

ON THE JUSTICE OF LIMITS: A CRITIQUE OF NOZICK'S ENTITLEMENT THEORY OF JUSTICE

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Abstract

This paper assesses the basic propositions of Robert Nozick's entitlement theory of justice which is a version of the distributive theory of justice. This theory is hinged on three principles namely; the principle of acquisition, the principle of transfer and the principle of rectification. These principles give unrivalled ownership rights to property rightfully acquired and the right of the state to protect such. This paper argues the viability of this proposition pointing out its contemporary and likely future merits and demerit.

Keywords: Justice, Nozick, Theory, Justice

Introduction

Justice has been one of the greatest concerns of political philosophy. The fact that man cannot exist except in the midst of other men requires that some basis be developed to manage such coexistence. Discussions of justice from the ancient period evaluate how society can best be organized for the improvement of the wellbeing of members of such society. In the course of this discourse theories have been developed, these include Plato's tripartite division of the state, social contract theories, liberalism and libertarianism to mention a few. These theories are based on different precepts for Plato's theory is based on the class distinction while liberalism is based on the idea of enabling an egalitarian society. Libertarianism on its own affirms the individuality of a person and supports his right to use his ability to acquire whatever he can within the limits of the law. Nozick's entitlement theory falls within libertarianism.

In his magnum opus *Anarchy, State and Utopia* Nozick analyzes several issues including the state of nature, the duties of the state, which he describes as the minimalist state, the concept of equality and his distributive theory of justice. Following but expanding on the view of John Locke on the right to property, Nozick developed his entitlement theory affirming the right of the individual to owning property without

any limit and the right of the state not to limit his ability of acquisition with the intention of creating opportunity for others to acquire at another individual expense. This theory elicits controversies as it challenges egalitarian liberalism and other social welfare policies of the state by limiting its function. The state is believed to create a level playing ground for all but this theory proposes that the state allows different levels of playing and should protect each player at the different levels.

To look at the merits and demerits of Nozick's view this paper is divided into two sections. The first section is an exposition of Nozick's entitlement theory while the second section critiques the merits and demerits of the principles that underlie his theory looking at its consequences in contemporary society.

The Entitlement Theory of Justice

The entitlement theory is Nozick's version of the distributive theory of society. On the distributive theory Nozick notes that:

The term distributive justice is not a neutral one. Hearing the term distribution, most people presume that some thing or mechanism uses some principle or criterion to give out a supply of things. Into this process of distributing shares some error may have crept. So it is an open question, at least, whether redistribution should take place; whether we should do again what has already been done once, though poorly.¹

Such idea of distribution that things should be distributed to individuals in the society is believed to be the basis of justice so that all can have a fair share of things. Such thought pointed out by John Rawls in his *Theory of Justice* advances that the importance of individuality is through recognition and respect of the inherent difference between individuals in society not only because of the disparities of wealth and natural endowment but also because of the plans of life they eventually decide to follow.² Thus since there are differences between individuals it becomes the responsibility of the state to try and bridge such differences by redistributing things in the society. Nozick does support this notion. He opines that there is no central distribution, no person or group entitled to control all the resources, jointly deciding how they are to be doled out. What each person gets, he gets from others who give to him in exchange for something, or as a gift. In a free society, diverse persons control different resources, and new holdings arise out of the voluntary exchanges and actions of persons. There is no more a distributing or distribution of shares than there is a distributing of mates in a society in which persons choose whom they shall marry. The

total result is the product of many individual decisions which the different individuals involved are entitled to make.³

Nozick is here of the view that there is a point of individuality and personal interests when choices are made on certain issues and such individuality should be extended to other matters in the society including the acquisition of property. He thus advances his theory of entitlement as a theory of distributive justice that gives credence to individuality and ability. According to Nozick the subject of justice in holdings consists of three major topics. The first is the original acquisition of holdings, the appropriation of unheld things. This includes the issues of how unheld things may come to be held, the process, or processes, by which unheld things may come to be held, the things that may come to be held by these processes, the extent of what comes to be held by a particular process, and so on. The second topic concerns the transfer of holdings from one person to another. By what processes may a person transfer holdings to another? How may a person acquire a holding from another who holds it? Under this topic come general descriptions of voluntary exchange, and gift and (on the other hand) fraud, as well as reference to particular conventional details fixed upon in a given society... The existence of past injustice (previous violations of the first two principles of justice in holdings) raises the third major topic under justice in holdings: the rectification of injustice in holdings.⁴

Nozick realizes that people will not always abide by these principles. Whether people steal from others, enslave them, or do anything that disallows them to partake in the free exchange as set up by the market, injustices are bound to occur. Therefore, Nozick implements a mechanism to remedy unjust behavior. This is what he calls the principle of rectification of injustice in holdings. If it is the case that there is a situation in which the principles of acquisition and transfer are violated, the principle of rectification restores holdings to their rightful owners.

