



**LUCK, EQUALITY AND JUSTICE IN RAWLS' THEORY**

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## **FOREWORD**

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## **LUCK, EQUALITY AND JUSTICE IN RAWLS' THEORY**

### **SUMMARY**

John Rawls published his most famous work, *A Theory of Justice*, in 1971 and changed academic discussions fundamentally in political philosophy. He brought question of justice into the center of debates in political theory after two centuries, which had been one of the most important issues since Plato. Rawls believed that justice could be achieved in a society with a proper balance between liberty and equality. He never understood equality as a pure strict egalitarianism. When the poorest members of society also are utilized from inequalities, they should be permitted. He defended limited differences in wealth between members of community and conditions and possibilities for rising top positions should be as equal as possible. His main aim was to prevent role of social and natural luck in division of rights, goods, services and property among individuals in society.

Then, was he successful? Could his principles of justice achieve to prevent role of luck? When Nozick did not agree with Rawls and defended a minimal state, Otsuka and Dworkin asserted different theories for an equal society without limiting basic liberties of citizens. In that work, I try to show that Dworkin's theory which offers an equality of resources by insurance markets against disability and differences in abilities and equal auction models presents a better way than Rawls' two principles in preventing role of arbitrariness for distribution of wealth between citizens.





## RAWLS'UN TEORİSİNDE ŞANS, EŞİTLİK VE ADALET

### ÖZET

John Rawls 1971 senesinde en ünlü eseri Bir Adalet Teorisi'ni yayınladı ve siyaset felsefesinde akademik tartışmaları kökünden değiştirdi. Plato'dan beri en önemli konulardan biri olarak gözüken adalet sorusunu iki yüzyıl aradan sonra yeniden siyaset teorisindeki tartışmaların merkezine taşıdı. Rawls, bir toplumda adaletin, özgürlük ve eşitlik ilkelerinin dengeli bir dağılımıyla sağlanabileceğine inandı. Eşitlikten hiçbir zaman saf, katı bir eşitlikçiliği anlamadı. Eşitsizliklerden toplumun en fakir grubu da yararlanıyorsa, onlara izin verilmeliydi. O, topluluk üyeleri arasında sınırlı bir zenginlik farkını ve en yüksek mevkilere gelme konusunda üyelerin mümkün olduğunca eşit şartlara sahip olması gerektiğini savundu. Onun asıl amacı, hakların, malların, hizmetlerin ve mülklerin toplumdaki bireyler arasında bölümünde doğal ve sosyal şansın rolünü önlemektir.

Peki başarılı oldu mu? Onun adalet ilkeleri şansın rolünü önledi mi? Nozick, Rawls'tan farklı düşünüp minimal bir devleti savunurken, Otsuka ve Dworkin vatandaşların temel özgürlüklerini sınırlamadan eşit bir toplum için farklı teoriler ileri sürdüler. Ben bu çalışmada, Dworkin'in engelliliğe ve yeteneklerdeki farklılara karşı sigorta pazarları ve eşit açık arttırmalardan oluşan kaynakların eşitliği önerisinin, Rawls'un zenginliğin dağılımı konusunda keyfiyetin rolünü önleme çabası için daha iyi bir yol olduğunu göstermeye çalışıyorum.



## 1. INTRODUCTION

How can we form a just society?

John Rawls devoted all his life on that question. He believed that justice might arise in a society in which, two principles, liberty and equality were settled according to a proper balance between major institutions in the community. Rawls tries to create a balanced order among equality and liberty by a special concern for benefits of the least advantaged group in community.

How does he create a theory in which liberty and equality appear together?

Rawls follows Rousseau and Kant on 'constructing' principles of justice which are formed by rational, free and equal moral persons. For explaining that, I will shortly mention Rousseau's and Kant's political theories.

Rousseau argues that by forming societies, humans leave their natural liberty and they decide to live under laws and governments. He explains that with a negative stress and he believes that man in state of nature was free but 'he is chains' now in society. But he does not consider society only in that negative aspect. By society, humans can improve their moral capacities and they can govern their own lives by general will. General will, can only be achieved by thinking common good of society prior to self-interest of every individual. By general will, humans become creator of their own laws. Liberty of humans in society is not similar with liberties in state of nature. Now, in society, liberty depends upon rules of sovereign. Rules of sovereign are formed by general will of humans. Therefore, by general will 'each obeys only himself'. By general will, which is different from personal interests of individuals, humans write their own laws which are valid for all citizens. General will is achieved by collection of all citizens and they think about public good for society and construct laws which they will obey (Apperley, 2002).

Where is the connection here between Rousseau and Kant?

Kant is related with Rousseau on that humans are authors of their own laws and their freedom are realized by obeying laws which they wrote. According to Kant, rational individuals are morally autonomous when they will the rational moral law. Kantian moral agents are self-legislating when they will the moral law which is accessible to all rational agents. “Kantian moral agents can be said to achieve moral autonomy in much the same way that Rousseau’s citizens achieve moral liberty by placing themselves under a system of general law” (Flikschuh, 2002:144).

Kant argues that human’s reason is an active power therefore they can create forms and concepts although they have no corresponding object in world in sensible experience. Likewise there is no object in the world to which the concept of justice refers. Yet we can form a conception of justice and give it practical reality (Flikschuh, 2002).

Rawlsian constructivism aims to construct a theory of justice which is the outcome of a reasoning procedure between free and equal individuals. Those free and equal persons choose principles of justice which are alternative to utilitarianism. Utilitarianism firstly was proposed by Bentham who says that “everything we do should aim to maximize the amount of pleasure and minimize the amount of pain in the world” (Hyams, 2008:18). The fundamental idea of utilitarianism is that the morally correct action in any situation is that which brings about the highest possible total sum of utility. What is moral is what maximizes the utility of the greatest number of individuals. “Utility is variously understood as happiness, pleasure or the satisfactions of desires of preferences. According to utilitarian principles laws are justified if and only if they contribute more to human happiness” (Wolff, 1996:53). Rawls criticizes utilitarianism, because according to him, utilitarian principles think society as one man and don’t consider differences between individuals. Unlike utilitarianism, his political theory is related with Right rather than Good. He leaves the choice of Good to individuals and he believes that society should provide rights to citizens for achieving their own good. While thinking on principles of justice, Rawls also considers utilitarian principles. For example while in utilitarianism, main aim is to maximize benefits of the greatest number of individuals, in Rawlsian maximin principle, main aim is to maximize benefits of the least advantaged class. He assumes that principles of justice are also acceptable for utilitarian aims. They

can also serve for benefits of whole society. But he stresses that for any economic benefit, basic liberties and rights can not be sacrificed. Utilitarian principles may be important only after principles of liberty, justice and equality in Rawls (Rawls, 1971).

Rather than utilitarianism, Rawls offers a contractarian model. Early modern theorists like Hobbes, Locke and Rousseau speculated about what humans were like before they entered into societies or recognized state authority. “According to their story, given the facts of human nature and the infelicities of life in what those philosophers called the ‘state of nature’ people found it preferable to enter a contract that established state authority” (Baggini and Fosl, 2007:60).

Social contract model is firstly proposed by Hobbes. Hobbes’ main interest is with the nature of political authority and its role in creating social order. According to Hobbes, the most fundamental desire of each individual is self-preservation. In state of nature, without any constraint of laws and government there is ‘a war of all against all’ and this is to the disadvantage of everyone. Why does he believe that the state of nature would be a state of war? Because there is scarcity of goods, individuals motivated by self-interest come into conflict over scarce good (Edwards, 2002). Hobbes assumes that individuals are naturally equal. They are equal in power to kill each other. He thinks our fear of death would bring human beings to create a government (Wolff, 1996). Then, power of government becomes much more than individuals or any collection of them. And therefore they obey laws of government, of that sovereign power, Leviathan. Hobbes stresses that we agree on giving our power to Leviathan for personal security and it is now so powerful that we must obey its laws.

Then Locke after Hobbes defends contractarian model and argues that government arises by an agreement between individuals and legitimacy of government depends upon that agreement. He argues that a government’s legitimacy depends upon the origins of its power in individual consent. Locke assumes state of nature was not a state of war and he conceives it as a peaceful atmosphere. In Hobbes, principle of equality was a claim about mental and physical capabilities of all people. For Locke it is a moral claim about rights. No person has a natural right to subordinate any other. Individuals have natural rights to protect their own body and property. And

they have a duty not to harm others in the state of nature. But although they live in a peaceful atmosphere, they decide to make an agreement and form civil government. Because in state of nature there are not established rules, and impartial judges to judge acts against established rules. By civil government, life, liberty and property of individuals can be protected better (Kenyon, 2002).

Rawlsian social contract theory is not to form a government or a type of society. In Rawls' hypothetical model, principles of justice (which are liberty and equality) are chosen by free and equal moral persons. Rather than Hobbes and Locke, Rawls follows Rousseau's and Kant's views about contractarian model, as a rational decision procedure for constructing common and general principles. Rawls uses concept of veil of ignorance in his theory about social contract. Persons who agree on principles of justice, choose principles behind a veil of ignorance. They don't know their position in society, their natural skills, what type of a life they want to live. Rawls uses that concept, to construct pure principles which are general and universal, and not affected by contingent factors, by statuses of individuals (Rawls, 1971).

How does Rawls want to achieve Justice, which is, as I said, for him, proper ordering of Liberty and Equality? How does he settle those concepts to his theory? According to the first principle of justice, all citizens in the community should have equal liberties and those can not be sacrificed for any economic benefits or to achieve equality in the community. Liberty is prior to equality for Rawls.

What are these liberties?

Locke assumed that persons have natural rights to preserve their own life, preserve their property and freedom from interference. He promotes ideas on the rights of the individual and on limited government, since regarded as fundamental to liberal political theory. Persons make agreement to create governments to preserve those liberties better than state of nature. Duty of governments is to preserve these liberties. If government breaks agreement, persons have right for rebelling. So we see that basic liberties of individuals are liberty to live, liberty to have property and improve it. Property does not mean only goods. Legal and political rights belong to property in Locke's view. In arguing the case for limited government, Locke stresses that different forms of individual rights, including political rights and rights of ownership are connected (Kenyon, 2002). Mill's liberty principle argues that you can justifiably

put limit to a person's freedom of action only if he threatens harm to another. This is called Harm Principle. He argues for civil liberty, "for the opportunity to act without interference from the state and equally important from intrusive pressures of other people in society" (Knowles, 2001:107). He offers protection for the individual against the interference of society or law. Mill's Harm Principle divides man's self-regarding area into two parts. In first part, the individual is sovereign, in other part we are accountable to other persons. He then says that liberty of conscience, thought and expression, liberty of tastes and pursuits and liberty of combination and association between individuals form the self-regarding area (Seglow, 2002). Rawls follows Locke and Mill and assumes that equal basic liberties such as freedom of speech and artistic expression, freedom of association, religious freedom, freedom to pursue the work of one's choice, freedom to participate in political decision procedures are included in the first principle of justice.

In my work I deeply focus on how Rawls builds his theory. We can divide Rawls' theory into two parts and think on them in order. First one is original contract and problem of decision in here. Second part is about principles of justice which will be applied to the basic structure of society. I will explain all of this. But my main aim is to argue about second principle of justice; equality. In Rawls theory, equality comes from liberty. Principle of equal basic liberties is prior to second principle of justice. So it is important now how Rawls tries to achieve equality in society. Remember that, according to Hobbes individuals are equal because of their equal power to kill each other. Locke thinks that individuals are equal because they have equal rights to preserve their lives and property. Rawls also thinks that citizens are equal therefore they have basic liberties equally. But what about the distribution of goods and services?

Rousseau stresses the importance of equality in society. We know that according to him, general will of citizens can only be achieved when citizens don't think about their private interests and think for common good of society. According to him, modern society and unequal distribution of private property makes some persons much richer than others. In that system, general will, can not be achieved. Citizens are affected by their personal interests and can not think independently on common good of society. According to him, modern man, obsessed by status, compares



himself and his possessions with others. Rousseau defends a very limited inequality (Apperley, 2002).

Marx and Engels favor an egalitarian society and they argue against free market. According to Engels, free market leads to crisis after crisis in which individuals are thrown out of work. Engels's second argument is that capitalist contains a great number of persons who perform no productive role. A communist planned economy could incorporate these people into production, improving efficiency and reducing the work day. For Marx and Engels, free market leads to alienation. In the capitalist free market the nature of work is reduced and improper for individuals. In capitalist production, there is highly developed type of the division of the labour in which each worker performs a highly specialized, boring duty. Another critique is that capitalists exploit workers in the free market. For Marx exploitation is essentially the extraction of surplus labor (Wolff, 1996).

Unlike Rousseau and Marx, Rawls does not argue against private property and market system. He does not defend a strict equality. He tries to take a position against inequalities which are not caused by factors under person's control. Social and natural contingencies should not affect distribution of wealth and income.

Rawls offers difference principle for equality which maximizes benefits going to the least advantaged group of society. Disabilities, racial discriminations should be compensated. Rawls does not defend a strict equality because he also mentions efficiency of economy. He prefers limited inequality in which economic productivity will be high rather than a pure equal society in which everybody will be poor. Rawls believes that free market economy is proper way for economic life in society. But state should consider justice and equality in distribution of goods, services and wealth. He does not defend pure state control on economy because this will negatively affect basic liberties of citizens and cause authoritarian control of state on personal lives of people. However Rawls is also against pure free market. Because he believes that in pure free market capitalism, factors which are caused by luck, will affect who will have what. Natural and social contingencies will make some people rich and others poor. This is unjust.

According to Rawls, pure free market capitalism also affects negatively fair values of basic liberties. He assumes that one of the main problems of constitutional

democracy is not to be able to achieve real value of political liberties. Big economic and social differences between citizens make some persons luckier than others in joining and affecting political decisions. Rawls believes that every individual should have to be informed about public issues. They should be in a position to assess how political issues will affect their situation and which policies advance their conception of public good. Moreover, they should have a fair chance to add alternative proposals to the agenda for political discussion. In pure free market capitalism, for people who have much less wealth and income, it is impossible to be efficient in political processes and joining political decisions (Rawls, 1971).

After I present Rawls' arguments, I will come to Nozick's views. Nozick thinks differently and believes that redistribution of goods will cause attacking liberties of individuals and state shouldn't interfere economic activities of persons. He defends a 'nightwatchman' state in 'Anarchy, State and Utopia' which means a very limited government and pure free market that has only duty to protect voluntary contracts among individuals from harms of others. I will argue Nozick's libertarian critics to Rawlsian egalitarian liberalism.

Then I will present arguments of Steinberger, Freeman and DiQuattro's. When Steinberger criticizes difference principle because of not really controlling role of luck in distribution of goods, Freeman and DiQuattro understands Rawls in an egalitarian way and assume that capitalism cannot pass the test of principles of justice.

