Theory of Justice' but it seems as if there is some co-relation between the two. In fact, the very two principles of justice as preferred by Rawls seem to completely fit in the Indian Constitution. It may be that Rawls got influenced by the Indian Constitution but the ways in which various Fundamental Rights have been interpreted by the Supreme Court of India in the latter stages seem to reflect the ideas of Rawls. Interpretation of Art 14, 15, 16, and 21 shows the influence of Rawlsian approach. The first principle of Rawls's theory of justice reflects in following articles of Indian constitution:

Article 19 of Indian constitution guarantees the six freedoms to all its citizens:

- Right to freedom of speech and expression.
- Right to assemble peacefully without arms.
- Right to form association.
- Right to move freely anywhere in the territory of India.
- Right to reside and settle in any part of the country.
- Right to carry on any occupation, trade and business.

Article 21 declares the right to life and personal liberty to all the citizens as well non-citizens. Article 22 grants protection against arbitrary arrest and detention. Article 25-28 grants the religious freedom which holds that all persons have equal freedom of conscience and right to profess, practice and propagate religion.<sup>12</sup>

The second principle of Rawls's theory of justice has its reflection in article 38 of Indian constitution. Article 38 declares that state will take initiative to promote the welfare of the people by securing a social order permeated by justice- social, economic and political and to minimize inequalities in income, status, facilities and opportunities. Article 46 also declares that states of India formulate their policies in order to promote the educational and economic interests of SCs, STs, and other weaker sections of the society and to protect them from

social injustice and exploitation. Article 14 grants the equality before law to all the citizens of India without any discrimination on the grounds of caste, religion, race, colour and gender. Article 15 prohibits the discrimination against any citizen on grounds religion, sex and place of birth, but under article 15(4) the state shall make any special provision for the advancement of any socially and educationally backward classes of citizens. In order to give effect to this provision, the central government enacted the Central Educational Institutions Act, 2006, providing a quota for 27% for candidates belonging to OBCs in all central higher educational institutions.

Article 16 provides for equality of opportunity for all citizens in matters of employment or employment to any office under state. However, on January 1, 1979 the Government headed by the Prime Minister Sri Morarji Desai appointed the 2nd Backward class Commission under article 340 of the constitution under the chairmanship of B. P. Mandal to investigate the socially and economically backward classes within in the territory of India and recommend steps to be taken for their advancement including desirability of making provisions for reservation of seats for them in government jobs. The commission submitted its report in December 1980. It had identified as many as 3743 castes as socially and educationally backward classes and recommended for reservation of 27% government jobs for them. It is called positive discrimination in form of reservation. As per the 73rd and 74th Constitutional Amendment Act, all the local elected bodies reserve one-third seats for women. Such provision was made to increase the effective participation of women in politics.<sup>13</sup>

### **5.1 Positive Impact of Reservation in India**

Reservation has helped to increase the representation of reserved category in government jobs. Enrollment of Sc and ST has increased in undergraduate, post graduate, technical and professional courses. Percentage of enrollment of SC in these categories was 7.08% in 1978-79 which increased to 13.30% in 1995-96. The women participation in Panchayati Raj institutions is also increased.<sup>14</sup>

### **5.2 Negative Impact of Reservation in India**

Many people say that reservation is against the constitution of India which prohibits discrimination on the bases of caste, religion and sex, but in India reservation is provide don all of these bases. Second, reservation in India was implemented for 10 years after commencement. However, in India reservations have been

implemented for 70 years and it is still going on without any review. Reservation policy also creates friction in the society because non-reserved class feel reservation deprived them from right to equal opportunity. Moreover, another caste also starts to demand SCs and STs Status for them in order to take the benefit if reservation for example Gurjjar in Rajasthan demanded a lower Scheduled Tribe status and Jat in Haryana demanded inclusion of Jats in OBC category.

## 6. Conclusion

John Rawls's theory of justice offers a compelling normative framework for rethinking social justice as a fair and equitable reordering of social life, where both material and moral benefits are distributed in a manner that prevents their concentration in the hands of a privileged few and instead promotes the welfare of the wider population, particularly the marginalized and disadvantaged. His vision remains highly relevant in the twenty-first century, as it provides a principled justification for addressing structural inequalities through ethical and institutional means. Rawls's difference principle, which permits social and economic inequalities only when they result in the greatest benefit to the least advantaged, resonates strongly with the ethos of the Indian constitutional framework. In particular, policies of positive discrimination, such as reservations for historically disadvantaged groups, reflect a practical embodiment of Rawlsian justice. Thus, Rawls's theoretical insights not only deepen our conceptual understanding of justice but also offer a valuable lens for evaluating and strengthening efforts toward inclusive and equitable development in the Indian context.

Future research should critically engage with the applicability of Rawlsian principles within the complex socio-cultural realities of India, particularly in relation to caste, class, gender, and regional disparities. There is a need for empirical studies that examine how far existing welfare policies and affirmative action measures align with the spirit of the difference principle in practice. Additionally, comparative inquiries integrating Rawls's framework with indigenous philosophical traditions and alternative theories of justice could provide a more context-sensitive understanding of equity and fairness. Such research would not only enrich theoretical discourse but also contribute to more effective and inclusive policy formulation in contemporary India.

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