Thus the principles of Nozick's entitlement theory of justice are the principle of acquisition, the principle of transfer and the principle of rectification. According to the Entitlement Theory, private property is morally legitimate if and only if private appropriation is legitimate. For, unless private appropriation is legitimate, there is no way legitimate private property can come into being. In the same vein what is legitimately held can be willingly transferred. When such transfer occurs the new owner has as much right to the property as the initial

owner. We can equally deduce from Nozick's principle of justice in rectification that victims of an injustice, or those descendants of victims of the injustice whose situation is worse than it would have been had the injustice not been done, are morally entitled to receive from perpetrators of the injustice, or from any descendants of the perpetrators who have benefited from the injustice, sufficient compensation to bring the victims and/or their descendants to the level of well-being that they would have enjoyed had the injustice not been done.

Describing Nozick's theory Jonathan Wolff writes that he (Nozick) "argues that what should be decisive in the question of the justice of a person's property holding are not features of that person-their needs or merit- but facts about how they obtained the property; did they acquire it in a way that entitles them to it?"⁵ In essence, Nozick is more concerned about the mode of acquisition. Hence the idea that the rich is getting richer does not matter if the mode of acquisition of such wealth is legitimate, that is if he is entitled to it. Similarly, one is not entitled to a property if he does not make the right effort to acquire it. Nozick notes:

Not all actual situations are generated in accordance with the two principles of justice in holdings: the principle of justice in acquisition and the principle of justice in transfer. Some people steal from others, or defraud them, or enslave them, seizing their product and preventing them from living as they choose, or forcibly exclude others from competing in exchanges. None of these are permissible modes of transition from one situation to another. And some persons acquire holdings by means not sanctioned by the principle of justice in acquisition.⁶

But a boggling question is that if the state decides to provide some things to its people, is it not a form of transfer? Providing basic amenities like education or health that could guarantee the wellbeing of the citizenry can be seen as protecting the citizens. This issue will be further raised in the next section but the submission of Nozick on the entitlement theory is that: The general outlines of the theory of justice in holdings are that the holdings of a person are just if he is entitled to them by the principles of justice in acquisition and transfer, or by the principle of rectification of injustice (as specified by the first two principles). If each person's holdings are just, then the total set (distribution) of holdings is just.⁷

On the Principles of Acquisition and Transfer

This principle is concerned about how property is acquired. Any individual is entitled to a property as long as he either derives it from nature originally or from another who formerly owned it. But the idea of acquiring it might be a problem on its own. Critics question Nozick's opinion. For instance, Cohen focuses his critical attention upon the second clause of Nozick's principle of justice in acquisition. What Cohen objects to is the specific state of affairs which Nozick claims should be used as the 'base-line' when assessing whether any given act of private appropriation has worsened the situation of those who did not appropriate the object in question. The base-line which Nozick favours is how those people would have fared had no private appropriation of the object taken place and had in consequence the object been left available for the free use by everybody without anyone being able to appropriate it. Cohen calls the form of ownership which obtains with respect to an object when it may be freely used by anybody without anyone privately appropriating it: *common ownership*.⁸

What Cohen is arguing here is that the initial problem started when a property that could have available for common use is privately acquired. This sort of situation infringes on other persons rights. For instance, a park that is privately acquired for an estate would have deprived a lot of people the right to relaxation. The question is was it legitimately acquired? A current state policy might have made it legitimate to be acquired by will it be morally right to acquire such a property given its current valuable use. This is one issue Nozick's theory did not talk about, the morality of acquisition. The wealth of the individual acquiring the property might entitle him to it but does that make it right that it should be acquired?