Who is right? Steinberger or Freeman and DiQuattro? Is Rawls' model successful for a more egalitarian society? To argue that, I will present alternative egalitarian models of Otsuka and Dworkin and compare their views with Rawls' egalitarianism. I will look for answers to these questions: Should we tolerate large inequalities of wealth? What should government's role be? What place is there for the free market? Are there natural property rights? At the end of that work, we may see how we can achieve a degree of equality in society without interfering basic liberties of persons.



## **2. TWO PRINCIPLES OF JUSTICE**

### **2.1 A Short Introduction to Rawls' Theory**

According to Rawls, society is shaped by a cooperation of free and equal individuals for their own benefits and it is also shaped by a clash of interests of each other. I will open these concepts later. Now just I can say that Rawls looks at the society from the viewpoint of Adam Smith. There is division of labor and different kinds of jobs in it. And he conceives every person of society as being active in social cooperation. So we need guidelines for dealing out rights, duties and proper division of advantages of that cooperation. Rawls thinks individuals as self-interested rational beings. Every individual has his own rational plan of life. They choose their own good (Rawls, 1971).

Justice is a matter about 'basic structure' of society, it can be achieved only by applying guidelines of it, to the basic structure of society. Rawls considers justice "as only a virtue of social institutions" (Rawls, 1999:190). Basic structure of society means major institutions that assign fundamental rights, duties and shares. Basic structure "is the way in which major social institutions fit into one system" (Rawls, 1999:362).

Justice eliminates arbitrary distinctions and establishes within the structure of a major institution a balance or equilibrium which means 'a proper share' between competing claims (Rawls, 1999). I will open those concepts.

Rawls creates a social contract theory. But according to his social contract, original contract is not to enter a particular society or set up a particular form of government. It is to determine the principles of justice. People who engage a society choose principles who are to assign rights and duties and to determine division of social benefits (Rawls, 1971). Nagel thinks that the aim of Rawls by a social contract theory is "to provide a way of treating the basic problems of social choice, through

the proxy of a specially constructed parallel problem of individual choice, which can be solved by the more reliable intuitions and decision procedures of rational prudence” (Nagel, 1973:220). Original position is a hypothetical situation. In this original position, there is veil of ignorance. Individuals who join agreement don’t know their place in society, their social status or position and they don’t know their natural assets and intelligence. And they don’t know their conception of good and psychological propensities. So no one is advantaged or disadvantaged in the choice of principles by the outcome of natural chance or contingency of social circumstances (Rawls, 1971).

Principles are the result of a fair agreement or bargain. Rational beings have two main basic features; they have their own ends (their own ‘goods’) and have a sense of justice. Principles of justice are chosen subject to the knowledge that they are to be public. This condition is a natural one in a contractarian theory. Rawls means that the principles of justice in initial situation are chosen publicly. Rawls stresses that individuals who join to the Rawlsian social contract choose two these two principles of justice.

“First; Each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others.

Second, social and economic inequalities are to be arranged so that they are both a) reasonably expected to be to everyone’s advantage, and b) attached to positions and offices open to all” (Rawls, 1971:53).

What Rawls considers as fundamental liberties that should be protected by first principle are political liberties such as right for vote and to have a position, freedom of speech and assembly; liberty of conscience and freedom of thought; freedom of the person. These liberties are to be equal by the first principle. These principles are found in lexical order with the first principle prior to the second principle. Infringements of the basic equal liberties protected by the first principle cannot be justified or compensated for by greater social and economic advantages (Rawls, 1971). “Liberty is prior in the sense that it cannot be sacrificed for economic and social advantages, unless they are so scarce or unequal as to prevent the meaningful exercise of equal liberty until material conditions have improved” (Nagel, 1973:222).

## 2.2 Choosing Principles of Justice

There are two main parts of his theory. One is the ‘original position’ and the choice problem in here and the second is principles that are agreed to. Firstly we may talk on original position. As we noted, Rawls sets a social contract theory. According to his social contract, original contract is not to enter a particular society or set up a particular form of government. It is to determine the principles of justice. Two basic guidelines of justice are chosen in this suitably defined starting situation, which Rawls calls as ‘original position’. Original position is a hypothetical situation. Individuals are thought to be self-interested and they choose two basic principles of justice in that original agreement (Rawls, 1971).

Firstly it should be understood truly that how Rawls conceives a society. The reason behind individuals’ to create a society is to work, to produce together. Rawls asserts that “we may think of a human society as a more or less self-sufficient association” (Rawls, 1999:130). He conceives society as that there is division of labor and there are different kinds of jobs. So they should work and produce together because there is ‘moderate scarcity’ and an isolated work is not enough to survive. “Social cooperation makes possible a better life for all than any would have if everyone were try to live by his own efforts” (Rawls, 1999:130). Moderate scarcity is ‘objective circumstance’ of justice.

Every individual has his own plan about how to live (his own ‘good’) and for that he/she needs resources, so there are also ‘conflicts of interests’ which Rawls calls as ‘subjective circumstances’ of justice (Rawls, 1971). Rawls says that “yet at the same time men are not indifferent as to how the greater benefits by their joint labors are distributed for in order to further their own aims each prefers a larger to a lesser share” (Rawls, 1999:130). Individuals are self-interested and rational and they have similar needs, interests and they are complementary so fruitful cooperation among them is possible. So in that condition, between competing and conflicting claims of individuals a fair balance or equilibrium should be found. When equilibrium should be founded, there arises the concept of reciprocity. Free and equal individuals, who don’t have any moral authority over one another and who are engaging in it or who want to participate in a joint activity, require to announce the principles which define their cooperation and which determine their portions from its gains and benefits

(Rawls, 1999). “A conception of justice is a set of principles for choosing between the social arrangements which determine this division and for underwriting a consensus as to the proper distributive shares” (Rawls, 1999:130).

Individuals who participate original agreement are considered as moral persons. “Moral persons are defined as persons that have a conception of the good and a capacity for a sense of justice” (Rawls, 1999:270). Parties don’t know their conception of good. They don’t know their rational plan of life. But they need ‘primary goods’ to achieve their life plan. I will open the concept of primary goods. Now just I can say that individuals know that “they normally prefer more primary social goods rather than less... They know that in general they must try to protect their liberties, widen their opportunities and enlarge their means from promoting their aims whatever these are” (Rawls, 1971:123).

Now briefly, I will repeat nature of men in Rawls’ theory who join original agreement. They are rational, moral, free and equal in Kantian sense. They are rational because they have ability to compare between alternatives and choose the best for them. They are moral because they have a conception of the good and have a sense of justice. They are free because they choose their own plan of life, they can determine their aims, whenever they want they can change these aims. They are also responsible from themselves. And finally they are equal because they are rational, moral and free in the same degree with each other (Gorr, 1983).

They are thought to be behind of ‘veil of ignorance’ and they are thought to choose two principles of justice behind a veil of ignorance. What does Rawls mean by that? Individuals who join to the agreement will not have any information about their social situation, class position, race and sex in society. They will also have not any information about their inherent skills and abilities, intelligence. They will not have any information about their society which will be a rich and developed society or poor and developing one. They will not know their society’s political, social, cultural position. Rawls stresses that every individual has his own rational plan of life. They will also have no information about those plans of their life. (They will not know what their ‘good’ will be) Or they will not have any idea about their special psychological ideas, for example they will not know whether they like to take risk or not. They will only know general realities about human nature and ‘circumstances of

justice' that there is 'moderate scarcity' and 'conflicts of interests' in society (Rawls, 1971).

There are two reasons for preventing information while choosing principles. One is to eliminate prejudice and self-interest: "People's natural talents, abilities, their social role and class position, their sex and race are not known. Such knowledge is ruled out to prevent the biases of self and group interest" (Rawls, 1999:268). Second reason is that to "abstract from natural and social contingencies" (Rawls, 1999:268). I will open the concept of natural and social contingencies later. But Nagel asks that whether principles which are chosen behind veil of ignorance can be morally valid or not. Because if individuals hadn't been behind the veil of ignorance, they would have chosen different principles. He asks "can such a procedure be used to justify principles for evaluating the basic structure of social institutions" (Nagel, 1973:225)? Rawls wants individuals in original agreement not to know their social position or natural skills because while choosing principles they shouldn't seek special advantages for themselves. Nagel agrees with Rawls here. But he does not agree with him in eliminating the knowledge of rational life plans of each individual from themselves. According to him, if everybody knows his own good and chooses principles of justice according to these goods, this does not mean that he is seeking for special advantage for himself (Nagel, 1973).

We should bear in mind that original position is a hypothetical situation. "The original position should not to be thought of as a general assembly which includes at one moment everyone(...) It is not a gathering of all actual or possible persons" (Rawls, 1971:120). Rawls asserts that two principles of justice will be chosen in original position unanimously. Because every individual are thought to be rational equally, they don't know their position in real life and they will not have any idea about each other, they will meet with same arguments and so all individuals will make a choice like one man is making choice (Rawls, 1971). As Nagel thought unanimity is achieved by eliminating the knowledge of particular goods of each from themselves. If he permitted this knowledge (knowledge of how a life each wants to live from themselves) they would divide and conflict would appear because different conceptions of the good. He says that "original position should not permit the choice of principles of justice to depend on a particular conception of the good over which



the parties may differ” (Nagel, 1973:227). But according to Nagel, although Rawls defends the opposite, his model is not neutral against conceptions of the good: “The original position seems to presuppose not just a neutral theory of the good, but a liberal, individualistic conception” (Nagel, 1973:228). Rawls has an answer to this and these types of critiques. We will explain his answer in ‘Social Unity’ part. Now, we should continue talking on ‘social contract.’

### **2.2.1 Difference between a simple choice and contract**

We can ask then why Rawls uses the concept of social contract? For example why doesn’t he assert that persons choose principles of justice simply and why does he think them as making a contract. Answer is so simple: to make principles more ‘powerful.’ Principles are chosen unanimously and everyone knows that everyone accepts those principles of justice. And this is the last decision. When they choose principles, they can’t change their decision and contract has a function of binding. Because of role of contract, principles of justice are “general in form and universal in application, this is to be publicly recognized as a final court of appeal for ordering the conflicting claims of moral persons” (Rawls, 1971:117). Rawls stresses that the concept of contract exists in at least three positions. Firstly, by contract, persons consider themselves as free and equal moral persons and they have claims on others. Secondly contract creates publicity conditions. Everyone accepts same principles and knows that everyone accepts them. And third contract “introduces a further constraint on the parties in the origin position” (Rawls, 1999:249). To make an agreement is different from making a simple choice: “If we make an agreement, we have to accept the outcome, therefore to give an undertaking in good faith, we must not only intend to honor it but with reason believe that we can do so” (Rawls, 1971:251).

### **2.2.2 Reducing role of chance**

Veil of ignorance is very important because it is a way to stop role of luck. “Imposition of veil of ignorance seems to be philosophical favored procedure for deciding how to regulate innate inequalities in the distribution of natural talents and abilities” (Gorr, 1983:2). One of the main aims of Rawls’ theory is prevent the role of chance in determining distributive shares. “The first problem of justice is to

determine the principles to regulate inequalities and to adjust the profound and long-lasting effects of social, natural, historical contingencies” (Rawls, 1999:258). Rawls defines that inherent and social advantages are not entitled to persons. They are a matter of luck, and they are morally ‘contingent’. “What Rawls means with ‘contingent’ differences that there is no moral reason for those differences” (Gorr, 1983:12). Therefore in defining principles of justice, those contingent factors should play no role. “One of the fundamental tenets of John Rawls’ A Theory of Justice is the claim that we should seek ‘a conception of justice that nullifies the accidents of natural endowment.’ Unequal distribution of natural assets (such as intelligent, talent and so on) calls for some of nullification on grounds of justice” (Gorr, 1983:1). Persons will choose those principles without knowing their social and natural advantages or disadvantages. Principles of equal liberties, fair equality of opportunity and difference principle will be chosen unanimously in a hypothetical original position and role of chance will have no role. Rawls says that in the original position “arbitrariness of the world must be corrected” (Rawls, 1971:122).

Rawls does not only show his main aim (to prevent role of luck) by veil of ignorance. He also shows that, when making comparisons between different understandings of second principle of justice. Here he presents these different understandings and so explains what he understands by ‘to be open to all’ and ‘to be everyone’s advantage’. By criticizing different understandings of second principle, he shows that his main aim to reduce effects of luck.

Firstly he evaluates ‘Natural Liberty’: According to Natural Liberty, to be everyone’s advantage is interpreted as a rule of efficiency. ‘To be open to all’, is interpreted as positions which are open to individuals’ skills. But there is a problem here. Efficient division of benefits is achieved according to starting division of property and all richness. So they are affected by ‘natural and social contingencies’. Natural liberty also understands ‘to be open to all’ as to be legally open to every person. But the same problem is here. To hold a position is also determined by coincidences. Rawls (1971) says that the most obvious injustice of the system of natural liberty is that it permits distributive shares to be influenced by these factors, chance and accident or good fortune.

Other different interpretation of second principle is 'Liberal Equality': The main aim of liberal equality is to achieve 'fair equality of opportunity'. How can be that achieved? By equalizing chances of individuals for proper positions who have same natural skills and same degree of willingness. Therefore, liberal equality stops role of social coincidences. But still, there is a problem here. It still does not stop role of natural coincidences which affect earnings of individuals. Rawls wants to prevent the role of chance (social or natural) in earnings of individuals. Natural Liberty and Liberal Equality give permission to lottery for determining distributive portions. Against these interpretations, Rawls defends 'Democratic Equality' as true interpretation of Second Principle: "Two principles of justice do not weight men's share in the benefits and burdens of social cooperation according to their social fortune and their luck in the natural lottery, the democratic interpretation is the best choice" (Rawls, 1971:65).

Democratic Equality is combination of difference principle with the fair equality of opportunity. Rawls defends that the view that 'inequalities are permitted if only they are advantaged for all' can only be achieved by 'difference principle'. According to the Difference Principle "the higher expectations of those better situated are just if and only if they work as part of a scheme which improves the expectations of the least advantaged members of society" (Rawls, 1971:65). Who are there in least advantaged group? We know that they take the least portion of primary goods. (We shouldn't remember that this does not mean the least portion includes liberties. Basic liberties should be distributed equally). Rawls defines the least advantaged people "who are least favored by each of three main kinds of contingencies. Thus this group includes 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" (Rawls, 1999:258). Therefore by equal basic liberties, fair equality of opportunity and the difference principle "those not favored by social and natural contingencies regard themselves as compensated" (Rawls, 1999:264).

