

## JOHN RAWLS POLITICAL PHILOSOPHY AS A SOLUTION TO THE PROBLEMS OF CONSTITUTIONAL DEMOCRACY IN NIGERIA

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### **Abstract**

*This study examines the problems of Nigeria's constitutional democracy in the light of John Rawls political philosophy. It evinced that Nigeria is not fully a democratic nation since the dividend of democracy has not been adequately attained, especially in the areas of political stability, ethnic politics, and equitable distribution of social and economic goods. It has been discovered that the level of social injustice currently prevailing in Nigeria is reaching alarming heights, and citizens are beginning to feel the effect in the level of discontent amongst the citizenry, as demonstrated by various ethnic crises and uprisings in the country. The paper argued that the solution to these social and political problems caused by Nigeria's constitutional democracy can be realized if Nigerian political leaders adopt the philosophical practice of John Rawls "overlapping consensus."*

**Keywords:** John Rawls, Social Injustice, Overlapping Consensus, Constitutional Democracy

### **Introduction**

In all societies of the world today, particularly in third-world countries like Nigeria, the general concern has moved beyond which political system is appropriate to when the polity will become democratized or fully democratic. Perhaps this is because democracy goes beyond forming political parties, contesting general elections, and having a civilian government in power to profoundly embrace a system of government preeminently anchored on equality and social justice. Avail to say that democracy is based on the ability of a nation to provide channels for discussions, consultations, and mobilizations and the responsiveness of the government to the needs and aspirations of the citizens; for it is only when the interests of the people are equitably represented and their needs and aspirations satisfactorily met that meaningful development is made. The creation of an ordered and stable society that guarantees the security of lives and property of individuals; the cultivation and inculcation in the citizens of a democratic temper, an attitude of service and trusteeship; a sense of civic

responsibility; a spirit of fair play; and tolerance of other people's opinions and interests; the absence of arrogance and arbitrariness; and a sense of honest, faithful, selfless, impartial, and objective service; a dedicated, selfless, disciplined, patriotic, and highly motivated leadership style.

Hence, it can be innocuously argued from the foregoing that good governance forms the philosophical groundwork upon which democracy and social justice are built. This would then imply that social justice is the surest foundation on which to build a good and successful government. Lamentably, one of the most worrisome challenges of Nigeria's relay race towards development has been the inability of the Nigerian political system to adhere to social justice in the administration of public affairs. This idea of social justice coincides with the meaning of governance as the manner in which power is exercised by governments in the management and distribution of a country's social and economic resources.

Attaining better living conditions for citizens in society has been identified as the utmost responsibility of a responsible government. Towards achieving this goal, political thinkers have generated and are still generating suitable frameworks considered appropriate for every human society. In this line of reasoning, John Rawls (1971), a Professor of Philosophy at Harvard University, notes in his 1971 book "A Theory of Justice" and his corresponding further explanatory book titled "Political Liberation in 1993," alongside other explanatory articles that fair and distributive justice is the fundamental basis for an ideal society. This suggests that the individual's liberty and equality, with prioritization of their common good, are expected to underpin a country's social institutions policy thrust and constitutional democracy. Additionally, the policy should embody maximum consideration for all citizens, especially the less well-off or disadvantaged groups. In this regard, can one maintain that this is obtainable across countries in the global space, especially in developing climes like Nigeria?

In Nigeria, there is deep inequality, and the human development indices show a disproportional standard of living among citizens. These claims can be said to be feasible given the economic, social, and political instabilities and bankruptcy of peace in the country. One is constantly greeted with a high degree of imbalance between the 'haves' and 'have nots', a gulf of imbalance in the allocation and distribution of our collective national resources. Deep-rooted nepotism, gross abuse, and violations of some basic human rights have now become the order of

the day. There is inequality in almost every facet of Nigerian life, and these inequalities affect the basic structure of society.

Hence, what seems like a misalignment with an ideal political system informed the examination of the extent of John Rawls' political philosophy's applicability to the Nigerian milieu. Therefore, this paper examines the core principles and plausible components of Rawls' political philosophy. It proceeds to appropriate strengths embedded in Rawlsians' political justifications to interrogate problems of constitutional democracy in Nigeria.