Accordingly, accepting this joint - ownership of a property would mean that any absolute appropriation would arbitrarily reject the power of one of the individuals and would make the non - appropriator worse off. If this power were indeed rejected, this would potentially deny people's self - ownership rights because they would no longer be able to freely live according to their conception of the good. Thus, Nozick's theory seems to be arbitrary in that it only considers material elements in determining what constitutes a worsened condition, and it arbitrarily asserts an unowned world as part of the baseline of comparison when joint - ownership might be equally plausible. Given these objections, justified libertarianism may be threatened.

Nozick's theory of justice is a property-rights based theory. He claims that individuals have, or can acquire, full property rights (or full ownership) over various things, where full property rights over a thing consist (roughly) of according to Peter Vallentyne⁹ (1) the right to use and control use of the thing by others,³ (2) the right to compensation from those who have violated one's rights in the thing, (3) the right to use force to stop those who are about to violate one's rights in the thing, to extract compensation from those who have already violated such rights, and perhaps to punish such offenders, (4) the right to transfer these rights to others, and (5) an immunity to losing any of these rights as long as one has not violated, and is not in the process of violating, the rights of others.

Adriana Lukasova¹⁰ also points out an argument on Nozick's theory. She notes that it has been argued that self-ownership is compatible with various regimes of property ownership. This argument is based on the fact that market exchanges involve more than the exercise of an individual's self-owned powers. Market exchanges involve legal rights over things which are not created out of nothing by our self-owned powers, such as land, and accordingly the right to use land cannot follow solely from the exercise of my self-owned powers. According to Nozick's principle of transfer I must be the legitimate owner not only of my powers but also of initially unowned external resources. The test of legitimate appropriation that Nozick offers is the so-called Lockean proviso, which is designed to ensure that the circumstances of others are not worsened by the original acquisition from nature. However, Nozick's example of Amy and Ben, in which Amy appropriates the land and pays Ben to work for her, doesn't provide sufficient guarantees that Ben, or indeed both of them, will not be worse off.

It is important to stress that Nozick's rectificatory principle is only relevant when situations arise that have not resulted from the correct application of the principles of acquisition and transfer of holdings. In other words, Nozick thinks that governmental intervention is only necessary when direct injustice occurs, i.e., injustice that occurs as a result of activities that are not in accordance with the first two principles.

Casey Rentmeester while criticizing Nozick's principle describes a possible scenario and its consequences. Rentmeester¹¹ writes that: Suppose that my great-great-grandfather was an American settler who came upon a large plot of unclaimed land in (what is now known as) Montana. The land is great for farming, so he decides to cultivate the

land and spend his life as a farmer. His children and their children follow in his footsteps and, as the years go by, more and more people settle in the area around the farm. A staple in the diets of the people in this region is potatoes, and my grandfather's farm accounts for one third of the potatoes marketed in the small village. His family works hard to get by, and in some years, they struggle to gain a profit due to circumstances beyond their control (the weather, sickness in the family, etc.). One day a wealthy entrepreneur from the East coast comes to the family farm and offers my grandfather a contract that guarantees him a yearly salary that is substantially more than he had ever dreamed of making if he were to continue to farm potatoes. In order to meet the terms of the offer, all he has to do is change the crop that he harvests and grow sunflowers on his farm instead of potatoes. There is a high demand for sunflowers on the East coast, and the entrepreneur is confident that his plan to infiltrate this market will be profitable. Above and beyond guaranteeing my grandfather an impressive salary, the entrepreneur offers him stock in his company. My grandfather talks it over with his family and decides to accept the offer. He will still be able to do what he loves because he will continue to be farming and he no longer has to worry about the risks involved with farming because his salary is guaranteed each year. Unlike his previous situation, he knows that his family will be taken care of regardless of the unforeseen circumstances (e.g., inclement weather) that may or may not occur that could hurt his crop. Moreover, he has the opportunity to earn even more money if the market is successful. Thus we can note that:

There is no function in Nozick's framework that allows the government to step in and make sure the citizens in the region are guaranteed enough food to live on by taxing my earnings and giving money to the poor people in the village. Nozick makes it clear that "the state may not use its coercive apparatus for the purpose of getting some citizens to aid others," which means that I (as in the farmer who gains the lucky inheritance) have no obligation whatsoever to aid my fellow citizens even if I have the means to do so. While Nozick may acknowledge that the situation that has arisen is unfortunate, he would not call it unjust.¹²