### **2.2.3 Equality and economic efficiency**

After we saw basic features of starting situation for unanimous agreement and talk on the role of principles of justice for reducing chance, we can think about why persons

choose two principles of justice. We know what will be distributed according to two principles; primary goods. Primary goods are things which it is supposed an individual wants for himself/herself as much as he can take. These are “rights, liberties, opportunities, wealth, income and self-respect” (Rawls, 1971:179). They are ‘social goods’ because they appear during the cooperation of individuals and individuals cooperate to take these goods. Every individual has his own way of life and they can achieve those plans by primary social goods. Basic primary goods provide them this possibility. Firstly we may think that, every person will not accept less than equal share of primary goods. If so, everybody knows that no one can take more than equal share. “Since we are regarding citizens as free and equal moral persons, the obvious starting point is to suppose that all other social primary goods, income and wealth should be equal: everyone should have an equal share” (Rawls, 1999:262). But here Rawls makes an addition. Society should also think about economic efficiency. “Society must take organizational requirements and economic efficiency into account. So it is unreasonable to stop at equal division” (Rawls, 1999:262). Suppose that in society A, wealth and income are distributed equally and everybody takes 10 point. And in society B, wealth and income are not distributed equally and the richest people take 50 point and poorest people take 20 points. So in society B, everybody wins more than persons in society A. Rawls underlines that if there are inequalities in income and wealth and differences in authority which put every person better situation than the society where income and wealth is distributed equally, we should choose inegalitarian society (Rawls, 1971). For example, a son of a member of the entrepreneurial class in a capitalist society has a better prospect than that of the son of an unskilled laborer. What can justify this inequality in life prospects? According to the second principle it is justified only if it is to the advantage of the unskilled laborer. The inequality is permissible because lowering it would make the son of unskilled laborer even worse off than he is.

“Presumably given the principle of open offices, the greater expectations allowed to entrepreneurs has the effect in the long run of raising the life prospects of the laboring class. The inequality in expectation provides an incentive so that the economy is more efficient, industrial advance proceeds at a quicker pace and so on, the end result of which is that greater material and other benefits are distributed throughout the system” (Rawls, 1999:138).

Here we see that Rawls thinks that economic rationality fits with principles of justice.

#### **2.2.4 Maximin principle**

According to Rawls, two basic guidelines of justice (equal liberties, fair equality of opportunity and difference principle) are maximin way out for justice. There is a relation between two principles and the maximin rule for choice under uncertainty because of veil of ignorance. The maximin rule suggests us to put alternatives in order according to their worst possible results: We should accept 'the least worst' result, which is much better than results of other alternatives (Rawls, 1971). Why do persons follow maximin rule? Rawls asserts some reasons for that. Firstly, because nothing is known about contracting parties. All particular information about individuals is behind veil of ignorance. You may be in the least advantaged group of society. Secondly contracting parties can take at least a minimum part, priority of liberty against second principle is that minimum part. It may not be sacrificed for any economic order. And they follow maximin rule because other alternatives solutions can't be tolerated. Rawls asserts that "the features of the original position, would lead reasonable people to choose as if they were highly risk-averse. Or put another way: a conservative decision is the only sensible one" (Rawls, 1999:247). According to Rawls persons choose the difference principle because there is no risk if they choose it. According to the difference principle, inequalities are accepted if only they maximize life-expectations of the least advantaged group. They don't know their social position because of veil of ignorance and they may belong to the least advantaged group. Therefore "if anyone would find the worst-off position acceptable then all would and a fortiori everyone would find the other positions acceptable" (Rawls, 1999:251).

But are these explanations for choosing maximin principle enough? According to Nagel, they are weak. For example we can look at the second reason behind choosing maximin principle: "The person choosing has a conception of the good such that he cares very little, if anything, for what he might gain above the minimum stipend that he can, in fact, be sure of by following the maximin rule" (Rawls, 1971:154). But this presumption is weak for Nagel. Because Even if parties in the original position accept the priority of liberty, and even if the veil of ignorance leaves them with a

skeletal conception of the good, it seems impossible that they should care very little for increases in primary economic and social goods above what the difference principle guarantees at any given stage of social development (Nagel, 1973). The third reason behind choosing maximin principle is other alternatives can not be tolerated. But this is also a weak argument for Nagel. Because the third condition, is certainly a ground for requiring a social minimum and the priority of basic personal liberties, but it is not a ground for adopting the maximin rule in that general form needed to justify the choice of the difference principle (Nagel, 1973).

#### **2.2.4.1 Alternatives**

Now we can think which alternatives can individuals choose in the original position. Rawls sets that a simplification should be done here, all possible conceptions of justice can not be evaluated. Rawls stresses that “one aim of contract theory has been to give an account of justice that is both superior to utilitarianism and a more adequate basis for a democratic society” (Rawls, 1999:238). He firstly makes a comparison between average utility principle which maximizes average utility and social contract theory of Rawls. Firstly he expresses how these two different views conceive people who are in the original position. According to contractarian version, individuals have basic interests, they have their own conceptions of good in the name of these interests and good and they have a right to equal respect and consideration in the design of society. Rawls gives to believe in a religion as an example. In the starting position individuals don’t know which religion they believe or whether they believe or not, but they know that they have this type of interests or ideas of good and by first principle of contractarian view, (equal basic liberties) these interests are protected. Therefore they choose contractarian version, not average utility principle (Rawls, 1999). We know that Rawls considers self-respect another primary good. According to him, contract theory thinks individuals as free and equal moral persons. That interpretation of individuals provide more self-respect than utilitarian views. “It would seem that people who regard themselves as free and equal moral persons are much more likely to find their self-esteem supported and confirmed by social institutions satisfying the two principles of justice than by those answering to the standard of average utility” (Rawls, 1999:240).

Then there can be another comparison. For example first principle and fair equality of opportunity may be same but instead of difference principle, the average utility principle can be put. The answer which says that individuals have fundamental interests like religious interests can not be sacrificed will not be valid here. Because first principle and fair equality of opportunity will belong to both conceptions. So instead of difference principle, may average utility principle be chosen? Not. Utility principle sees all individuals as one person. It does not take seriously the distinction between persons. If average utility is maximized, effects of it changes according to someone's situation. He will not accept any arrangement by which although average utility is increased, his position gets worse. Therefore he will again choose difference principle.

Here we should stress again Rawls' his basic critics to utilitarian principles. A theory of justice is an alternative to utilitarianism. According to utilitarianism the society which is rightly ordered in which major institutions are arranged to achieve the greatest satisfaction. Rawls stresses that the plurality of distinct individuals who have differences is an essential feature of human societies. The striking feature of the utilitarian view of justice is that it does not matter how this sum of satisfactions is distributed among individuals. Utilitarianism does not take seriously the distinction between persons. Therefore the principles of social choice can not be utilitarian (Rawls, 1971). We can't evaluate the justice of basic institutions "by their tendency to maximize the sum or average of certain advantages, but by their tendency to counteract the natural inequalities deriving from birth, talent, and circumstance, pooling those resources in the service of the common good" (Nagel, 1973:222).

By saying that individuals will follow maximin rule, we see that one of the main aims of Rawls is reducing risk, controlling risk. Rawls stresses that because of conditions of the original position (persons are behind of veil of ignorance and they don't have any idea about their social position and natural abilities) they can't take risky decisions. "The features of the original position would lead reasonable people to choose as if they were highly risk-averse. Or put another way: a conservative decision is the only sensible one, given the list of alternatives available" (Rawls, 1999:247). But libertarians will criticize that because they think that to take risk belongs to liberty of the individual, we can not and should not control it.

### **2.3 Principle of Liberty**

Now we can focus on two principles of justice. Firstly we can think on first principle, equal basic liberties principle. According to the first principle, each person “has an equal right to the most extensive liberty compatible with a like liberty for all” (Rawls, 1999:193). Rawls is thought to be a liberal political thinker, one of the reasons of that he gives priority liberty against equality. And he is considered as a liberal thinker because of his views about society and individuals. He views “persons as able to control and to adjust their wants and desires in the light of circumstances and who are to be given the responsibility for doing so. Society on its part assumes the responsibility for maintaining certain basic liberties and opportunities and for providing a fair share of primary goods within this framework, leaving to individuals and groups to form and revise their aims and preferences accordingly (Rawls, 1999). Nagel stresses that “the fundamental attitude toward persons on which justice as fairness depends is a respect for their autonomy or freedom” (Nagel, 1973:223). This shows the position of liberty in Rawls’ theory: “We must ask why respect for the freedom of others, and the desire to make society as near to voluntary as possible, should be taken as the mainspring of the sense of justice. That gives liberty a position of great importance from the very beginning” (Nagel, 1973:223).

He stresses many times in his work that any liberty can not be delimited for more equal economic positions. How can we settle those principles to society’s basic structure? Rawls proposes a system which has four stages. As we see that participant individuals decide upon principles of justice then they come to the second phase, to make a constitution accordance with chosen principles. They decide upon a constitution which establishes main liberties and rights of citizens. Then they arrive to the legislation phase where laws and policies are evaluated whether they are just or unjust in accordance with principles. The last phase is that of the application of rules by judges and other officials for particular cases (Rawls, 1971). Rawls sets a division of labor between stages. We know that first principle is prior to the second principle of justice. Therefore first principle, principle of equal liberties is “the primary standard for the constitutional convention” (Rawls, 1971:174). In constitution, status of equal citizenship is set by first principle of justice. Second principle enters in second phase/legislation phase. It orders “social and economic



policies be aimed at maximizing the long-term expectations of the least advantaged under conditions of fair equality of opportunity” (Rawls, 1971:174). Therefore we see that priority of first principle to the second principle is reverberated in priority of preparing a constitution to the legislation phase (Rawls, 1971).

### **2.3.1 Liberties as one system of liberty**

We know that the first principle of justice is prior to the second principle. Rawls especially stresses that equal main liberties can not be limited to achieve a better economic solution. So can those liberties be limited? Yes, they can. Rawls asserts that basic liberties should be thought as a ‘one system of liberty’. All basic liberties form that ‘one system of liberty’. So in constitution phase, all main liberties should be accommodated truly to make ‘liberty’ as much comprehensive as possible. “None of these liberties is absolute, since they may conflict with one another, but however they are adjusted to form one’s system, this system is to be same for all” (Rawls, 1999:239).

I said that liberties can be limited, yes they can be. But they can be limited only “for the sake of liberty itself” (Rawls, 1971:179). Rawls (1999) asserts that these liberties have a central range of application within which they can be limited and adjusted only because they clash with other basic liberties. For example liberty to believe a religion or to have a moral and philosophical view is one of the liberties found in principle of equal liberty. Behind veil of ignorance persons who stand in original position have no idea about what will be their ‘good’, which religious, philosophical or moral views they will believe. Also they don’t know that whether their beliefs will be chosen by most of the citizens or not. Therefore they should prefer freedom of thought and conscience for every person equally. Although their beliefs are not found in majority, they will have same rights with other citizens whose religions or moral views are favored by majority (Rawls, 1971). But we should underlie that “the only ground for denying equal liberties is to avoid an even greater injustice, an even greater loss of liberty (...) Liberty is governed by the necessary conditions for liberty itself” (Rawls, 1971:189). There are two types of examples. The basic liberties may either be less comprehensive although still equal, or they may be unequal. If liberty is less comprehensive, the participant individual must consider this a gain for his liberty on balance; and if liberty is unequal, the freedom of those with the lesser

liberty must be better secured. Therefore we see that either a less comprehensive liberty must make strong then the total system of liberty shared by all or a less than equal liberty must be acceptable by those citizens with the lesser liberty. Rawls adds that “Liberties not on the list, for example the right to own property and freedom of contract as understood in the doctrine of laissez-faire are not basic: they are not protected by the priority of the first principle” (Rawls, 1999:239).

### **2.3.2 Participation and fair value of liberty**

Rawls’ theory firstly establishes the status of equal citizenship. So, process of original agreement and process of making a constitution is fair only if every person is represented equally. He stresses that justice as fairness begins with the idea that “where common principles are necessary and to everyone’s advantage, they are to be worked out from the viewpoint of a suitably defined initial situation of equality in which each person is fairly represented” (Rawls, 1971:194). Principle of equal basic liberties takes a form of equal participation during political process. Every individual should have to be informed about public issues. They should be in a position to assess how political issues will affect their situation and which policies advance their conception of public good. Moreover, they should have a fair chance to add alternative proposals to the agenda for political discussion. Rawls here makes a distinction between liberties and ‘fair value’ of liberties. He asserts that liberties which are preserved by equal participation “lose much of their value whenever those who have greater private means are permitted to use their advantages to control the course of public debate” (Rawls, 1971:198). According to him, one of the main problems of constitutional democracy is not to be able to achieve real value of these political liberties. Big economic and social differences between citizens make some persons luckier than others in joining and affecting political decisions.

## **2.4 Rawls’ Suggestion for Equality**

### **2.4.1 Difference principle and fair equality of opportunity**

According to the second principle of justice, “inequalities are arbitrary unless it is reasonable to expect that they will work out to everyone’s advantage and provided that the positions and offices to which they attach are open to all” (Rawls, 1999:193).

Second principle expresses what types of inequalities can be permitted. “Inequality is allowed only if there is a reason to believe that the practice with the inequality or resulting in it, will work for the advantage of every person engaging in it. Here it is important to stress that every person must gain from the inequality” (Rawls, 1999:195). Rawls (1999) criticizes utilitarian principle and according to him, inequalities are not justified if gains of some persons will produce loss of others which gain is considered as more important than loss of others.

According to the difference principle, natural distribution of abilities is viewed in some respects as a collective holding. Those inequalities maximize life-expectations of the least advantaged group in the society (Rawls, 1999). In Rawlsian society, to achieve equality, it is not preferred to destroy natural advantages of some people. It is not permitted because to destroy them is an attack to equal basic liberties. Instead of destroying, those abilities are considered as holding of whole society and persons can use the advantage of them if only they will also maximize the expectations of worse-off persons. And by doing so, these abilities are used to form social ties and fraternity between individuals (Rawls, 1999).

Rawls asserts that another success of difference principle is that it realizes the principle of fraternity. Suppose that in a family it is not important to maximize sum of satisfaction. No member of family wants any gain if others don't also gain. So there is no way to utilitarianism in a family, but there is for difference principle. So Rawls stresses that three ideals of Enlightenment; liberty, equality and fraternity are achieved by principles of justice. Liberty corresponds to the first principle of justice; equality is achieved by fair equality of opportunity and fraternity corresponds to the difference principle (Rawls, 1971).