### **Democracy in Nigeria: An Overview**

Nigeria is a democratic state, or that is what it is supposed to be. However, the country has experienced obstacles that have hindered the implementation of democratic principles and caused stagnation in the nation's growth. Democracy and Nigeria are like Siamese twins; though conjoined, they are uncomfortable and under intense pressure that could result in all forms of hurt, even death.

Nigeria's democracy has been fragile and fluctuating since independence. Successive governments have struggled to create a sense of national unity in a complex country whose borders were drawn by British colonialists and incorporate more than 250 ethnic groups. Unfortunately, Nigeria has had a much checkered constitutional evolution. A number of constitutions have been enacted for Nigeria, and yet Nigeria cannot even boast of a holistic constitution that is made by specifically elected and mandated Nigerians. What is worse, Nigeria has a constitution without constitutionalism. Nigerian leaders inherited the culture of political impunity and lawlessness from the military era.

Achebe (1983:1) had argued many years ago that leadership is Nigeria's major political challenge. One of the major problems with Nigeria's democracy is the lack of focus among the political gladiators in the country. This has now posed a serious challenge to democratic governance in Nigeria. Ajao (2011:606) gives an in-depth analysis of Nigeria's democracy. According to him,

Democracy in Nigeria has been blended and practiced with multifarious political structures institutions, systems, approaches and ideologies. This blending has been directed by maverick political personalities imbued with altruistic or egoistic tendencies. In any case, the

assessment of the democratic balance sheet of Nigeria has two sides: pessimistic and optimistic.

Nigeria's return to democratic rule after several years of military misrule was presumed to be a beacon of hope for the vulnerable and ordinary people in Nigeria. The thought of a just and egalitarian society was believed to accompany the democratic system and, as such, was greeted with nationwide jubilation and optimism. During the transition, many people looked forward to a new era of social and economic development, peace, and stability. Unfortunately, over 23 years later, many are still yet to enjoy the dividends of democracy through access to basic amenities and improved quality of life.

But some commentators say Nigeria is not currently a true democracy due to its entrenched corrupt political class, dwindling electoral participation, popular suspicion of the ruling class, shrinking civil liberties, and weak democratic institutions. Adekola (2010:1) captures this fact succinctly:

Nigeria has not been so lucky with it. She has had a long, tortured history of dancing around democracy but has never gotten it right. This is largely due to some challenges, amongst which are: lack of large-scale free and credible elections; lack of freedom of speech and publication; refusal to accept defeat in elections by political gladiators; godfatherism; non-observance of the rule of law; corruption; and the attitude of political office holders to corner the wealth of the nation.

Okechukwu and Odinchezo Ikejiani (1986:80–81) eloquently argued that the entity that is known as Nigeria today came about by accident. They opined that fundamentally, "the country is an arbitrary and artificial creation comprising people of diverse cultures, languages, and historical experiences". A reflection on the country's present situation, despite the adoption of democracy 23 years ago, calls into question certain issues challenging democratic governance in Nigeria. Some have adopted the view that the British colonial administration in Nigeria interrupted the country's cultural evolution through premature amalgamation. This resulted in the marriage of strange bedmates. In this vein, scholars mention the divide-and-rule policy of the British colonial administration as the beginning of the animosity and divisions among different cultural groups in the country. Ofiaja (1979:66) shares this view, albeit strongly. According to his own view, Nigeria is not a nation, and the word Nigeria is only a distinctive appellation to

distinguish those who live within Nigeria from those who do not, and that Nigeria constitutes separate political units that correspond to major regional groups".

In other words, the problem of Nigeria's democratic experiment lies in the lack of constitutional machinery. There have been repeated calls for reforms to the 1999 constitution. Ideas include accommodating the interests of different cultural groups. Changes should also institute space for public participation and debates. Both are encapsulated in the principle of popular rule. Omotosho (2013:1) summarized this belief thus: The year 1999 marked a watershed in the history of modern Nigeria in that it ushered in what was meant to be enduring democracy. Since 1999, Nigeria has been enjoying uninterrupted democratic governance. Democracy has not yet delivered a considerable uplift in living standards for most Nigerians. But it remains the only system of government that can offer the hope of reconciling the extraordinary plurality of religions, ethnicities, and political traditions of its large population. It is the only system of government that can create a fair society without resorting to oppression or the exclusion of considerable parts of the population.