Rentmeester argues further that in the preface to his book, Nozick admits that some of his conclusions will appear to be "callous toward the needs and suffering of others." Surely this example proves that he was prophetic in this remark. Nevertheless, he urges that his system of justice is correct. In order to prove that he is mistaken in this view, let us consider the situation from the perspective of my fellow villagers and me in regard to the example above. In considering my situation, I may

ask: How is it justified that I come into this world wealthy and many of the other members of my community are born poor? How is it justified that I have no trouble supporting my family and most of the other families struggle to eat? Why is it the case that I am entitled to the lofty position I am born into if I put forth no more effort than others? It seems as though there is no way to justify the fact that I enter into this world with a privileged status while others can hardly feed themselves.¹³

Galvin Chia further identified some contradictions in Nozick's principle of rectification which aims to repay past injustices. According to Chia Nozick's model does call for the rectification of these past transgressions of indigenous property rights. Though this is currently achieved in some cases through fiscal compensation or affirmative action schemes, under Nozick's system of rights this would be illegitimate – not simply because they would be services provided for by an illegitimate, more-than-minimal state, but also because they would require funding through taxation, which is in itself a violation of the property rights of the taxed. The only available option would be nothing short of returning all the land unjustly claimed from indigenous peoples – this would include much of North America, and almost all of Australia. What, then, of the Australian property owner who has justly bought what was initially unjustly appropriated land? Would not his right to property be violated as well? These two tensions remain unresolved by Nozick – it is unclear how historical injustices such as these could be resolved.¹⁴

Conclusion

Arguments on Nozick's entitlement theory of justice are numerous. Merits that can be deduced from it include the fact it encourages hard work since it give the individual the full right to the fruits of one's labour. The principle of acquisition allows the free use employment of the individuals' talent and ability to acquire things. Such freedom can encourage innovations and inventions whose royalty the inventor can continue to enjoy. Patent rights and copyrights are instance of such benefits. A demerit is the fact that the idea of morality is not given due precedence in Nozick's theory. Some acquisition may be legal but when looked at through the moral prism will not be right because others in the society always need to be considered when actions are to be taken.

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JOHN RAWLS' THEORY OF SOCIAL JUSTICE AND ITS PHILOSOPHICAL RELEVANCE TO NIGERIA'S POLITICAL INSTABILITY

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Abstract

Nigeria as a country is characterized by a lopsided political structure and sentiments of ethnic politics that stand to hurt the existence of a just society. These foundational challenges make the impossibility of a democratic community capable of ensuring Nigeria's political and socio-economic progress uncertain. Hence, this study undertakes a critical examination of Rawls' theory of justice, employing its assumptions to mirror Nigeria's political instability and ethnic crises phenomena to gather its embedded lessons, primarily to enhance social justice, ethnic relationships, and political stability. The method employed in this paper is critical analysis, which is used to analyze the crises of social justice, ethnic crises, and issues of political instability in Nigeria. This paper also philosophically considers the relevance of John Rawls' theory of justice and attempts to establish its applicability to Nigeria's political structure that would uphold her stability, ethnic relationships, and a healthy political structure that has been bedeviled by numerous challenges of social justice and political instability.

Keywords: John Rawls, Theory of justice, Overlapping Consensus, Ethnic Crises

Introduction

The Nigerian state is composed of various ethnic groups. The amalgamation of diverse ethnic groups into one nation called Nigeria by the British brought with it several problems. The task of addressing this seed of ethnicity and ethnic crises planted by the British has been a complex one. After weakening the former diverse kingdoms, empires, etc, now called Nigeria, The system of government in Nigeria has always been confronted by a lot of challenges since the inception of the country, and most of these challenges are products of ethnic politics and sentiments. The unabated struggle of the various ethnic groups for political positions to control economic wealth and other resources of the

nation is invariably a threat to the democratic process, the sustenance of peaceful co-existence, unity, and political stability.

The colonial administration of Nigeria along ethnic lines promoted ethnic tensions, which prevented a Nigerian nationalistic movement but rather encouraged ethnic nationalism and regional politics. The problem of unity amongst the various ethnic groups and political instability is more compelling when viewed against the many instances of injustice and unfair treatment suffered by the majority of disadvantaged and vulnerable ethnic groups in Nigerian society. The greatest challenge facing Nigeria and Nigerians is how to fashion a social-political structure that can ensure political stability and social justice in society. This research paper attempts these through John Rawls' political philosophy to see if they can provide what he terms stability for the right reasons through an overlapping consensus. John Rawls' work is an attempt to secure the possibility of a liberal consensus regardless of the deep moral or philosophical values that the parties in a given setting may embrace, so long as they remain reasonable. The term "overlapping consensus" derives from a scenario where different and often conflicting accounts of ideas embraced by parties in a socio-political setting "overlap" with each other on the question of governance following an agreement reached because of their reasonability.