Fair equality of opportunity is firmly opposed to mere equality of opportunity which allows too much influence to the morally irrelevant contingencies of birth and talent (Nagel, 1973). Rawls explains how fair equality of opportunity can be realized in a concrete situation. First aspect of fair equality of opportunity is to achieve equal education. The state should provide education and culture equally to all its children. It may create a public school system or it may achieve this equality by private schools. It should also provide fair equality of opportunity in economic activities which can be realized by controlling movements of companies, private associations

and by prohibiting construction of monopolistic limitations and barriers to the favorite positions. Rawls adds then, a social minimum should be guaranteed by family payments or special payoff for sickness or disability (Rawls, 1971).

#### **2.4.2 Roots of egalitarianism**

In Rawls' theory, two basic features of moral persons are firstly all they have their own 'good'. It means that they can draw a life plan for themselves which is main good for them. Rawls explains this with 'they have a conception of their good'. Other feature is that 'all have a sense of justice'. They usually want to put principles of justice, and govern society according to those principles (Rawls, 1971). All individuals are thought as moral persons and all have these two basic features. These 'equal' features of moral persons bring them to a situation where everyone deserves equal rights and equal justice. Rawls emphasizes that "the capacity for moral personality is a sufficient condition for being entitled to equal justice" (Rawls, 1971:442). So contractarian view of justice, brings to individuals equal rights and equal justice: "The simplicity of the contract view of the basis of equality is worth emphasizing. The minimum capacity for the sense of justice insures that everyone has equal rights. The claims of all are to be adjudicated by the principles of justice" (Rawls, 1971:446). Original agreement can be morally acceptable if only choice is unanimous and it should reflect equality of individuals who join that agreement (Nagel, 1973). Rawls argues that "the original position fairly represents persons as rational, moral, free and equal that in doing so it manifests equal respect and consideration for them in the design of their fundamental institutions" (Gorr, 1983:9).

The principles of justice (equal liberties, difference principle and fair equality of opportunity) create an egalitarian version of justice. But we shouldn't forget that "Rawls' substantive doctrine is a rather pure form of egalitarian liberalism, whose controversial elements are its egalitarianism... the primacy it gives to liberty, and the fact that it is more egalitarian about liberty than about other goods" (Nagel, 1973:222).

However eventually it is egalitarian because firstly basic liberties are equal for all citizens. Secondly by difference principle and fair equality of opportunity, inequalities which occur by social positions or natural abilities are to be compensated

because they are morally arbitrary. Rawls stresses that he starts with “the appropriateness of the two principles in view of the equality of the members of a well-ordered society. The principles of equal liberty and fair opportunity are a natural expression of this equality” (Rawls, 1999:262). According to the difference principle, skills which are gained by birth or advantages by social position are common for whole society. Individuals can take advantages of those skills and positions only if least advantaged people can also gain from them. We can think that there is an agreement between advantaged people and society: “The naturally advantaged are not to gain merely because they are more gifted, but only to cover the costs of training and education and for using their endowments in ways that help the less fortunate as well” (Rawls, 1971:87). The view of Rawls is so clear. None individual can show that he “deserves” his initial position in the society and his inherent skills. Inherent skills and initial positions are neither just nor unjust, they are only realities. Usually people may think that wealth and income should belong to persons who are morally better than others. They assert that there should be a correspondence between moral desert and distributive shares. Rawls clearly rejects this. Persons who join to a society may have ‘legitimate expectations’ but these are not related with moral desert. Rawls says that “a just scheme then answers to what men are entitled to; it satisfies their legitimate expectations as founded upon social institutions. But what they are entitled to is not proportional to nor dependent upon their intrinsic worth” (Rawls, 1971:273). Rawls stresses that to be just or unjust is about the institutions which are related with those realities. We can call a society as just or unjust according to the institutions which deal with those realities. “In justice as fairness men agree to avail themselves of accidents of nature and social circumstance only when doing so is for the common benefit. The two principles are a fair way of meeting the arbitrariness of fortune” (Rawls, 1971:88).

### **2.4.3 Question of envy**

We can see egalitarian views of Rawls in related with the conception of envy. Some conservative thinkers believe that principle of equality rises because of envy between persons. Rawls believes that his principles are not born related with envy. He supposes in his model, there will not be much place for envy. According to him there are three types of envy. First “is the psychological condition: persons lack a sure

confidence in their own value and in their ability to do anything worthwhile” (Rawls, 1971:469). The other envy arises because of social conditions. “The discrepancy between oneself and others is made visible by the social structure and style of life of one’s society. The less fortunate are often forcibly reminded of their situation, sometimes leading them to an even lower estimation of themselves and their mode of living” (Rawls, 1971:469). In third type people who perceive themselves less advantaged, may want others to lose although this will be also a loss for themselves: “To alleviate their feelings of anguish and inferiority they believe that they have no choice but to impose a loss on those better placed even at some cost to themselves” (Rawls, 1971:469). Rawls asserts that his model does not permit envy to be effective. Self-respect is much more important than other justice theories and he explains self-respect as another primary good. All individuals are treated as equals. In the public sphere every individual has equal voice to be considered and is treated with the respect due to a sovereign equal. Rawls thinks difference principle as a principle of fraternity and citizens are connected by ties of civic friendship. Rawls here emphasizes equal roots of his principle. He says although in theory, difference principle permits big inequalities in primary goods, in practice with background institutions, which are organized according to two principles of justice, wealth will not be collected in only some persons and there will not be large differences (Rawls, 1971). But he also makes a distinction between his theory and other strict egalitarian ideas. He shows third type of envy as a basement for those strict egalitarian ideas. In those ideas unlike in difference principle, there is not permission for inequalities even if they are also useful for everyone. Everyone becomes equal and they altogether lose. He stresses “there may be forms of equality that do spring from envy. Strict egalitarianism, the doctrine which insists upon an equal distribution of all primary goods, conceivably derives from this propensity” (Rawls, 1971:472).

#### **2.4.3.1 Political economy and the public good**

Now we can talk on how social and economic institutions can be organized to achieve principles of justice; equal basic liberties, fair equality of opportunity and difference principle. Rawls (1971) firstly stresses that all principles of justice work as a doctrine of political economy. His aim is to show how principles of justice serve as a part of political economy, which are norms that evaluate economic institutions,

policies and their background organizations. Doctrines of political economy usually have an understanding on what public good is which built on a conception of justice. Economic institutions in a social system not only provide needs and wants of its citizens but also designate their wants and desires. They are built in accordance with a view about human good and all organizations of those institutions are made up to achieve these good (Rawls, 1971). Rawls reminds that this choice about human good is not only based on economic grounds but also they have political and moral fundaments.

Political economy is especially related with public sector and suitable types of background institutions which organize activities in economic area, taxes, construction of markets and rights of the property. We should make a distinction between two directions of public sector, first of is that is about who will have instruments for production. Our system may be private-property economy or a type of socialism according to that answer. And second direction about public sector is that amount of sum of funds which are separated for public goods. Those public goods are not organized by market processes but by political decisions (Rawls, 1971).

#### **2.4.3.2 Organizing society according to distributive justice**

Our question is whether it is possible to arrange the institutions of a constitutional democracy so that the two principles of justice are satisfied. Rawls stresses that “it is necessary to set the social and economic process within the surroundings of suitable political and legal institutions. Without an appropriate scheme of these background institutions, the outcome of the distributive process will not be just” (Rawls, 1971:243). First of all we assume that the basic social structure is controlled by a just constitution which secures the various liberties of equal citizenship. Thus the legal order is administered in accordance with the principle of legality and liberty of conscience and freedom of thought are taken for granted. The political process is conducted as a just procedure for choosing between governments and for enacting just legislation (Rawls, 1999).

In maintaining this system of institutions the government may be thought of as divided into five branches. These are ‘allocation brunch’ which has duty to keep the price system workably competitive and to prevent the formation of unreasonable

market power... The stabilization branch, on the other hand, strives to bring about reasonably full employment. So that there is no waste through failure to use resources and the free choice of occupation and the deployment of finance is supported by strong effective demand (Rawls, 1971). Main work of these two arms is to keep market system on efficient. Then it comes to 'transfer branch' which has a duty to preserve a social minimum in the society. And 'distribution branch' makes arrangements in distributive shares by taxes and in rights of property to protect social system as just. It is to preserve an approximately just distribution of income and wealth over time by affecting the background conditions of the market from period to period. Firstly it constitutes gift and inheritance taxes and may put limitations on rights born from heritage. According to Rawls these arrangements must be done to prevent accumulation of power in only some persons which is dangerous and may cheapen the fair value of political liberties and fair equality of opportunity. Rawls stresses that unequal inheritance of wealth is no more inherently unjust than unequal inheritance of intelligence, as far as possible the inequalities founded on either should satisfy the difference principle. Thus the inheritance of greater wealth is just as long as it is to the advantage of the worst off and consistent with liberty including equality of opportunity. Secondly, "distribution branch is a scheme of taxation to raise the revenues that justice requires. Social resources must be released to the government so that it can provide for the public goods and make the transfer payments necessary to satisfy difference principle" (Rawls, 1971:245,246). Rawls suggests taxation on total consumption proportionally is a good way for a tax organization. He shows that these duties of distribution branch are born from two principles of justice. The taxation of inheritance and income at growing percentage and the legal definition of property rights are to preserve the position of equal liberty in a 'property-owning democracy' and the real value of rights it settles. Proportional consumption taxes are to find revenue for public goods, the transfer branch and the establishment of fair equality of opportunity in education and the like, are to realize second principle (Rawls, 1971).

Last arm of government, the exchange arm which is constituted as a special representative organ which takes into account various social interests and their preferences for their public good. Rawls asserts that "the exchange branch works by the principle of efficiency and institutes, in effect, a special trading body that



arranges for public goods and services where the market mechanism breaks down” (Rawls, 1971:249,250). Rawls reminds that it is constituted as a different representative organ because in its basement there are not principles of justice but there is benefit principle.

#### **2.4.3.3 Level of social minimum and duty for next generations**

We assume that the social system as a whole meets the demands of liberty, it secures the rights required by first principle and the principle of open offices. Thus the question is whether consistent with these liberties there is any way of operating the five branches of government so as to bring the inequalities of the basic structure in line with the difference principle. Now quite clearly the thing to do is to set the social minimum at the appropriate level. According to Rawls once the difference principle is accepted it follows that minimum should be set at the level which maximizes the expectations of the lowest income class. Rawls knows that this arrangement may seem requiring a very high minimum. But he defends that relevant expectation of the least advantaged is their long-term expectation extending over all generations. Therefore in order to make the whole system of institutions satisfy two principles a just savings principle is presupposed (Rawls, 1999).

People in distinct descents are responsible for each others as like they are for their contemporaries. Justice which is defined in original agreement is not a definition for only present members but it is a definition for different moments of time. Rawls create a concept of ‘savings principle’ for next generations. To protect advances of urbaneness and culture and to protect institutions which they have already formed is a duty for every generation, but that is not enough. They should also separate a proper proportion of capital accumulation for future generations. This savings may be done by hedges for education, culture, learning or hedges for machinery. Rawls stresses that “now the contract doctrine looks at the problem from the standpoint of the original position and requires the parties to adopt an appropriate savings principle” (Rawls, 1971:252,253). But how can we determine degree of investment each generation should do? Rawls suggestion is that every individual can be considered as a reflection of a family line, who will be interested in at least with their close descendants and the rule that they will apply should be same with which they wish their fathers and grandfathers followed. “Thus imagining themselves to be

fathers, say, they are ascertain how much they should set aside for their sons and grandsons by noting what they would believe themselves entitled to claim of their fathers and grandfathers. When they arrive at the estimate that seems fair from both sides” (Rawls, 1971:256). Rawls asserts that ‘just savings principle’ can be thought as a fair agreement between generations for their responsibility to form and to protect a just society. It should not be thought as earlier generations separate for people in the future and so people in the future will be wealthier than before. “Saving is demanded as a condition of bringing about the full realization of just institutions and equal liberties” (Rawls, 1971:257).

## **2.5 Arguments Against Communitarian Critiques**

Rawls asserts that there is one deep division between conceptions of justice is whether they allow for a plurality of different, opposing and even incommensurable conceptions of the good or whether they hold that there but one conception of the good which is to be recognized by all persons so far as they are rational. Plato and Aristotle and the Christian tradition as represented by Aquinas and Augustine, fall on the side of one rational good. “The presupposition of liberalism represented by Locke, Kant and Mill is that there are many conflicting and incommensurable conceptions of the good each compatible with the full autonomy and rationality of human persons” (Rawls, 1999:360). Liberalism assumes, as a result of that presupposition, that it is a natural condition of a free democratic culture that a plurality of conceptions of the good is pursued by its citizens.

According to Rawls, moral persons differ from other living beings with two features. One of this is to have an own good, a rational plan of life and the other is to have a sense of justice, to govern society according to some principles which are thought just. These principles are ‘political’ principles and they are about basic structure of society. These are not related with personal decisions of individuals in daily life. Good of individuals are not decided by society or state. Every individual has his own good, and they choose how to live, which religion or philosophical doctrine they will believe. The state has not a duty to promote a good life. It can’t impose any religious, moral or philosophical doctrine (Rawls, 1993). The conception of justice is

independent of and prior to the notion of the goodness. It speaks in the name of rights of citizens.

### **2.5.1 Places of right and good**

Rawls clearly says that there are three basic moral notions. These are the right, the good, and the morally good. The structure of a moral theory depends on how these notions are defined and related to one another. “It is characteristic of teleological theory that they start with an independent definition of the good and then define the right as maximizing this good” (Rawls, 1999:242). As we see in teleological theories, good is defined independently from the right and main role of the right is to maximize the good. Utilitarianism is an example of teleological theories. According to utilitarianism should be rightly ordered in which major institutions are arranged to achieve the greatest net balance of satisfaction (Rawls, 1971).

‘Good’ may change in accordance with the theory, it may be greatest happiness, greatest pleasure or virtue, but all these views are interested in consequences. Morality of an action is assessed according to its consequences, according to its success whether it achieved good or not. For example what distinguishes utilitarianism from perfectionism is that utilitarianism defines the good subjectively, that is either in terms of pleasures, pains, satisfaction and dissatisfaction or as the fulfillment of the rational interests of individuals and not by a reference to a conception of individual or social excellence (Rawls, 1999). However, in Rawls’ theory, society has not a role in deciding goods of its citizens. It gives rights to citizens and citizens choose their own good. State can not impose any good life.

### **2.5.2 Good’s position**

We agree that state can not impose any ‘comprehensive good’ to its citizens. When we separate the right from the good, and consider right independently and prior to the good, a question arises here whether there is not any place for ideas of good. Rawls especially shows that this is not true. We shouldn’t think that a political conception of justice can’t use any ideas of the good, or we shouldn’t think that ideas on good are just a matter of a preference or of individual choice. Rawls stresses that “right and good are complementary: no conception of justice can draw entirely upon one or the other, but must combine both in a definite way” (Rawls, 1993:173). But we

should not forget that a conception of justice should be political, it should be for main institutions of social and political life, not for the whole of life. So ideas of the good must be political ideas. Rawls explains main two feature of these ideas. “They can be shared by citizens regarded as free and equal and b) don’t presuppose any particular comprehensive doctrine” (Rawls, 1993:175,176).