It is also essential for the rest of Africa that democracy survives in Nigeria. Half of West Africans are Nigerians, and if democracy were to fail there, it would have enormous implications for the rest of the continent and for the world. Nigeria's democracy needs to serve the rights, aspirations, and potential of its citizens for a good, dignified, and fulfilled life. The paper argued that the solution to these social and political problems caused by Nigeria's constitutional democracy can be realized if Nigerian political leaders adopt the philosophical practice of John Rawls "overlapping consensus."

### **John Rawls' Political Conception of Justice**

The idea of the political conception of justice forms an essential part of the amalgamation of various doctrines of a people in a modern democratic setting. To this end, Rawls says, "Political conception is a module, an essential constituent part that in different ways fits into and can be supported by various reasonable comprehensive doctrines that endure in the society regulated by it" (Rawls, 1993:144-145). From this standpoint, the political conception of justice can then serve as the focus of an overlapping consensus. Rawls observes three characteristic features, each of which is exemplified by justice as fairness.

The first of these features is that it focuses attention on the subject of a political conception, which, according to Rawls, should qualify as a moral conception. He writes thus: "It is a moral conception worked out for a specific kind of subject, namely, for political, social, and economic institutions. In particular, it applies to what I shall call the "basic structure" (Rawls, 1993:11). To the extent that Rawls itemizes aspects of life that the political conception will cover. It is clear, therefore, that it does not have to embrace the whole of human life. However, members of society who realize its ideals fit together into one unified system of social cooperation in order to advance their common good. This basic structure for Rawls is the first subject of justice. Rawls says "an essential feature of the contractarian conception of justice is that the basic structure of society is the first subject of justice" (Rawls, 1993:257). Moreover, Rawls observes that members should lead a complete life in the society they were born into. Rawls believes that a political conception of justice must attend to the just relations between people in a particular society where they live.

The second feature of the political conception of justice as outlined by Rawls is that it concerns the mode of presentation. According to Rawls, "a political conception of justice is presented as a freestanding view. It is neither presented as a comprehensive doctrine nor as derived from such a doctrine applied to the basic structure of society as if this structure were simply another subject to which doctrine applied" (Rawls, 1993:12).

It means that it is within a comprehensive doctrine that the political conception of justice is derived and justified. To this end, Rawls says:

It is comprehensive when it includes conceptions of what is of value in human life and ideals of personal character, as well as ideals of friendship, familiar and associational relationships, and much else that is to inform our conduct and the limit of our life as a whole (Rawls, 1993:13).

As a matter of fact, it cannot succeed unless it is supported by a number of comprehensive doctrines. What this means is that there exists a network of concepts in the public political culture from which the political conception can be explained and justified. It is at this point that political conception differs from any other moral doctrine in that these doctrines are to be regarded as general and comprehensive views. Rawls uses the principle of utilitarianism to distinguish between it and political conception, thus:

The principle of utility, however understood, is usually said to hold for all kinds of subjects, ranging from the conduct of individuals and personal relations to the organization of society as a whole as well as the laws of people. By contrast, a political conception tries to elaborate a reasonable conception for the basic structure alone and involves, so far as possible, no wider content than any other doctrine (Rawls, 1993:13).

However, Rawls implies here that, if the political conception of justice is properly integrated into the basic structure, human conduct will be regulated. The third feature of Rawls' political conception of justice is that its contents are derived from certain fundamental ideas seen as implicit in the political culture of a democratic society. On the basis of these fundamental ideas, Rawls intends to build an acceptable political conception of justice for a constitutional regime. Among these fundamental ideas, society as a fair scheme of cooperation for collective value and the citizen as a free and equal person are central to this construction. Rawls declares that "this public political culture is made up of the political institutions of a democratic society and the public traditions of their interpretation, as well as historic texts and documents that are common knowledge" (Rawls, 1993:13–14). By implication, political conception refers to the notion of reasonable citizens. To this end, Rawls argues:

Citizens are reasonable when, viewing one another as free and equal in a system of social cooperation over generations, they are prepared to offer one another fair terms of social cooperation and agree to act on those terms, even at the cost of their own interests in particular situations, provided that others also accept those terms (Rawls, 1993: xlii).