History of Political Instability in Nigeria: An Overview

Nigeria is a multi-ethnic nation that today has more than 250 ethnic groups. Ethnic relations in Nigeria are such that they are characterized by division, hatred, unhealthy rivalries, and pronounced disparities among ethnic groups. The amalgamation of the northern protectorate, the colony of Lagos, and the southern protectorate by the colonial lords ushered in Nigeria in 1914. Nigeria is a British creation. By uniting the various entities into a single country today known as the Federal Republic of Nigeria, The amalgamation brought together the protectorate of Northern Nigeria, the colony of Lagos, and the protectorate of Southern Nigeria into one country. This was done to serve the interests of Britain without the consent of the various ethnic nationalities through any consensual procedure. The ethnic groups have different cultures, languages, religions, educational abilities, and cordial human relations with one another (Ajila, 202).

The amalgamation exercise was done without a referendum or ascertaining the wishes of the people. Even long after the amalgamation, the two territories were separately administered, thereby creating

disparities in their levels of socio-political and economic development. Under normal circumstances, the amalgamation ought to have brought the various ethnic groups together and provided a firm basis for the task of establishing closer cultural and social ties vital for true unity among the people. Nigeria as a nation has been bedeviled with a series of ethnic, political, and economic crises, among other problems (Olugbemi and Osuji, 2021:391). Nigeria has witnessed a lot of ethnic disputes and crises over allocation and sharing of resources, political power, and positions. There are lots of divergent perspectives on this. Some see this problem as a result of the colonial occupation of the British government, which colonized the nation, while others see the problem as one of leadership (Bolarinwa and Osuji, 2022; 105-122).

Issues of Social Justice, Ethnic Crises, and Ethnic Politics in Nigeria

Years before the attainment of independence, Nigeria's constitutional development experiences were concerned with the principal goal of managing ethnic groups. Federalism, the creation of regions, states, and local governments; the shift from parliamentary to presidential; the institutionalization of quota systems; the prohibition of ethnic political parties; and the adoption of the federal character principle are some of the approaches that Nigeria has taken to manage ethnic diversity (Horowitz, 1985). Analysts have attributed the limitations of the ethnic management policies to improper implementation, distortion of visions, and a lack of political will. Politics in Nigeria since 1960 cannot be separated from ethnic polarization, even under military rule at all levels of government, whether national or sub-national. During the years of military rule, ethnic crises were minimal because they were suppressed by the military. The military government continued in power in Nigeria for many years, and ethnic groups in the oil-producing areas claimed they were being denied a fair share of oil revenues.

However, in the current democratic dispensation, every citizen tends to have more room and opportunity for self-expression, manifesting in the form of Ethnic crises among the various ethnic groups. An Ethnic group assigns to itself a common clan or common heritage. The group may be big or small numerically or geographically. One common characteristic shared by all ethnic groups is the claim of origin from a common ancestor, which must have been stretched by generations (Osuji, 2018:150). Ethnic crises have been a consistent feature of Nigerian politics. Ethnic crises in Nigeria arise as a result of a scarcity of political resources. Opposing perceptions by multiple users or potential beneficiaries of limited resources and the politico-economic dividends of government and governance. This has generated problems of

political settlement, elite movements, and ethnic politics in Nigeria (Bolarinwa and Osuji, 2022:107). Issues of injustice, political instability, and ethnic crises in Nigeria cannot be ignored. It is therefore patently clear that realistic measures to solve these problems are needed. Various policies have been articulated and implemented by different governments in Nigeria with the objective of containing Ethnic crises in the country. Salawu and Hassan (2010:31-32) states that:

One of the main causes of ethnic problem is that Nigerians see themselves, first and foremost as a member of an ethnic group rather than as a member of a nation. This tendency has been shown in some ways and particularly in the allegiance people pay to their ethnic group. In Nigerian society today, many prefer identification with their ethnic group rather than with the nation or even state.