Rawls considers five ideas of the good found in justice as fairness meet these conditions. These are “a) the idea of goodness as rationality b) the idea of primary goods c) the idea of permissible comprehensive conceptions of the good d) the idea of political virtues and e) the idea of the good of a well-ordered society” (Rawls, 1993:176) The idea of ‘goodness as rationality’ asserts that citizens in a society have a rational plan of life and they try to use various resources so as to achieve their plan and to live how they want in their whole life. ‘Goodness as rationality’ provide to make a list of primary goods which all individuals who join original agreement will want for himself as much as he can take (Rawls, 1993). “It is used to explain primary goods as things citizens need, granted the conception of citizens as persons with higher-order interests who have rational plans of life” (Rawls, 1993:207).

### **2.5.3 Primary social goods**

Rawls uses the concept of ‘primary social goods’ to make a comparison between individuals’ expectations for earnings from social cooperation. “The common good is measured in terms of a very restricted, basic set of benefits to individuals: personal and political liberty, economic and social advantages, and self-respect” (Nagel, 1973:222). It is supposed an individual wants these benefits for himself/herself as much as he can take. Rawls opens these concepts:

“a) First primary good, basic liberties as given by a list: freedom of thought and liberty of conscience, freedom of association and the freedom defined by the liberty and integrity of the person as well as by the rule of law and finally political liberties

b) Second, freedom of movement and choice of occupation against a background of diverse opportunities

c) Third, powers and prerogatives of offices and positions of responsibility, particularly those in the main political and economic institutions

d) Fourth, income and wealth

e) Finally, social bases of self-respect” (Rawls, 1999:362,363)

They are ‘social goods’ because they appear during the cooperation of individuals and individuals cooperate to take these goods. Every individual has his own way of life and they can achieve those plans by primary social goods. They may have different plans of life from each other but they will all need primary goods to carry out their own plans. They will all need same basic liberties, rights and opportunities and the same all-purpose means such as income and wealth, with all of these supported by the same social bases of self-respect (Rawls, 1993). With more of these goods individuals can have greater success in achieving their intentions and in advancing their ends (Rawls, 1971).

As I stressed comparison of benefits which gained in cooperation of society by individuals can be made with primary goods. Rawls defends that comparison can not be with satisfaction or dissatisfaction of persons. He stresses that “index is not a measure of overall satisfaction or dissatisfaction. The same index of these goods is used to compare everyone’s social circumstances. Interpersonal comparisons are based on this index” (Rawls, 1999:241).

#### **2.5.4 Political virtues and spirit of society**

In Rawls’ view the state should not impose any comprehensive doctrine or it does not impose any life plan or any view about how to be a ‘good’ person. But this does not mean that there are not any virtues which are important for the state. ‘Political virtues’ such as virtues of civility and tolerance, of reasonableness and the sense of fairness characterize the ideal of a good citizen and state may encourage those virtues. But these are very different from other virtues. Rawls stresses that “political virtues must be distinguished from the virtues that characterize ways of life belonging to comprehensive religious and philosophical doctrines” (Rawls, 1993:195).

From here we can come to ‘good of a society’. We see that there is a place for ideas of good in Rawls theory but these are political ideas. “The priority of right does not mean that ideas of the good must be avoided; that is impossible. Rather, it means that ideas used must be political ideas” (Rawls, 1993:203). Then we can ask whether there is not any idea which society is based on? We ask this, because some critics of Rawls’ theory defend that not basing itself on a comprehensive religious, philosophical or moral doctrine, justice as fairness abandons the ideal of a political

community and views society as so many distinct individuals or distinct associations, cooperating solely to pursue their own personal advantage (Rawls, 1993).

Rawls defends that if they mean by a good of society, a comprehensive political, moral doctrine according to which society was organized, he accepts he abandons this type of ideal. Every individual can have any comprehensive doctrine in his own life but state does not impose it. The unity of society rest not on their espousing one rational conception of the good but on an agreement as to what is just for free and equal moral persons with different and opposing conceptions of the good. "There is one collective aim supported by state power for the whole well-ordered society: namely that it be a well-ordered society, a just society wherein the common conception of justice is publicly recognized" (Rawls, 1999:281). We see with quotation that there is a place 'for a good of society', an idea according to which society is organized. It is the political conception of justice: "Political liberalism conceives of social unity in a different way: namely as deriving from an overlapping consensus on a political conception of justice suitable for a constitutional regime" (Rawls, 1993:201). Citizens choose principles of justice unanimously, and organize their institutions according to these principles and they hand down just democratic institutions. This is the 'good' of Rawlsian society: "While it is true that they don't affirm the same comprehensive doctrine, they do affirm the same political conception of justice" (Rawls, 1993:202). There may be deep differences about other things among citizens, there is public agreement on framework of principles of justice and citizens are attached to it: "A well-ordered society has not attained social harmony in all things but it has achieved a large measure of justice and established a civic friendship" (Rawls, 1999:255,256).

According to some critiques although individuals' conceptions of good must be treated fairly, primary goods can not treat all conceptions of good of individuals equally. For example let's remember Nagel's critique: "The original position seems to presuppose not just a neutral theory of the good, but a liberal, individualistic conception according to which the best that can be wished for someone is the unimpeded pursuit of his own path, provided it does not interfere with the rights of others" (Nagel, 1973:228). Another critique of Nagel is that first principle of justice, equal basic liberties provide a main self-respect to individuals by which some

inequalities in wealth and income can be accepted. For Nagel (1973) this is also a liberal conception of individual good.

And in other critiques, it is asserted that primary goods reflect an individualistic view of life plan and they are against communitarian values. Rawls has three answers to that critique. 1) Income and wealth are the legal command over the material means in general to realize people's needs and interests, whether as individuals or as members of associations and the desire for such goods is not peculiar to a particular type of society. 2) Income and wealth can be held in many forms public and associational as well as private and individual (it is true that the theory of the good uses the notion of an individual's plan of life but this does not imply that such plans must be individualistic) 3) the desire for income and wealth is distinct from the desire to be wealthy and being wealthy is not a primary good (Rawls, 1999).

Another critique, which asserts that Rawls's society is very individualistic, is that individuals who participate original agreement are considered as 'mutually disinterested'. Rawls defends his view by saying that members of different religions are disinterested to each other's religions but this does not mean that neither they are self-interested nor have individualistic plans of life (Rawls, 1999). Rawls (1999) also emphasizes that principles of justice, especially equal liberty principle and difference principle motives individuals to join association for common purposes like religious groups and universities. He also focuses that freedom of association is a basic liberty protected by first principle. He says that "the basic liberties are not intended to keep persons in isolation from one to another, or to persuade them to live private lives but to secure the right of free movement between associations and smaller communities" (Rawls, 1999:281). Therefore principles of justice don't drive against communitarian values.

But Rawls accepts that all conceptions of good of individuals are not treated equally and some conceptions of good are preferred others. "The original position as a whole is not neutral between conceptions of the good in the sense that the principles of justice adopted permit them equally. Any definite agreement is bound to favor some conceptions of over others" (Rawls, 1999:270). Therefore some conceptions of good may be excluded. They can be excluded in two ways. 1) If they directly conflict with principles of justice they are not permitted 2) If they can't survive in a society and

can't find any supporter in a society which is ordered by principles of justice. For example if a religion can only survive with controlling the power of the state and by performing intolerance, it can not survive.





### **3. STEINBERGER'S CRITICS TO RAWLSIAN EGALITARIANISM**

#### **3.1 A Theory of Desert**

Now I will present here Peter Steinberger's argument about theory of desert and difference principle in Rawls' theory. I will present it, because I think it brings important critics to Rawls' theory and tries to show that although his theory arises from a very egalitarian perspective, its principles (especially difference principle) are not egalitarian enough. Rawls says that inequalities which arise from social positions and natural skills are not deserved. And main aim of a theory of justice should correct these inequalities. This is an egalitarian point. But then he makes a distinction between desert and distributive shares, there should not be any correspondence between desert and distributive shares. And he considers to be economically efficient in determining justice's principles and accepts the difference principle which permits inequalities. Inequalities which are undeserved are not corrected sufficiently by principles of justice. To explain my argument clearly, I now focus Steinberger's paper.

According to Steinberger, to say that 'someone's natural abilities and social position is not deserved, so distributive shares from it are not deserved' presents a theory of desert. "John Rawls's original position, the ethical foundation of his theory of justice, itself is based on an explicit theory of desert" (Steinberger, 1982:983). We know that the main aim of Rawls's original position is to prevent effects of natural and social factors while choosing principles of justice. Such factors are considered as 'arbitrary, accidental, and, hence, non-moral'. By veil of ignorance parties don't know their social position and natural skills therefore these factors have no role in the selection of just principles. Only by veil of ignorance, justice is based on reason, not on accidents and contingent factors (Steinberger, 1982). Without theory of desert there is no need to veil of ignorance. "Clearly, Rawls's veil of ignorance is designed precisely to take into account such a notion of what is and is not deserved. Indeed, without the theory of desert, the veil would lose much of its rationale for, in that

case, there would be no need to ignore the natural distribution of assets” (Steinberger, 1982:985).

### **3.1.1 Undeserved skills and conditions**

Steinberg firstly focuses of views of Rawls on human nature. According to Rawls, person’s natural skills and their social position is affected by contingent factors. For example it can be said that although abilities of someone is determined by biological factors, he/she can work on his abilities and improve them. But according to Rawls, this effort is also affected by family conditions or social positions. So all aspects of individual character emerge during biological or social processes. Therefore no one can be held responsible from his virtues and faults. “Intelligence, physical prowess, energy and drive, conscientiousness, sensitivity, etc. presumably all such things are largely traceable to genetic and environmental factors. Second, the distribution of natural and social assets is, as far as we can possibly tell, entirely random” (Steinberger, 1982:984). Rawls believes that because of being undeserved, any gain from those natural skills and social position is undeserved. “We must not allow the actual distribution of such assets to influence our conception of justice. Individuals do nothing to earn their respective assets; hence, they do not deserve the differential benefits that those assets may provide in typical circumstances” (Steinberger, 1982:985). Problem in Rawls’ theory that although inequalities between natural skills and social positions are undeserved and therefore inequalities in gains from them are undeserved, difference principle permits those inequalities if they are also useful for the least advantaged group. “Individuals are, and only can be, equal in terms of desert. No one can possibly deserve any more than anyone else. Inequality thus can have no basis in desert and, therefore, the difference principle would have to be ruled out on moral grounds (Steinberger, 1982:986).

Rawls thinks different from Steinberger and believes that A Theory of Justice is not also a theory of desert. In A Theory of Justice Rawls says “the principles of justice that regulate the basic structure and specify the duties and obligations of individuals do not mention moral desert, and there is no tendency for distributive shares to correspond to it” (Rawls, 1971:311). According to Steinberg, Rawls considers theory of desert as bringing the conditions of justice, these conditions are different from

principles of justice and they don't have any role in distributional shares. (Steinberger, 1982). But he criticizes Rawls' this view in two ways.

### **3.1.2 Similar meanings**

Firstly he says that there is not a basic difference between word of 'desert' and word of 'justice'. We can't make a separation between a theory of 'justice' and a theory of 'desert' in language. If something is not deserved, it means that it is not entitled. "One's place in the natural lottery is undeserved is necessarily to imply that one is not entitled to the benefits" (Steinberger, 1982:988). For Rawls, 'deserved something' is different from 'being entitled to something' but Steinberg (1982) believes that this is not true.

Second critique of him that, we can not make a distinction between conditions that determined justice which is based on theory of desert (natural skills and social position is arbitrary so should be eliminated) and principles of justice which are based on theory of justice. We can't make this type of distinction because conditions are effective in determining principles. For example Rawls uses difference principle to prevent the role of luck. There is a basic connection between conditions that produce principles and principles themselves (Steinberger, 1982).

### **3.2 Example of Game**

Steinberg asserts that Rawls has an answer to these critiques. Rawls' answer is:

"After a game one often says that the losing side deserved to win. Here one does not mean that the victors are not entitled to claim the championship, or whatever spoils go to the winner. One means instead that the losing team displayed to a higher degree the skills and qualities that the game calls forth, and the exercise of which gives the sport its appeal. Therefore the losers truly deserved to win but lost out as a result of bad luck, or from other contingencies that caused the contest to miscarry" (Rawls, 1971:314).

Here Rawls means that we can not evaluate results according to the concept of desert. A result is just if it is determined by basic structure which is based on reason. Rules of game (which is basic structure of the game) are determined then game is played according to these rules, outcome is just although loser team also deserves to win. We can't say that result is unjust unless rules of the game are not followed.

Steinberg has another critique to that answer. He says that if someone does not treat as sportsmanlike it may affect the result. Someone can be disqualified because of bad actions. Steinberg asserts that those actions don't belong to the basic structure they only describe certain minimal conditions or premises of the game. But although these bad actions don't belong to the basic structure, it may affect results. To treat as a sportsmanlike is not in the basic structure of the game but it has distributive consequences, it determines who wins:

“in virtually all games and sports the outcome is governed not only by the basic structure but also occasionally in practice and almost always in principle by considerations of desert or moral worth derived from the very conditions of the game. Thus, for example, a player or team can be penalized, or even disqualified, for such things as unsportsmanlike conduct, lack of honest effort, point shaving, stealing signs, etc.” (Steinberger, 1982:989).

For example spitting to other players or to steal a sign do not belong to the basic structure of the game and they 'only' describe conditions or premises of the game. But still they affect the result. Also in Rawls' theory, although theory of desert describe conditions of justice (there are inequalities which are caused by luck and undeserved) it has also effects on distributive shares. For eliminating the role of luck, Rawls offers difference principle. But main contradiction is here as Steinberg said. Principles of justice are justified because inequalities are not deserved so these inequalities should be corrected. He offers difference principle to correct these inequalities but again, according to the difference principle inequalities are permitted. This is a main contradiction (Steinberger, 1982).

### **3.2.1 Three ways**

After Steinberg shows that there is a contradiction between theory of desert and the difference principle he asserts that we can prefer difference principle to the theory of desert in three ways. Firstly, we can change our view about human nature. But this is impossible because Rawls never accepts this.