Meanwhile, the core idea Rawls wishes to highlight is that for this cooperation to be successful, the parties involved must be seen as free and equal, without any undue domination or manipulation coming from any quarter. This is what Rawls refers to as the criterion of reciprocity. Rawls believes that reasonable persons affirm only reasonable comprehensive doctrines, and he outlines three features of such a comprehensive doctrine: moral and political conception. From the foregoing discussion, it is evident that the political conception of justice can be seen, therefore, as an essential constituent part that can fit into and be supported by different reasonable and comprehensive doctrines that endure in the society

that it regulates. In another development for Rawls, reasonable people see it as unreasonable to use political power to repress comprehensive views that are not unreasonable, though different from their own. This goes to recommend that any person who is considered reasonable should not forcefully dominate any moral or philosophical position that he considers different from his own or that is not in consonance with his. Rawls says thus: "Reasonable persons see that the burdens of judgment set limits on what can be reasonably justified to others, and so they endorse some form of liberty of conscience and freedom of thought as constitutional (Rawls, 1993:61).

### **John Rawls Idea of Public Reason in Formulating Political Decisions**

The idea of public reason for Rawls is a basic feature of any democratic society, as it applies to the formation of constitutional essentials and the forming of legislation. Rawls says "any well-ordered democratic society will encounter "the fact that a plurality of conflicting reasonable comprehensive doctrines, philosophical and moral, are the normal result of its culture of free institutions" (Rawls, 1999:131).

Rawls argues that "citizens in such a society will acknowledge that they cannot find agreement through references to their varied comprehensive doctrines and instead will look for a way to find agreement using rules of justification that all can accept" (Rawls, 1999:132). Rawls opines, "We think of persons as reasonable and rational, as free and equal citizens... and having, at any given moment, a determinate conception of the good, which may change over time. In dealing with public justification, we must give reasons that any citizen can understand and accept as reasonable, independent of their class, race, or any other feature or interest" (Rawls, 1999:171). Rawls points out five aspects of the idea of public reason: (1) the fundamental political questions to which it applies; (2) the persons to whom it applies (government officials and candidates for public office); (3) its contents as given by a family of reasonable conceptions of justice; (4) the application of these conceptions in discussions of coercive norms to be enacted in the form of legitimate law for a democratic people; and (5) citizens' checking that the principles derived from their conceptions of justice satisfy the criterion of reciprocity (Rawls, 1999:133).

Rawls further states that "the fundamental political questions mean "constitutional essentials and matters of basic justice" (Rawls, 1999:133). By these

terms, Rawls means that "public reason applies when government officials are deciding what can reasonably be included in the written constitution, as well as deciding on matters that relate to the basic structure of society but are not typically included in constitutions, such as basic economic and social justice (Rawls, 1999:133–134). Rawls is not saying that public reason is a one-way relationship. It is not merely a means by which a government's reasoning can be judged by citizens. Rawls states that "the idea of public reason specifies at the deepest level the basic moral and political values that are to determine a constitutional democratic government's relation to its citizens and their relation to one another" (Rawls, 1999:132). The political relationship that is forged through public reason applies to all citizens through the ideal of public reason. The structure of the idea of public reason gives strict guidelines for where and how it can be applied. Rawls says that this happens "whenever judges, legislators, chief executives, and other government officials, as well as candidates for public office, act from and follow the idea of public reason and explain to other citizens their reasons for supporting fundamental political positions in terms of the political conception of justice they regard as the most reasonable" (Rawls, 1999:135). Rawls believes that every citizen fulfills their duty of civility when they imagine themselves to be legislators or officials and argue and vote as if they were holding themselves to the idea of public reason.