Ethnic affiliations in Nigeria are always very strong and visible. Since independence, there have been cases of Ethnic crises resulting from allegiance to one's ethnic group, and this has not worked well for the development of the country. Ethnic relationships in Nigeria are marked by division, unhealthy rivalries, and pronounced disparities among the ethnic groups. The ethnic crises embedded by the British have been compounded (Amaku, 2014: 80-89). Osuji (2018: 150) argues that the leadership idea revolves around ethnic interest and personal wealth, which has given rise to the well-known lack of a common national agenda. No part of Nigeria has been spared the vicious scourge of ethnic crises, though their prevalence and intensity have not been the same across the length and breadth of the nation.

These Ethnic crises are roundly captured by Olayiwola (2011:8) when he argues that:

In recent years, Nigeria, Ethnic crises have continued unabated which in some cases has led to ethnic cleansing. Examples abound: Ife-Modakeke crises, Ijaw-Ugbo Ilaje crises, Eleme-Okrika crises, Odicrisis, Yoruba farmer/Fulani herdsmen crises, Warri crises, Zangon Kataf crises, Oduduwa People's Congress-Cattle dealers clash, Manbila-Fulanicrisis, Jos crises and the Tiv-Junkun crises. The consequences of these ethnic crises include loss of lives and properties, increased number of displaced persons and increased sense of insecurity.

Nigeria has never really been an integrated nation. Most of the time, what is described as harmonious co-existence between ethnic groups is often very fragile, and this snaps as soon as there is any slight

provocation. What follows are violent crises in which lives were lost, school activities were paralyzed, and valuable properties were destroyed. The level of damage, the degree of loss of lives and properties, and the disruption of social activities are pointers to the fact that Ethnic crises are doing more damage to the country of Nigeria. Today in Nigeria, there is serious rivalry among ethnic groups over issues such as ethnic politics, social injustice, political power, and resource sharing. Successive governments have tried to find solutions for the above-mentioned problems, all to no avail.

The Concept of Justice

To the common man, justice is right and fair behavior or treatment. That is equal treatment for all. Justice is an action taken in accordance with the requirements of the law. These rules and laws should be grounded in human consensus or societal norms. It ensures that all members of society receive fair treatment. This concept of "justice" raises issues in several spheres of life and plays a significant role in addressing conflict. Justice takes into account the inalienable and inborn rights of all human beings. It seeks equal protection for all before the law without discrimination on the basis of race or gender.

Justice is the quality of being just; the quality of being correct or right; righteousness, equitableness, or moral rightness; upholding the justice of a cause; the moral principle determining just conduct; fair representation of facts and rectifying the wrong; restitution; and fairness (Lederach, 1997:28). Justice tries to reconcile individual rights with the social good. The concept of justice is related to dealings among human beings. It emphasizes the concept of equality and requires that no discrimination be made among the various members of society. Justice is not necessarily a universal, objective, or consensual concept but is, rather, subjective and perceptual, a relative matter and a matter of judgment, and a controversial concept not subject to a singular, agreed-upon definition. Despite the differences in the perceptions of justice among various societies and cultures, including even conflicting views, there is a common perception of justice as a source of harmony and cooperation among individuals, groups, societies, and states.

In the absence of agreement or common understanding regarding a definition of justice or its implementation, parties will have difficulty cooperating and may even find themselves in conflict over this issue (Rawls, 1999:5-6). John Rawls argues that, in the absence of the possibility of basing principles of justice on real agreement, the parties must try to achieve what he terms "overlapping consensus" in order to

formulate a strictly political perspective that will express "an idea that every reasonable comprehensive doctrine can accommodate in its own terms, based on the understanding that this is essential for purposes of coexistence.

Justice is also linked to the distribution of goods, the manner of their distribution, and the procedure involved. The link between the manner of distribution and the procedure is what connects justice and fairness. Principles of justice are linked to the outcome of a procedure based on equitable agreement.

Rawls' Concern for Social Justice

The need for justice has always been realized, not only by Plato but by different scholars of different eras. Rawls (1971) claims that many things can be called just or unjust. For example, persons can be called unjust, or actions by persons can be called unjust. But Rawls' primary concern is what he calls social justice. Social justice is mainly concerned with the way in which social institutions assign rights and duties and how they determine the distribution of social advantages through what Rawls calls social cooperation (Rawls, 1971:7). His understanding of major institutions includes the political framework, the economic structure, and the social structure. These major institutions play a crucial role in determining the rights and duties, as well as the benefits, of the citizens. According to Rawls (1971:7):

Taken together as one scheme, the major institutions define men's rights and duties and influence their life-prospects, what they can expect to be and how well they can hope to do. The basic structure is the primary subject of justice because it affects aresopfoundfromthestart.