Second way is to think difference principle superior than theory of desert as a concept of right. This means to say that inequality when it works for everyone's advantage is more just than egalitarianism, so theory of desert can be overridden. But this view is problematic in two ways. Firstly, Rawls never says that difference

principle is superior to theory of desert. He only shows that difference principle is more preferable than various kinds of utilitarianism. Secondly theory of desert can not be overridden because it organizes original position, without it, original position and veil of ignorance is meaningless. "Thus, we cannot reject the theory of desert without also jettisoning the original position and, presumably, everything derived there from, including the difference principle" (Steinberger, 1982:992).

Thirdly, we can change our deontological theory to teleological one and think rights to maximize the good. Therefore difference principle is considered to maximize primary goods. But when we think so, difference principle is not preferable than utilitarian principles to maximize goods. "The difference principle now appears to be a kind of nondescript and unsatisfying compromise, an ethical mongrel, as it were. If we want to operate in deontological terms, then the difference principle is no more satisfactory than the theory of desert" (Steinberger, 1982:993).

Steinberger asserts that Rawls considers individuals as "merely utility maximizers operating in circumstances of extreme uncertainty" (Steinberger, 1982:993). According to Steinberger, individuals will not choose inequality of difference principle and they prefer a principle of equality which is based on desert.

Now I will jump to another interpretation of Rawls. Unlike Steinberger, Freeman understands principles of justice in an egalitarian perspective and asserts that although Rawls' roots are based on classical liberals such as Adam Smith, Hume he differs from them and sets justice and equality as one of the most important duties of society.



## **4. EGALITARIAN INTERPRETATION OF RAWLS**

### **4.1 Rawls and Classical Liberals**

Until here, we worked on Rawls' theory, two main points in it, original position and principles of justice. Freeman now opens how principles of justice should be understood. We can say for Freeman's views as an egalitarian interpretation of Rawls. He distinguishes Rawls not only from libertarians but also from classical liberals. He says that fair equality of opportunity should be considered together with the difference principle. When it is so, we can see that fair equality of opportunity prevents big differences in earnings between the richest and the poorest people. According to him, the principle of fair equality of opportunity gives authority to workers on means of production and on working conditions. He also compares Rawls' model with welfarism and explains why Rawls prefers a 'property-owning democracy' to capitalist welfare states.

Freeman stresses that, according to main works that belong to the liberal tradition, society should help to the poorest members of society and provide them necessary things to survive their life. But basic difference of Rawls from these works is that he gives this duty to governments as a duty of justice. According to the distributive justice, society is understood as a cooperation between individuals and benefits of that cooperation should be distributed fairly between individuals (Freeman, 2007).

#### **4.1.1 Difference in fair equality of opportunity**

Freeman asserts that in liberal thought, a famous tenet is that political and social positions should be open to all. Liberal ideas arise against aristocratic ideas and we know that according to aristocratic ideas, some people deserve some positions according to their birth. Equality of opportunity arouse against hereditary nobility and it is stated that, without considering religious, cultural, ethnic differences, all individuals compete for positions without any legal restriction. Open positions belong to classical liberal ideals, for example Adam Smith defended equal positions



for economic productivity. If positions are open to rules of competition, by division of labor, skills of people are used in the most productive way (Freeman, 2007).

We said that Rawls conceives society as Adam Smith understood. Society is a cooperation of individuals in moderate scarcity. But Rawls thinks on justice and he distinguishes from Smithian equality of opportunity, and presents fair equality of opportunity. According to Smithian equality of opportunity, legal restrictions should be removed, and everyone has an opportunity for positions according to his skills. But Rawls believes that fair equality of opportunity does more than that. Natural skills are distributed randomly, it is like a process of 'natural lottery.' A principle of justice should not only limit social advantages for positions, it should also limit role of this natural lottery (Freeman, 2007).

Then a question arises: What can be done for achieving fair equality of opportunity? Rawls expresses two main institutional requirements: "Preventing excessive accumulations of property and wealth and second maintaining equal opportunities of educations for all" (Rawls, 1971:63). Equal education has a basic role in achieving fair equality of opportunity. Although individuals are born with different abilities and in different social conditions, by equal education, opportunities will be equal for every individual.

Freeman (2007) stresses that, this principle has a basic role in achieving social bases of self-respect to every citizens. "The main reasons for this principle are first, it is integral to the equal status of free and equal citizens. Like equal basic liberties, fair equality of opportunity, is one of the social bases of self-respect. To be excluded from social positions on grounds of race, gender, religion or social position is an affront to one's dignity as an equal person and citizen" (Freeman, 2007:91). But as Freeman stated, we should not consider this principle solely. It is complementary with the difference principle. When both of them work together, income and wealth is distributed justly. These two parts of second principle are complementary and fair equality of opportunity is prior to the difference principle. Freeman explains this priority with an example. Suppose that there are inequalities which cause concentration of economic power in some groups of people and this is a factor which decreases the chance of equal opportunity for others. Although these inequalities also work for the least advantaged group of society, they are not permitted, according to

the priority of fair equality of opportunity over the difference principle. Here we see that fair equality of opportunity is a protection principle from big differences between poor and rich people in terms of wealth and income (Freeman, 2007).

There may be different and wrong understandings of the principle of fair equality of opportunity. For example someone can think that, children who are socially disadvantaged but naturally skillful should take education help to improve his skills. Scholarships for outstanding students are an example of this. Fair equality of opportunity does not order that: “It is not the role of fair equality of opportunity to promote economic efficiency or establish a meritocracy by bringing the fruition the natural talents of those who are naturally gifted but socially disadvantaged in relations to others with equal natural talents” (Freeman, 2007:96). Children who are socially disadvantaged and have fewer abilities than others require more educational benefit than others according to true understanding of fair equality of opportunity. But Freeman stresses that fair equality of opportunity does not order a strict egalitarianism and accepts that it is impossible to achieve equal opportunities for every person in every condition. Instead of strict egalitarian efforts “it requires much more modest measures, namely educational opportunities that enable all to fully develop their capacities, universal health-care provisions and so on” (Freeman, 2007:98).

#### **4.1.2 Difference in difference principle**

According to Freeman, Rawls distinguishes from classical liberals in various ways. According to the classical liberal idea, poorest members of society should be helped but economic system is designed according to the efficiency or utility. But in Rawls’ theory, economic institutions are designed to give maximum prospect for the poorest: “Legal institutions specifying rights of property and contract and economic institutions that make production, trade and consumption possible are to be designed from the outset focusing on the prospects of the economically least advantaged” (Freeman, 2007:99). Benefit to the poorers, is not a detail for economic system, economic system is mainly organized to maximize benefits of the least advantaged.

What does Rawls think about relationship between market system and distributive justice? Freeman firstly stresses the separation of Rawls from libertarians. “Rawls rejects the libertarian view that a person has full rights and entitlements to possess all

market and other consensual transfers of property he/she receives” (Freeman, 2007:128). He accepts that classical liberals like Hume and Smith think that government has a duty to provide public good to his poorest members. And like these classical liberals, Rawls relies on market processes in division of productive resources like land, labor and capital. He does not think to abolish market economy. Market prices may be used for division of productive resources but this does not mean that distribution of wealth and income realize through market decisions. The distinctive feature of the difference principle is “to provide a non-market criterion for deciding the proper division of income and wealth resulting from market allocations of productive resources and the resulting social product” (Freeman, 2007:104). Although market system is continuing to be valid, income and wealth can not be distributed according to the rules of market. “The acceptance of market systems by no means implies that the distribution of income and wealth is to be decided by whatever people gain from the sale of their goods and services on the market” (Freeman, 2007:104). Tax system has a very important role in distribution. “The taxation system is one of the primary institutions and procedures along with markets, income supplements, fair equal educational opportunities and universal healthcare that are necessary for pure procedural economic justice” (Freeman, 2007:128).

According to the difference principle, expectations of least advantaged group of society should be maximized. But whom does Rawls refer with least-advantaged? We know that he refers to people who have the least primary goods. Someone who has the least income and wealth also has the least positions of authority power and self-respect. But Freeman underlines that Rawls refers working-persons by least advantaged group; not homeless people, beggars nor other people who don’t join producing something and does not have a role in division of labor. He thinks society as a cooperation of individuals and distributive justice determines how benefits should be divided to people who join that cooperation. “Needs of handicapped or disabled persons is a subject of justice but not subject of distributive justice” (Freeman, 2007:107).

#### **4.1.3 Difference in complete system**

Freeman stress that we should think principles of justice in relation with each other and as a complete system. Especially fair equality of opportunity completes

difference principle at least in three ways. Firstly it prevents big inequalities between layers of society: “In a society where fair equality of opportunity guarantees widespread educational opportunities for people regardless of social position, open competition between greater numbers of better educated and skillful citizens will reduce the big differences in income and social power between the worst-off and best-off to a more reasonable and acceptable level” (Freeman, 2007:128).

Secondly by fair equality of opportunity, wealth and income which go to the least advantaged group of society will increase. How will it increase? Firstly by universal education and health-care, benefits which go to the poorest class directly will increase. “But they also allow society to call upon a larger pool of trained skills and abilities thereby improving overall productivity and output” (Freeman, 2007:130).

And thirdly fair equality of opportunity can be interpreted as that it provides workers an authority on organizing working situations and a right on apparatus of manufacturing. “It (fair equality of opportunity) can help limit the kind of control that capital exercises over labor and perhaps tend towards greater worker control of working conditions and even in production itself” (Freeman, 2007:131).

#### **4.2 Property-Owning Democracy versus Capitalist Welfare States**

When I started to study on Rawls, I usually wanted to compare it with welfarism of Europe. I thought that although Rawls does not accept, his model was like a capitalist welfare system. Here Freeman makes a comparison between Rawlsian society and welfare states and shows clearly differences of Rawls’ property-owning democracy from welfare states.

Freeman asserts that there are three reasons according to which Rawls prefers a property-owning democracy to a capitalist welfare state. First reason is about the consideration of priority of equal basic liberties and fair equality of opportunity over difference principle differently in a property-owning democracy and in a capitalist welfare state. We know that, inequalities are permitted if they also work for the advantage of the poorest persons. But there is a limit of these inequalities although they work for the least-advantaged. Difference between the richest group and the poorest group shouldn’t be very big, to achieve fair value of equal basic liberties and fair equality of opportunity. In property-owning democracy, property should be

distributed widely. But in capitalist welfare states, “a privileged class is in a position to control the means of production. As a result they have certain prerogatives which they often use to gain unequal political influence and compromise fair equality of opportunities for the least advantaged” (Freeman, 2007:131).

Second reason is the consideration of the difference principle differently in a property-owning democracy and in a capitalist welfare state. According to Freeman, in welfare states, the least advantaged group of society can have more wealth and income than the least advantaged group in Rawlsian society, but principles of justice provide not only wealth and income, it also provides positions of offices and authority and self-respect. He interprets principles of justice according to which, more control on means of production and working conditions can be given to workers. Therefore although workers in a property-owning democracy can have less wealth and income than workers in welfare state, they will have more economic power and self-respect.

Third reason is the consideration of fair equality of opportunity differently in property-owning democracy and in a capitalist welfare state. Freeman stresses that we should understand fair equality of opportunity not as a meritocracy but “to maintain the self-respect of all citizens by providing opportunities to educate and exercise their capacities” (Freeman, 2007:132). Therefore fair equality of opportunity orders giving more authority to workers on means of production and working conditions.

I believe that Freeman is very successful in showing the egalitarian aspect of Rawls’ theory. He stresses that in Rawlsian society, ‘property should be distributed widely’, and although difference principle permits inequalities, because of the priority of basic liberties and fair equality of opportunity over the difference principle, there should not be big differences. He successfully shows Rawls’ difference from classical liberals. Society is not shaped according to the principle of utility or efficiency but according to the justice. Fair equality of opportunity is different from meritocracy and it does not only help naturally skillful but socially disadvantaged students by scholarships, it also helps naturally unskillful ones.

But I think Freeman is very optimistic on explaining Rawls’ views and especially on fair equality of opportunity. As he stated, Rawls does not open much what he means

by fair equality of opportunity and he only says that the duty of this principle is “preventing excessive accumulations of property and wealth and second maintaining equal opportunities of educations for all” (Rawls, 1971:63). I couldn’t see any idea in Rawls which is focusing on giving workers more authority on working conditions and means of production. But he is right that not only wealth and income are primary goods but also opportunities to hold for offices and social bases of self-respect belong to the primary goods, and fair equality of opportunity has a basic role together with equal basic liberties in providing these primary goods.



## **5. CAPITALISM AND RAWLS' THEORY**

Like Freeman, DiQuattro interprets principles of justice as egalitarian rules. According to him, capitalist system can not pass the test of principles of justice. He starts by asking whether Rawls' theory plans a society in which there are big differences between classes. He asks whether he is an inegalitarian utilitarian. Does he think that distribution should be done according to the rules of market (DiQuattro, 1983)? According to him, Rawls' theory can be compatible with socialist, also Marxist interpretations of social justice. He states that he wants to show egalitarian aspect of the difference principle which is not stated in Rawls' words explicitly. He understands difference principle "as ruling out capitalism as while admitting the possibility of a just socialism" (DiQuattro, 1983:53).

### **5.1 A Different Understanding of Class**

DiQuattro says that Rawls does not allow to 'class-divided' societies. He starts with Macpherson's critiques to Rawls. Macpherson says that Rawls' aim is to justify inequalities between different classes of society. DiQuattro defends that this is normal. Because egalitarian thinkers (Rawls is also among them) usually don't call for equal distribution of wealth, rather they seek an ethical justification for moving away from equality although they want to prevent big differences in wealth (DiQuattro, 1983).

We know that Rawls accepts that expectations change according to the groups in society. Macpherson interprets this as a class-divided society. There are different classes so they have different expectations. DiQuattro stresses that, Macpherson uses the concept of class as in Marxist theory. According to Marxist theory, class division is based on exploitation. But DiQuattro defends that Rawls interprets 'class' differently from Marx. He understands classes with the degree of primary goods they each have. We should remember that he says that comparisons are made on primary goods. He combines concept of power, wealth and property in the concept of



‘relevant social positions’. Relevant social positions are classes in Rawlsian society. There are class divisions in a society but they are not like Marx explained. Because justice and exploitation can not be thought together (DiQuattro, 1983).

### **5.1.1 One class society**

DiQuattro compares and likens Rawlsian society with Macpherson’s one class society. Macpherson defines it “different from [both classless and class-divided societies] is the idea of a society where there is individual ownership of productive land and capital and where everyone owns, or is in a position to own, such property” (DiQuattro, 1983:56). DiQuattro reminds that Rawls accepts a decentralized socialist system can be compatible with principles of justice and he uses the concept of property-owning democracy. In a property-owning democracy “land and capital are widely though not equally held. Society is not so divided that one fairly small sector controls the preponderance of productive resources, and a distribution branch of government functions to support those institutions that perpetuate widespread private ownership of capital” (DiQuattro, 1983:56).