Thus, citizens have not only a moral duty to hold legislators and officials to the idea of public reason but also to hold themselves and others to that ideal". Rawls points out that "the significance of completeness lies in the fact that unless a political conception is complete, it is not an adequate framework of thought in the light of which the discussion of fundamental political questions can be carried out" (Rawls, 1999:145). Rawls is concerned with the possibility of real debate stemming from political conceptions of justice. His entire project is aimed at ending what he sees as the inevitable deadlock that is caused by arguing from comprehensive doctrines. He is not looking for citizens to make their comprehensive doctrines into political terms but rather feels that citizens need to make a concerted effort to formulate political conceptions of justice that overlap with their own comprehensive doctrines but are distinct from them. Rawls says:

Political conceptions of justice are given three main features to ensure completeness: first, a list of certain basic rights, liberties, and opportunities (such as those familiar from constitutional regimes); Second, an assignment of special priority to those rights, liberties, and opportunities,

especially with respect to the claims of the general good and perfectionist values; and third, measures ensuring for all citizens adequate all-purpose means to make effective use of their freedoms (Rawls, 1999:141).

Rawls that a political conception of justice with these characteristics will see citizens as free and equal and society as a fair system of cooperation over time" (Rawls, 1999:141). Here, Rawls is showing the potential for disagreement among the contents of public reason. Even if all liberal political conceptions of justice have the same list of rights stemming from a common belief in the constitution (or an overlapping consensus in society), how individuals decide to order those values, or what needs to be made available to individuals, is still debatable. Rawls gives three more features of a political conception of justice:

First, their principles apply to basic political and social institutions (the basic structure of society); second, they can be presented independently from comprehensive doctrines of any kind (although they may, of course, be supported by a reasonable overlapping consensus of such doctrines); and finally, they can be worked out from fundamental ideas seen as implicit in the public political culture of a constitutional regime, such as the conceptions of citizens as free and equal persons and of society as a fair system of cooperation (Rawls, 1999:141–142).

All six features are aimed at distinguishing political conceptions of justice from comprehensive doctrines. Public reason is meant to argue with reference to free-standing political values. The content of public reason is whatever complete set of premises can be reasoned from ideas basic to any functioning democracy or from the public political culture that can be seen as the overlapping consensus of a society. If an overlapping consensus occurs when groups within society come to appreciate the same political values based on different comprehensive doctrines, then the content of those shared political values and how to order those values will seem to be a proper starting point for public reason. Yet emphasizing citizens' equal claims to collective political power is what brings about the problems Rawls sees in the fact of reasonable pluralism. The criterion of reciprocity ties everything together as the final test for the idea of public reason. Rawls even defines a reasonable citizen as one who is willing to follow this criterion. Rawls says:

Citizens are reasonable when, viewing one another as free and equal in a system of social cooperation over generations, they are prepared to offer one another fair terms of cooperation according to what they consider the most reasonable conception of political justice, and when they agree to act on those terms, even at the cost of their own interests in particular situations, provided that other citizens also accept those terms (Rawls, 1999:136).

Essentially, citizens are reasonable when they make proposals that they can reasonably expect others to follow and accept. Rawls says "public reason applies to "well-ordered constitutional democracies. Any deliberative democracy will have some form of public reason, a constitution outlining the structure of legislative bodies and public deliberative forums, and citizens willing to follow public reason and "realize its ideal in their political conduct" (Rawls, 1999:138).

### **John Rawls' Notion of Distributive Justice in Society**

According to Rawls, "a reasonable and good society is a cooperative venture for mutual advantage" (Rawls, 1971:4). Besides such cooperation, there can be conflicts among members of society concerning the burdens and benefits of social life. Hence, Rawls points out that "the principles of justice provide a way of assigning rights and duties in the basic institutions of society, and they define the appropriate distributions of the benefits and burdens of social cooperation" (Rawls, 1971:4). For Rawls, the basic institutions of society should be made or constructed so as to ensure the continuous distribution of social goods to all members of society. And this is to be done in a fair manner. Rawls asserts that "the social primary goods that the basic structure of society should distribute are goods such as rights, liberties, opportunities, power, income, wealth, etc." (Rawls, 1971:303).

These social goods must be distributed equally to all members of society. But they can be unequally distributed if and only if they are to favor the least advantaged members of society. Therefore, it can be said that in this, Rawls seems to imply that inequality of distribution requires justification, and that justification is to improve the situation of the less advantaged members of society. Rawls says that:

The distribution of the social primary goods among the members is just or fair when and if the distribution is done according to the principles of justice, which are: First, each

person is to have an equal right to the most extensive basic liberty compatible with a similar liberty 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 (Rawls, 1971:60).