A fact of life is that people are born into different positions. These different positions create different expectations. Different expectations are created by the political, economic, and social circumstances that each individual is born into. Institutions favor the starting positions of some members of society compared to others. It is here that the principles of social justice must apply in order to deal with these inequalities. These principles of social justice only apply to major social institutions. They may not apply as well to families, associations, or clubs or serve as ideals of friendship. It is important to note that Rawls is not an advocate of some form of egalitarian society. Any form of inequality must be adjudicated by principles of justice. Those who enter into social cooperation are deciding once and for all. Principles that will

assign basic rights, duties, and social benefits. These decisions will include how people will regulate their claims against each other. Just as a person will rationally decide what is good for her, society will also, in the same way, decide what counts as just and unjust. This decision that individuals come to will be made in an initial situation, which he calls the original position.

The guiding idea is that the principles of justice for the basic structure of society are the objects of the original agreement. They are the principles that free and rational persons concerned with furthering their interests will accept in an initial position of equality as defining the fundamental terms of their association. Rawls (1971:11) claims that "these principles are to regulate all further agreements; they specify the kinds of social cooperation that can be entered into and the forms of government that can be established. This way of regarding the principles of justice, I shall call justice fairness".

Rawls' Notion on Overlapping Consensus

Our modern societies are pluralist societies, characterized by different beliefs and loyalties. In such societies, it is not obvious how to find common ground from which the values that sustain them should be interpreted. The difficulty of finding common ground of interpretation raises the question of maintaining unity and stability within society: how should stability and unity be maintained in a society constituted by different, and sometimes conflicting, comprehensive views?

To respond to this question, John Rawls introduces the idea of an overlapping consensus between different reasonable philosophical and moral doctrines. In dealing with the idea of an overlapping consensus, Rawls (2005:133–134) wants to "consider how the well-ordered democratic society of justice and fairness may establish and preserve unity and stability given the reasonable pluralism characteristic of it" In other words, Rawls' use of the idea of an overlapping consensus aims at making the idea of a well-ordered society more realistic and in tune with the historical and social conditions of democratic societies. As Rawls (2001:32) expresses in *Justice as Fairness: A Restatement* "the idea of an overlapping consensus is introduced to make the idea of a well-ordered society more realistic and to adjust it to the historical and social conditions of democratic societies, which include the fact of reasonable pluralism".

In *Political Liberalism*, Rawls adds new elements to his explanation. Rawls (2005:133) considers "how the well-ordered democratic society of

justice and fairness may establish and preserve unity and stability given the reasonable pluralism characteristic of it". In such a society, Rawls (2005:134) says "a reasonable comprehensive doctrine cannot secure the basis of social unity, nor can it provide the content of public reason on fundamental political questions. Thus, to see how a well-ordered society can be unified and stable, we introduce another basic idea of political liberalism to go with the idea of a political conception of justice, namely, the idea of an overlapping consensus of reasonable comprehensive doctrines".

As can be seen from what precedes, the idea of an overlapping consensus is related to the notion of stability and unity in political society. For a society to remain stable over time, conflicting loyalties must lead to a common understanding -which is not necessarily a common interpretation—of the values upon which society should be built. In other words, the idea of an overlapping consensus is introduced when the question of stability is discussed. Like modern societies, Nigeria is undoubtedly facing a number of challenges that have to do with how to successfully manage her numerous ethnic groups.

Rawls Notion of Social Institutions

Rawls views justice as crucially important to all social institutions. Any institution that is not just should be abolished, no matter how efficient or well organized it is. Each person has inviolable rights that are based on justice. These rights cannot be violated for the sake of the benefit of other members of society. Rawls (1971:4) says "In a just society, the liberties of equal citizenship are taken as settled; the rights secured by justice are not subject to political bargaining or to the calculus of social interest". This means that the needs of the group can never be taken as worthy of sacrificing the dignity or rights of any single member of society.