DiQuattro asserts that Rawls never uses the concept of ‘capitalist market system,’ he never refers to his ideal political economy as capitalism. He borrows concept of ‘property-owning democracy’ from James Meade. Meade makes a distinction between property-owning democracies and capitalist welfare states. In capitalist welfare states there are big inequalities in earning between poor and rich class and property is owned only a small group of people. But in a property-owning democracy, property is distributed widely and everyone takes his wealth from property. Therefore class divisions (As Marxist idea argued) and the reason of these divisions, exploitation, is absent in Rawlsian society (DiQuattro, 1983).

DiQuattro stresses that Rawls thinks society as based on a social obligation to each other. He defends that the most advantaged group in society can have benefits of his position and skills if only they make contribution to the common good. Difference principle “establishes a connection between the distribution of rewards and the discharge of social obligation that it differs radically from bourgeois conceptions of distributive justice” (DiQuattro, 1983:57). In capitalism, property rights have priority over social function and benefits of cooperation are distributed among market rules. For example, according to Hayek and Friedman, luck determines who will be rich

and who will be poor: “If one is fortunate enough to be born into a wealthy family, or to have oil discovered on one's land, or to be born with certain characteristics that fetch high market prices, or to make profitable investments, then one qualifies for disproportionate rewards” (DiQuattro, 1983:57). Friedman defends that most differences of status or position or wealth can be regarded as the product of chance and redistribution of these goods after people play the game of economic life is equivalent to denying them the opportunity to enter the lottery. But according to Rawls, people who gain from their good fortune must work to improve the circumstances of those who have lost out. Benefits of society can not be divided according to the social fortune or chance in natural lottery (DiQuattro, 1982).

## **5.2 Not Big Differences**

DiQuattro also reminds that like Freeman, the principle of fair equality of opportunity does not permit big inequalities between social groups unlike in capitalist market economy. “The supplementary principle of fair, as opposed to formal, equality of opportunity is then introduced to whittle away preliminary inequalities by ensuring a similarity of social and economic circumstances for all” (DiQuattro, 1983:59). Government has to achieve practical fair equality of opportunity. He underlies that equality of opportunity is not interpreted in a meritocratic way. “Because a meritocratic system attaches so much wealth, income, power, and status to roles occupied by individuals of proven ability and so little of these goods to those who fail, it tends to undermine the self-respect of the failures” (DiQuattro, 1983:59).

As we see here, DiQuattro does not think that fair equality of opportunity means authority to workers on means of production and working conditions as Freeman stated. But like Freeman, he shows that fair equality of opportunity limits inequalities, and it also has a role for individuals to have social bases of self-respect.

## **5.3 Utilitarianism and the Difference Principle**

We remember that Rawls criticizes utilitarianism, because it considers whole society as one man, does not take into account of differences between individuals. It tries to maximize total satisfaction of society but it is not interested in how this satisfaction

is distributed among individuals. Rawls asserts that in the original position, persons avoid taking risks, because they don't know their position in the society therefore they don't choose utilitarian principles which does not take into account how 'goods' will be distributed among individuals. DiQuattro defines Kai Nielsen's critics to Rawls. Nielsen believes that difference principle is a version of utilitarian thinking and although inequalities are used to maximize the benefits of the least advantaged group, exploitation of upper classes to lower classes is going on and equality of opportunity is not realized in that conditions. He offers equal distribution of wealth and income and only in a classless society, equal opportunity for life plans, equal self-respect and equal moral autonomy can be realized (DiQuattro, 1983).

DiQuattro does not agree with these critiques and he stresses that difference principle is not understood truly. Rewards which are taken by advantaged groups are just, not only because they also work for the least advantaged. They are just because these rewards work for the common good of society which compensates for costs of training and education of lower classes. "The naturally advantaged are not to gain merely because they are more gifted, but only to cover the costs of training and education and for using their endowments in ways that help the less fortunate as well" (DiQuattro, 1983:63). Greater rewards of advantaged groups have a role in creating a 'competitive market' by which compensation for lower classes is achieved. But Di Quattro points out, like Freeman, that Rawls does not think on a market model for distribution. Distribution is realized by state policies such as taxing and providing public goods etc.

Di Quattro defends Rawls against Nielsen's critique that Rawls does not believe that a capitalist society can be just, against Nielsen critics. He asserts that capitalism can not pass Rawlsian test. Because according to the difference principle, the most advantaged group should contribute for the common good. But in a capitalist system, persons who belong to bourgeois class live parasitically and although they add other's labor to their wealth, they don't contribute anything (DiQuattro, 1983).

### **5.3.1 Ideal and non-ideal**

Some can argue that although capitalism's rules don't satisfy difference principle, it does not show that Rawls makes a distinction between property-owning democracy and capitalist market system. Against to this critique, Di Quattro focuses to ideas of

Rawls about the distinction between ideal and non-ideal normative theory, for example Rawls' views about slavery and serfdom. Rawls gives as example that slavery can be 'less unjust' in some occasions. For example soldiers who were captured by enemy's army and if they will be killed, to be slave for them may be a better choice than to be killed and may be less unjust. But of course, this is not an ideal choice. Di Quattro asserts that, if we look at the ideal, "capitalism falls far short of the ideal conception; it involves too great inequalities and systematically rewards individuals on the basis of natural and social fortune and irrespective of their performing a social function" (DiQuattro, 1983:68). About non-ideal condition, he does not give a clear answer but he explicitly asserts that "two principles, plus empirical likelihoods about the structure and operation of economic systems, exclude capitalism, while allowing, at least, for socialism and property-owning democracy" (DiQuattro, 1983:68).

### **5.3.2 Market economy**

Then where does market stand in Rawlsian society? Di Quattro's view is similar with Freeman. Market is used as an 'allocative device', under socialism, the market might be used to allocate resources efficiently but never to "distribute income, wealth, or power in proportion to the distribution of privately held capital. In either market socialist or property-owning democratic systems, distribution is determined politically in accord with the principles of justice" (DiQuattro, 1983:69). Rawls does not prefer a totally common property system which is controlled by the state because it may interfere basic liberties and equality of opportunity. On producing processes, market should be effective because they will be determined by individual's preferences and if they are controlled with a totally planning, individuals' rights to buy whatever they want according to their preferences are killed. "If the market is not used to allocate resources, individuals would be denied the opportunity to expend their merited incomes freely according to their preferences" (DiQuattro, 1983:70). Rawls makes a distinction between private and public goods and size of produced public goods is matter which is decided not according to who has means of production. This means that he accepts private property but this is not an obstacle against a socialist structure. Public goods are not distributed according to personal preferences. But there should be a limit of public goods. And here communist and

Rawlsian principles differ. In communist view every good should belong to the public good. But Rawls states that there should be a limit. Because except basic needs, other goods should be preferred by personal decisions and some persons shouldn't be enforced to pay for goods which they don't prefer: "The increased provision of public goods interferes with giving each his or her due, as prescribed by the distributional criterion of the difference principle, and compels some individuals to subsidize the unwanted benefits desired by others" (DiQuattro, 1983:71).

## **6. A LIBERTARIAN STANDPOINT ABOUT JUSTICE**

### **6.1 A Short Introduction to Nozick's Theory**

Now we can study on a very different interpretation of distributive justice, which criticizes egalitarian theories for trying to impose an impossible rationalization of distribution of goods between persons and to interfere with rights of individuals which are natural.

Nozick presents a libertarian understanding according to which, state has no role in distributing goods of society. "Nozick has recently produced a novel and somewhat unusual philosophical exposition and justification of political liberalism that is of the belief that functions of the State should be limited to maintaining in being a free market in goods and ideas" (Sampson, 1978:93). He asserts that "the minimal state is the most extensive state that can be justified. Any state more extensive violates people's rights" (Nozick; 1974:149). His views are rooted in classical liberalism by thinkers such as Locke, Mill, Adam Smith. But Nozick differs from them, because they give some role to state for providing help for the poorest group of society. Nozick rejects that the state has not a duty to help poor people. Individuals may help them voluntarily, not as a consequence of a pressure from state or any other person. These classical liberal thinkers also focus on representation of citizens in governing and democracy is one of the most important aspects in their theory. Nozick does not think about these issues because democracy should occur only in the limits of minimal state.

Nozick thinks that society is made up of individuals and the most important aspect of individuals that they have rights. Nozick (1974) refers here some classical liberals, especially to John Locke who assert that persons have rights in nature, and rules of the state can not violate them. Duty of the state is to protect those rights. To protect them by national defense against enemies in the international arena and by police and juridical power against thieves and murderers in the country. State can use his

coercive power only to stop people who harm others. It can not be used to take property from some people and to give others.

Nozick's theory of justice is based on the 'theory of entitlement' which gives state a minimum role in the distribution of wealth, unlike principles of justice in Rawls. Any state arrangement to redistribute the things people have legally gathered is an attack for liberty of individuals. Nozick's main aim is "to show that a non-minimal state does violate individual rights, and therefore is unjust" (Coleman 1976:437). Minimal state's "activities are confined to the protection of individuals and their property and to the enforcement of contracts" (Scanlon, 1976:3).

## **6.2 Theory of Entitlement**

The term of 'distributive justice' "suggests a central agency distributing collectively-held resources to individuals. Nozick argues that a proper theory of justice in holdings is a theory of entitlements" (Coleman, 1976:438). He asserts that the question of justice appears in three points. First, when we gather something originally. Not by transferring from any other person. Second, when we get something from other persons or when we give something to them. Third, if there is an unjust having, rectification of it is needed. Therefore, if someone has something according to principle of justice in acquisition and according to principle of justice in transfer, he is entitled to have it. If he has something not according to these principles, he is not entitled to have it (Nozick, 1974). "The entitlement theory as a complex constructed out of three more basic theories. These three theories, the theory of just acquisition of holdings, the theory of just transfer of holdings, and the theory of rectification" (Davis, 1976:836).

We know that, any distribution is just if it is based on two principles of justice in Rawls. These two principles are equal basic liberties and fair equality of opportunity and the difference principle. They are applied to major institutions of the government and state has an important role in redistribution of goods. Unlike Rawlsian ideas, Nozick's theory is not complicated, because it gives no role to the state in redistribution. Redistribution is an attack for liberty of persons. Any distribution is just if everyone is entitled to his goods according to principle of justice in acquisition

and principle of justice in transfer (Nozick, 1974). We can open these concepts now and talk on them.

First one is the principle of justice in acquisition. It “specifies under which conditions a person is entitled to a holding taken from a state of nature” (Davis, 1976:836). Here Nozick uses views of Locke. According to Locke, fruits of natural world belong to everybody until someone mixes his labor in it and gets it as his own property. If any part of the natural world is unowned and if someone uses it as his property, he is entitled to have it. “This principle would spell out the conditions under which one could justly come to appropriate as his own property some part of the natural world that had previously unowned” (Replogle, 1984:67). As we said that question of justice appear firstly when we gather something originally. Locke justifies private property, when it is obtained by labor from natural world. Nozick presents this view as principle of justice in acquisition.

Second principle of justice is about transfer of things. It explains how something which is had by someone, can be any other person’s justly. The main core of this transfer is to be voluntarily. We can buy or sell something or we can take or give presents. State has a duty to achieve that these transfers should be voluntarily. If something is stolen, this means that it is not hold justly and state’s role is to catch the thief and sent him to the prison. If I justly have something and if I freely exchange it, this transfer is just. Briefly “theft, extortion, swindle, and taxation would be disallowed by this theory, whereas market transactions, charity, and barter would be allowed” (Davis, 1976:836).

### **6.3 Where is Justice, at the Beginning or at the End?**

Nozick produces the entitlement theory “in order to counter the claim that a more than minimal state is justified in order to achieve and maintain a just distribution of goods” (Davis, 1976:842). He asserts that other theories about just distribution are incorrect, but entitlement theory is correct and only a minimal state can apply it.

One of the most important argumentations of Nozick about wrongness of redistributive theories is that, they only look at the last situation of goods. Nozick calls these theories as ‘current time-slice principles of justice.’ These theories assert that, any distribution of things are evaluated as just or unjust, according to who has



what in the last situation. That last situation is achieved by applying some principles for distribution of things. He stresses that “any end-result conception of distributive justice, if embodied in law, gives each citizen an enforceable claim to some portion of the total social product, regardless of who currently holds that product or how they came to hold it” (Coleman, 1976:439).

Nozick believes that, his theory is ‘historical.’ It is not interested in who has what in the last situation. Rather, it is interested in how goods were gathered. If they were gathered justly, then it means that distribution is just. “The entitlement theory of justice in distribution is historical, whether a distribution is just depends on how it came about” (Nozick, 1974:153).

According to Nozick, wealth is obtained by human beings who add their power to natural resources and it is distributed by results of indefinite exchanges between individuals which are not controlled by any central authority. Unless an exchange is done by a forceful pressure of anyone, state’s authority has nothing to do with that exchange. As we said, for a historical theory of justice, how things were distributed has a basic importance. If something is hold according to principle of justice in acquisition and principle of justice in transfer, we can say that distribution is just without looking at who has what as the result:

“On the entitlement conception of justice in holdings one cannot decide whether the state must do something to alter situation by merely looking at a distributional profile or at facts such as these. It depends upon how the distribution came about. Some processes yielding these results would be legitimate and the various parties would be entitled to their respective holdings. If these distributional facts did arise by a legitimate process then they themselves are legitimate” (Nozick, 1974:232).

#### **6.4 Distribution According to a Pattern**

After Nozick criticized unhistorical theories of justice, another problem arises. A theory can appear which focuses on historical events but still may be unacceptable to Nozick’s view. Suppose that in a justice theory, distribution should be done according to moral merit. Then, of course it should mention past actions of persons. But it is still unacceptable in Nozick’s viewpoint (Scanlon, 1976). Therefore we can say that after he criticized justice theories which are interested in final distribution, then he criticizes theories which are ‘patterned.’ He means by ‘patterning’ that,

goods in society are distributed according to a 'norm.' For example someone can assert that goods in society should be distributed according to moral merit. Any person can not have goods than other person if he is worse than him in moral merit. Or someone can assert that goods should be distributed according to the usefulness of every individual to society. Then, a person who is the most useful person for the society should take most shares from distribution. 'Difference principle' is another 'patterned' principle. It orders that people can use advantage of their skills and may have better expectations than others if only their advantage work for the poorest people in society. Nozick asserts that almost every principle of distributive justice is 'patterned'. But according to entitlement theory, distribution is not done by any norm. Some people may have their wealth as gifts which were given from friends. Some may have it by selling their own goods which were descended. Someone can use his wife's holdings. Someone may earn by gambling, someone may find etc... A distribution is just according to these situations because all of them are result of voluntary actions. (Nozick, 1974).