Rawls goes on to say that the guiding idea of his principles of justice chosen in the original position is that they are an object for the basic structure of society. Thus, Rawls writes: They are the principles that rational and free persons concerned to further their own interests will accept in an initial position of equality as defining the fundamentals of the terms of their association. 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, 1971:11).

Rawls believes that a well-ordered society must be the product of a reasonable agreement or consent. And this agreement must be the fruit of sound reasoning that free and equal people choose. These are people who desire to establish a political society in which they can pursue their interests. According to Ricoeur, "the second part of the second principle is addressed to claims for equality raised by rival communities of thought and assures institutional protection for the rights, liberties, and opportunities attached to these claims" (Ricoeur, 2000:72). The purpose of Rawls principles of social justice is to ensure that the distribution of the benefits and burdens of society is just or fair to all members. Rawls describes his principles of justice "as those which rational persons concerned to advance their interests will consent to as equals when none are known to be advantaged or disadvantaged by social and natural contingencies. And the two mentioned principles of justice should be arranged in a serial order, which he calls lexical priority" (Rawls, 1971:19).

The purpose of such an arrangement is to assign greater importance to equal liberties than to the other primary social goods. It will seem that Rawls priority of the first principle over the second implies that liberty must be maintained for its own sake and that justice in a society must have priority over efficiency. And on his list of the basic liberties of citizens, he includes freedom of conscience, freedom of thought, freedom from arbitrary arrest and detention, freedom of speech and assembly, political freedoms, etc. (Rawls, 1971:61).

In the words of Rawls, "all social primary goods- liberty and opportunity, income and wealth, and the bases of self-respect- are to be distributed equally, unless an unequal distribution of any or all of these goods is to the advantage of the least favored members of society" (Rawls, 1971:303). The implication of this conception of justice is that inequalities are unjust when they put some members of society in a disadvantaged position. Hence, the inequalities ought to be to the advantage of the least-favored members of society. And the least advantaged members of a well-ordered society, in his understanding, include: Persons whose family and class origins are more disadvantaged than others, whose natural endowments have permitted them to fare less well, and whose fortune and luck have been relatively less favorable all fall within the normal range and with the relevant measures based on social primary goods (Rawls, 1971:259).

Thus, Rawls recommends schemes of cooperation in a well-ordered society that should work towards improving the conditions of the least advantaged members of society. One of the reasons "for holding the two principles suitable for a well-ordered society is that they assure the protection of the fundamental interests that members of such a society are presumed to have" (Rawls, 1999:260).

### **Rawls Concept of Free and Equal Persons (Moral and Political**

For Rawls, a moral conception of a person is thus:

Begins with our everyday conception of persons as the basic units of thought, deliberation, and responsibility and is adapted to a political conception of justice. It is in effect a political conception of a person, and given the aims of justice as fairness, it is a conception suitable for the basis of democratic citizenship (Rawls, 1993:18).

Therefore, in Rawls view, it will seem that due to the fact that human beings are capable of thinking, planning their lives with aims, deliberating, and taking responsibility for their decisions, they qualify as moral persons. And if this is so, then such human capabilities enable them to desire to live justly, thus creating a desire for justice in their social lives. And it will also seem that such a line of justice to a conception of a person and then affirm that: When fully articulated, any conception of justice expresses a conception of the person, of the relations between persons, and of the general structure and ends of social cooperation. To accept the principles that represent a conception of justice

is at the same time to accept an ideal of the person, and in acting from these principles, we realize such an ideal (Rawls, 1999:254–255).

Such an articulation is possible, in Rawls' view, when some powers are realized in people. The powers that Rawls has in mind are moral powers. It is from the point of view of being free and equal that people have moral powers. These moral powers are their distinguishing features. And according to Rawls, there are two moral powers that characterize the concept of free and equal persons, namely:

- (i) One such power is the capacity for a sense of justice: it is the capacity to understand, to apply, and to act from (and not merely in accordance with) the principles of political justice that specify the fair terms of social cooperation.
- (ii) The other moral power is a capacity for a conception of the good: it is the capacity to have, to revise, and rationally to pursue a conception of the good (Rawls, 2001:18–19).