Onwuegbusi (2011:73-74) points out that:

Injustice, Rawls maintains is therefore an inequality that is not to the benefit of everyone. Economic inequality can yield a variety of bad consequences. If there is too much economic inequality some people may have so much income that there will be not enough resources left over to meet even the basic needs for food, clothing, shelter, medical care and education or near the bottom of the economic ladder.

What this means is that when political and social powers are too much in the possession of some people, it will lead to economic income and wealth. And too much economic power can lead to economic inequalities in society. With the resources of the state in the possession of some people to oppress and dominate others. This would help them gain influence in politics and government. Rawls' intention is to work out a theory of justice in which the primacy of justice can be asserted. His starting point is the assumption that society is a self-sufficient association of persons who, in their relationships, recognize certain rules as binding and tend to observe these rules in most cases. These rules work to specify a system of cooperation between participants. Although society is a cooperative venture, conflicts of interest will always arise. However, on the other hand, an identity of interest also arises because it makes life better for all than if all were to live in isolation. A conflict of interest arises mainly because people are not indifferent to the ways the fruits of their cooperation are distributed. Each individual will want to have a far bigger share compared to a smaller share to enable him or her to pursue his or her interests.

To regulate this state of affairs, there should be principles that will be considered fair by all the participants in society. A set of principles is required for choosing among the various social arrangements that determine this division of advantages and for underwriting an agreement on the proper distributive shares. These are the principles of social justice. They provide a way of assigning rights and duties in the basic institutions of society, and they define the appropriate distribution of the benefits and burdens of society (Rawls, 1971: 4).

A society is well ordered when it is not only designed to advance the interests of its members but also when it is governed by a public conception of justice that is accepted by everyone and is satisfied by all social institutions. Although individuals may have different aims, they will share a commonly held conception of public justice. People may have different conceptions of what justice is; however, they will agree that social institutions are just when they do not use arbitrary methods to discriminate against persons in assigning rights and duties as well as in adjudicating between competing claims to social advantages.

Application of John Rawls' Theory of Justice to Nigerian Political Structure

John Rawls theory of justice is a concept of justice that universalizes and carries to a higher level of abstraction the principles that free and rational persons concerned to further their interests will accept in an

initial position of equality as defining the fundamental terms of their association. The central thrust of Rawls' *A Theory of Justice* is the formation of a politically liberal society. His theory is premised upon the idea that, in forming a society, reasonable people together derive principles of fairness under designated hypothetical conditions where all forms of goods (e.g., social, material, and political) have yet to be distributed in society and, furthermore, no possesses knowledge of his or her status. In the first aspect, agents produce these principles from the original position, and in the second, these principles fall behind the veil of ignorance. After the veil is lifted, agents rationally select rules that guarantee they secure the maximum possible liberty commensurate with the minimum possible social status.

Two principles specify "the fair terms of cooperation among citizens and specify when a society's institutions are just. These are the liberty principle, according to which every person has extensive basic liberty rights, and the difference principle, which dictates social and economic inequalities are to be arranged so they benefit the least advantaged while upholding equality of opportunity (Rawls, 1971). Rawls' theory is a distributive theory of justice because his principles designate a basis on which to apportion a society's economic benefits and burdens; just distributions can be achieved through a fair process that is open to all. Principles of justice are neither sufficient to ground a politically liberal society nor can they ensure political disagreements can be easily resolved to everyone's satisfaction. By way of solution, Rawls overlapping consensus of reasonable comprehensive doctrines is a label for society's common understanding of the good and the procedures by which societal good is enacted, preserved, and protected. According to Rawls (1993:134), "In such a consensus, the reasonable doctrines endorse the political conception, each from its own point of view".

Conclusion

Social unity is based on a consensus about the political conception, and stability is possible. Overlapping consensus connotes agreement that the political conception of justice is realized in the twin principles of liberty and equality, and citizens have a deliberation vehicle through which they reasonably can resolve disagreements about what those principles mean within their respective conceptions of the good. Political liberalism's demands for stability dictate the principles of justice, and overlapping consensus allows both freedom and justice. Political stability provides the rationale for Rawls' principles of justice.

To enthrone unity and a stable, viable political structure in Nigeria, John Rawls' first and second principles of a theory of Justice through his overlapping consensus should be given immediate attention, for their proper application will be a panacea to an effective political structure in Nigeria that would uphold her political stability, social justice, and healthy ethnic relationships.

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