Therefore, such a conception of a person specifies what the value of human life entails. These are the two moral powers that enable people to engage in social cooperation and take part in the life of a society. Rawls says that citizens are free "by stipulating that they each have, and view themselves as having, fundamental aims and higher-order interests in the name of which it is legitimate to make claims on one another in the design of their institutions" (Rawls, 1999:255). Moreover, free citizens, according to Rawls, are not tied up to the pursuit of any one particular conception of the good at any particular moment or period of their lives. Rather, they are seen as capable of revising and changing this conception on reasonable and rational grounds and claim the right to view their persons as independent from and not identified with any particular conception of the good or scheme of final ends (Rawls, 2001:21). These are the ones who are responsible not just for their ends but also for their interests and take responsibility for them. They are able to control and revise their wants and desires as circumstances demand. And they do this in the light of their own reasonable deliberations (Rawls, 1993:280). Furthermore, for Rawls, free citizens see themselves as "human beings entitled to make claims on their institutions so as to advance their conceptions of the good and claims that have weight of their own apart from being derived from duties and obligations specified by a political conception of justice" (Rawls, 2001:22). Rawls conceives of equal and moral persons as those who have attained the age

of reason, those who can realize a sense of justice, and whose conduct is informed by such sentiments.

Hence, they are equal in the sense that they all have and are capable of viewing themselves as having a right to equal respect and consideration in determining the principles by which the basic arrangement of their society is to be regulated (Rawls, 1999; 2550). And since, from the deontological ethic point of view, the self is prior to the ends, Which it affirms, Rawls reasons that "a moral person is a subject with ends" (Rawls, 1971:260). So, in Rawls understanding, "a moral person is capable of thinking, careful deliberation, and making rational plans for life in the light of the relevant facts available to him" (Rawls, 1971:417).

Indeed, he or she must be capable of making choices for his or her life. And one of the choices he or she should make is to participate in the political welfare of society. Joining with others in promoting what can enhance a well-ordered society And in this way, he or she ought to learn to embrace justice as a virtue for the society to which he or she belongs. Rawls somewhat defends his concept of the person by appealing to the history of the conception of a person since ancient Greece. Hence, Rawls affirms that "since ancient Greece, both in philosophy and in law, the concept of the person has been that of someone who can take part in, or play a role in, social life and hence who can exercise and respect its rights and duties" (Rawls, 2001:24). And it is from this perspective that he believes that his concept of a person is authentic, especially from a political point of view.

And it is from this point of view (persons willingly cooperating in social-political life) that Rawls considers "justice as fairness is a political conception of justice meant for a constitutional democratic society" (Rawls, 2001:19). In general, it can also be said that Rawls liberal-egalitarian conception of justice is characterized by its concern for liberty, equality, and the welfare of everyone in a liberal society. But more so for the well-being of the least advantaged members of society. Rawls believes in liberal politics, which uphold the aforementioned virtues of liberty, justice, tolerance, and equality. Rawls theory is without doubt meant for a liberal democratic kind of government with some executive powers to control the citizens as they pursue their life prospects and try to realize their aspirations.

### **Constitutional Democracy and the Principle of Participation**

Rawls sets out, as one of his primary aims, to provide a conception of justice that constitutes the most appropriate moral basis for a democratic society. In a democratic society, people regard themselves as free and equal. It is against this

backdrop that Rawls works out a conception of justice that mandates a democratic constitution and government and an egalitarian account of social and economic institutions. Hart points out:

The form of democracy Rawls embarks on is that of a "constitutional democracy," which is different from a purely majoritarian democracy. A majoritarian democracy is one in which there are no constitutional restrictions on the will of a majority and no judicial review of legislation (Hart, 1983:243).

Rawls does not support majoritarian democracy as a result of a lack of restrictive laws. In this kind of society, the rights and liberties of minorities may not be respected. In contrast, Rawls upholds constitutional democracy as opposed to majoritarian democracy. In his words, "a constitutional democracy, by contrast, requires a democratic government with restricted majority rule: legislative majorities are enjoined from passing laws that infringe constitutional essentials and basic justice" (Rawls, 1971:542-543).

By implication, Rawls is saying we must take into account that a constitutional democracy can be arranged so as to satisfy the principle of participation. What participation implies, therefore, is that all citizens are to have equal access, at least in the formal sense, to public office. Rawls endorses a government that recognizes the rule of law. Rawls believes that when these rules are just in a constitutional democracy, they establish a basis for legitimate expectations. No doubt, they constitute grounds upon which people can rely on one another and rightly object when their expectations are not fulfilled. No one can doubt the fact that no institution is perfect. Hart asserts that "it is to this end that Rawls believes that it is reasonable to assume that even in a well-ordered society, the coercive powers of government are to some degree necessary for the stability of social cooperation" (Hart, 1983:246). By implication, by enforcing a public system of penalties, the government removes the grounds for thinking that others are not complying with the rules of respect for persons and political rights.

These rules are not needed to be imposed but rather should serve as security for one another when participating in democratic life. Rawls believes that historically, one of the main defects of constitutional government has been the failure to insure the fair value of political liberty" (Rawls, 1971:302). In other words, Rawls believes that the constitution is the foundation of social structure and regulates and controls institutions of social participation and cooperation.

However, it has to be borne in mind that not all are to take an active part in political affairs. Constitutional democracy is, for Rawls, the overall balance of justice.

### **Application of John Rawls Theory of Justice to Nigerian Constitutional Democracy**

A nation as a political society is fundamentally characterized by the association of human beings working together for the common good and possessing adequate means for attaining it. Nigeria is a typical political society but seriously lacks the quality of a good political society. The national peace is threatened by self-interest at all levels of society. Caught in the grip of Nigerian systems of government, leaders and various sectors in government are led to pursue their particular aims and ambitions for power, progress, and their particular aims and wealth, without taking sufficiently into account the necessity and duty of national solidarity and cooperation for the benefit of the common good of all people who make up human society. This, however, calls for the need for justice in society so that order can be maintained. This is the problem Rawls has set out to solve by establishing the moral principles that will govern the basic structure of a just society. Rawls' intention was to create a just society that would ensure the equality of every individual before the law.

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 own interests will accept in an initial position of equality as defining the fundamental terms of their association. The formation of a politically liberal society is the central theme of Rawls' A Theory of Justice. 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 one 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 maximum possible liberty commensurate with 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. In Rawls' view, principles of justice are neither sufficient to ground a politically liberal society nor can they ensure political disagreements can be amicably 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, "in such a consensus, the reasonable doctrines endorse the political conception, each from its own point of view" (Rawls, 1993:134).

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. Rawls sees an overlapping consensus as the feasible basis for the most desirable democratic stability (Barnhart 2004). Stability on the basis of an overlapping consensus is superior to a mere balance of power among citizens who hold contending worldviews.

Democracy provides the rationale for Rawls' principles of justice. To enthrone unity and a stable, viable constitutional democracy in Nigeria, John Rawls first and second principles of a theory of justice should be given immediate attention, for their proper application will be a panacea to the crises of ethnic relations in Nigeria. In the Nigerian case, such principles have been searched for a long time to solve the problem of inequality in our societal affairs. And also, the Nigerian constitution should be predicated upon John Rawls' principles of justice and his idea of overlapping consensus. In fact, this theory of justice in John Rawls is suitable principles that will help Nigeria realize her long-awaited dream of a new Nigeria where the rule of law and Justice will reign in perfect order.

### **Conclusion**

The overall essence of this paper is to highlight the importance of John Rawls theory of justice and try to relate and situate it to the problems of constitutional

democracy in Nigeria, trying to make a case for its viability, suitability, and applicability in the Nigerian state. That constitutional democracy in Nigeria is plagued and hunted by various challenges is no longer a subject for arguments and refutations, as that has been firmly established over time. Good governance, which is arguably a by-product of democracy, is achievable in the Nigerian state, but this can only come about when the principle of justice and equal distribution of the nation's commonwealth, which is the basic thesis of Rawls theory of justice, is dispassionately applied to the democratic Nigerian state. It is only when that is done that an egalitarian society will be enthroned here, and this will reduce to the barest minimum the frequent agitations for various needs in the Nigerian state.

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