Although Nozick have similar views with Hayek and both of them are conceived as libertarians, (though Hayek does not accept that word) Nozick criticizes Hayek that he also offers a pattern of distribution in capitalist society. He points out that, according to Hayek, in a capitalist system, distribution will be made according to value of actions to others. Nozick accepts power of this argument and agrees with Hayek that 'perceived' benefits of actions and services to others is an important factor in distribution of a capitalist society. But it is only one of them (Nozick, 1974). Actions of persons are very complex and their results can not be rationalized. To try to rationalize them, to try to distribute wealth according to a norm would interfere to liberty of choice of individuals.

Some people may have more than others, some although they work more than others may have less them, some people who may be liars can earn more, or some may add nothing to cooperation of individuals but still may earn more. Those don't break justice of distribution until all transfers and transaction are not done voluntarily. If any forceful action appears, power of state should appear and prevent that action or recover its results. Any norm which wants to take from rich and to give poor, for example like Marx' famous idea 'from each according to his ability to each

according to his need' are misguided. All these theories which Nozick criticizes aim to take property from persons who are entitled to it and to give some of it to persons who didn't do anything to earn it (Davis, 1976). Any 'rational' arrangement like that will interfere to rights of persons. Justice does not call any distribution according to a merit, labor, need or whatever. "It requires only that millions of scattered individual transactions made between individual persons within a society be made voluntarily" (Replogle, 1984).

#### **6.4.1 Chamberlain argument**

Nozick has a famous example to disproof arguments of 'patterned' theories of distribution. He offers to suppose a society in which distribution is done according to a 'pattern'. For example according to a pattern, everybody has an equal share in distribution. Then, suppose famous basketball player Wilt Chamberlain has much attraction and basketball fans want most to watch his play. Then Chamberlain makes an agreement with his team and wants twenty-five cents from each sold ticket. His team should accept this agreement, because maybe his play make the team champion and they will earn much more than they give to Chamberlain.

Supporters of the team will come to watch matches and every week they will pay for tickets. And they will now that 25 cent from ticket will be given to Chamberlain. But they will continue to buy tickets because they like their team and also they like Chamberlain's play. At the end of the season, Chamberlain will be much richer than supporters of team. Although we distributed according to a norm, and everybody had equal share, now everybody has not equal share. Then is it unjust?

According to Nozick, of course not. Every action in that example is done voluntarily. What can we do to distribute shares equally? How can we achieve equal share? By preventing Chamberlain from making an agreement with his club. Or by preventing supporters from going to stadium to watch their team. In both situations we should interfere to liberty of individuals. To make an agreement with his club is a right of Chamberlain. To support a team and go to stadium to watch his team is also a right of a person. Unless we prevent those voluntary actions, our aim in distribution will not be realized. According to Nozick, this is the main problem of theories of distributive justice (Nozick, 1974). He stresses that the "entitlement conception of

justice in holdings makes no presumption in favor of equality or any other overall end-state or patterning” (Nozick, 1974:233).

Scanlon stresses that, Chamberlain example of Nozick may be answered by some egalitarians that they are interested in initial equalities. After in initial position goods are distributed equally, they will not be interested in how individuals use their resources. They may lose all their wealth and this is not a problem for egalitarians. But Scanlon believes that Nozick will still oppose this view of egalitarians. For starting everybody in equal conditions, state still should interfere with individual's choices and actions: “Arbitrarily great inequalities in the starting places of members of one generation can result from gifts and voluntary exchanges by members of previous generations. Thus, maintaining even this looser kind of equality can require restricting these activities” (Scanlon, 1976:7).

Nozick defends that family relations also disturb ‘patterned’ theories of justice. Suppose that we are in the government and order society that everybody should has equal wealth. But in a family, members can give each other their wealth voluntarily. We can not rationalize their relations related with goods and money and cannot redistribute their wealth to achieve equal shares. Nozick asserts that “redistribution is a serious matter indeed, involving the violation of people's rights” (Nozick, 1974:168).

#### **6.4.2 Luck in Nozick**

Nozick believes that Rawls' theory is an ‘end-state’ and a ‘patterned’ theory. It does not look at how things were produced, it just looks at results and in the last situation. “Like all patterned principles, Nozick argues, the Difference Principle determines the nature of a just distribution of goods on the basis of unhistorical considerations, and therefore fails to respect rights established through historical entitlement” (Nozick, 1974:576). But Nozick asserts that goods do not fall down ‘from heaven like manna.’ They have a ‘history’. They were produced by someone, they were transferred to someone etc. We should look at these processes, if they are just, we shouldn't redistribute them. If they were gathered from natural world according to Lockean principle or if they were transferred voluntarily, we shouldn't redistribute them. Moving individuals to accept any principle, can not be justified according to Nozick. This is an attack to liberty of them.

But the important point is here that what Nozick thinks about Rawlsian views related with luck. Firstly he is clear that, luck also belongs to individual's liberty and when an individual makes a choice, beside other factors, luck has a role in its achievement and in its result. We can not stop persons' actions to protect them from negative effects of it. We can't form a rationalized society in which luck will have no role. Luck is an aspect of life.

According to Nozick when Rawls talks about natural abilities and their improvement, he does not consider the responsibility of individual to improve his skills and accuse external factors. Nozick takes a quotation from Rawls:

“The initial endowment of natural assets and the contingencies of their growth and nurture in early life are arbitrary from a moral point of view... the effort of a person is willing to make is influenced by his natural abilities and skills and alternatives open to him. The better endowed are more likely, other things equal to strive conscientiously” (Rawls, 1971:192)

Then he criticizes Rawls because there is no place here for individualistic struggle. Rawls does not mention how individuals try to improve their skills. Someone may use his skills in one way, and another person may use them in a different way. Both of them will give different results. Rawls does not consider autonomy of person although he defends that his theory is a way to provide self-respect to autonomous individuals (Nozick, 1974).

Nozick also criticizes the principle of fair equality of opportunity in Rawls. There are two options to achieve this principle: We should lessen chances of people who are more favored for these positions. Or we should improve situations of people who belong to the least advantaged group. Of course Rawls offers second option. Because to worsen some people's situation is not good. But Nozick points out that, to improve situations of the least advantaged also means to worsen situation's of more favorable. Because we need extra resources to improve the situation of the least advantaged group. These resources can be obtained by using wealth of more favorable group. Although they are entitled to have their goods, we will seize their goods to achieve equality of opportunity to others. This is an act against individual rights.

### **6.4.3 Other arguments against Rawls**

We know that Rawls argues in *A Theory of Justice* that there is no place to envy in choosing principles of justice and individuals are disinterested in original position. He stresses that people who are favorable by luck about abilities, can not use these advantages only for themselves. But his model does not propose to eliminate those distinctions. There is another way. Instead of elimination, these skills are considered as collective abilities and they also work the least advantaged group of society. Nozick asks if there was not another way. Will he propose to eliminate these distinctions or will he forbid using them for their own benefits? Then is it possible to say that envy does not have any role in determining principles of justice? Nozick believes that envy has an important role here (Nozick, 1974).

Nozick also criticizes Rawls' views about self-respect. We know that, Rawls counts self-respect as a primary good. To be an equal and free citizen of community provides self-respect to humans. Nozick firstly criticizes this view that nobody feels better because of having a right to vote for choosing government. He stresses that humans feel better when they have a different specialty than others. For example, any human being does not feel better when he sees he has more capacity than animals. Because all other people are also like him, they have more capacity than animals. From similarity, self-respect does not rise. To reduce differences between persons prevent existence of different dimensions according to which they will feel better or worse than others and therefore they will have self-respect (Nozick, 1974).

Briefly, Nozick thinks that equality does not help persons to have self-respect. Self-respect occurs with different skills and achievements than other people, sameness is a problem for self-respect. In a society where everybody is intellectual like Plato or Aristotle, no one can have self-respect because of being intellectual because everybody is as intellectual as him.

Nozick also criticizes Rawls' view that economic inequalities cause political inequalities. Rawls prefers a more egalitarian distribution that if there are big differences in wealth between individuals, 'fair value' of equal liberties decrease. People who are in better conditions can affect political system as they want. They can monopolize state power and use it as a dominating factor to others. Nozick defends his view that, in Rawlsian state, those may occur. Because state interferes

relations of individuals and social life too much, it can enrich some people and impoverish others. State power can be used illegitimately for economic interests of one group. But Nozick suggests a minimal state. In that type of state, government will not have any power except providing every transaction between people to be voluntary. In a minimal state, economically well-off people don't have an encourage to have political power because minimal state does not have an effective role in economy (Nozick, 1974).

### **6.5 A Defense of Difference Principle**

We know that Nozick also classifies Rawlsian principles of justice as 'patterned' principles. But there is an objection here to Nozick. Kaufmann asserts that "the Difference Principle does not satisfy Nozick's criteria for patterning; nor does it raise the philosophical problems that Nozick associates with patterned principle" (Kaufmann, 2004:560). Now here I will try to explain Kaufmann arguments against Nozick.

Nozick defines 'patterned' principles as they point out distribution of things "is to vary along with some natural dimension" (Nozick, 1974:156). These 'natural dimensions' might change such as talents, needs, desert or moral merit etc. And Nozick stresses that these principles are against liberty of individuals because to maintain the 'pattern', the government should interfere with rights of persons (Kaufmann, 2004).

Kaufmann argues that difference principle is not that type of principle. It does not sets exact shares of distribution among persons and we can not predict who will take how much of goods. Principles are only applied to major institutions. Rawls asserts that after principles are applied to basic structure, "the outcome is just whatever it happens to be" (Kaufmann, 2004:564). Kaufmann defends that Nozick confuses pure procedural justice with allocative justice. According to allocative justice "a given collection of goods is to be divided among definite individuals with known desires and needs" (Rawls, 1971:77). In justice as fairness, unlike allocative theories, "a distribution cannot be judged in isolation from the system of which it is an outcome or from what individuals have done in good faith in light of established expectations" (Kaufmann, 2004:564).

Kaufmann believes that Nozick sets a direct relation between disadvantage and compensation in Rawls' views. According to that view, to be disadvantaged is a 'natural dimension', and distribution is done according to be disadvantaged. Kaufmann does not agree with Nozick. Difference principle does not provide any specific level of benefit to the least advantaged. When people in better conditions produce wealth from social cooperation, some part of it should go the least advantaged. But this does not mean that people in better conditions have to produce wealth for other social groups in society. Rawls leaves choosing how to live, to persons (Kaufmann, 2004).

Kaufmann knows that Nozick can defend himself and say that when wealth is produced by socially more advantaged and naturally luckier people, wealth should be shared according to the 'disadvantaged rule'(maximin principle-my comment), and although difference principle is not so strong as he thought, it is still patterned. But Kaufmann argues that

"it is important to emphasize, first, that the effect of the Difference Principle will not determine the shares of goods possessed by the most or least advantaged. Some portion of the benefit to the better situated will be diverted to the least advantaged; and some portion of the income of the least advantaged will derive from surplus that is diverted in this way" (Kaufmann, 2004:566).

We can't predict distributive shares and "shares of goods will, therefore, primarily track the productive employment of entitlements, as Nozick prefers." (Kaufmann, 2004:566).

Now we agree that, distributive shares are not known according to the difference principle and only some part of goods are redistributed on which claims of persons increase proportionally according to his position in society. If he is in a worse condition, he has a greater claim on these goods. But there is not specific, predictable distribution of goods. Can we still say that whether difference principle is a patterned principle?

Kaufmann offers to look at Nozick's own words. Nozick says that heavy strands of patterning will run through even the distribution of goods generated under his own entitlement theory. According to him, distribution usually will be changed according to marginal productivity in his theory, but this does not mean that he proposes a



distribution of goods according to the marginal productivity. This is only a consequence of respect to person's entitlements. Kaufmann stress that "the presence of heavy strands of patterning (whether produced by rewards to marginal productivity or by redistribution to the least advantaged) is not sufficient to establish that a theory is patterned, according to Nozick's own criteria" (Kaufmann, 2004:567). Like marginal productivity in Nozick's theory, in Rawls' theory, difference principle occurs by 'heavy strands of patterning' however, it will not have a big effect on distributive shares. It will not determine how much the least advantaged group will take from distribution, it will only increase their earnings. Kaufmann (2004) asserts that if 'heavy strands of patterning' make a principle 'patterned', like difference principle, Nozick's entitlement theory is a 'patterned' principle. But if not, like entitlement theory, difference principle is not a 'patterned' principle.

After Kaufmann explained clearly why difference principle is not a 'patterned' principle, he focuses on Nozick's claims that criticize difference principle by not showing respect to historical merits of individuals on their own goods and by interfering with human's lives. In his critics, Nozick asserts that difference principle is not 'historical.' In this context, Nozick presents two main critics about original position and veil of ignorance. Nozick is following Coleman's suggestion: "Nozick must attack directly the notion of the social contract from the original position of ignorance, and he does so" (Coleman, 1976:439). First he asserts that in the original position, Rawls is not neutral against claims of greater advantaged group on their greater shares of goods. Secondly, in original position, by veil of ignorance, Rawls hides important information related with historical merits of individuals on their goods. Kaufmann answers these two objections (Kaufmann, 2004).

Firstly Nozick's objection is that difference principle favors less advantaged groups in society, Rawls is not neutral in original position. Nozick presents a hypothetical argumentation between more advantaged groups and less advantaged groups. According to him, in original position, less advantaged group says to more advantaged group that "Look, better endowed: you gain by cooperating with us. If you want our cooperation, you'll have to accept reasonable terms. We suggest these terms: We'll cooperate with you only if we get as much as possible" (Nozick, 1974:195). Nozick's claim is that "the worse endowed exploit their threat advantage

to extort unreasonable terms from the better endowed” (Kaufmann, 2004:569). But Kaufmann opposes this view. Nozick’s hypothetical argumentation between groups in the original position can not be true because no one knows his position in society. No one knows his social position, his natural skills, his life plans etc. All are behind of veil of ignorance. There are not any types of groups in the original position. No one belongs to any group because of veil of ignorance. Therefore Nozick’s argument which claims that Rawls is not neutral against arguments of groups can not be valid (Kaufmann, 2004).

Second critic of Nozick was that, by veil of ignorance, Rawls hides relevant information from individuals about their entitled goods and treat goods as ‘manna from heaven.’ Goods have a history, they were produced by someone, but now Rawls disregards these efforts on goods. Kaufmann opposes this view that and claims that Nozick interprets principles of justice as principles of allocation: “Nozick writes as though a procedure for the choice of principles of justice were simply a special case of a choice procedure for the allocation of goods. Principles of justice are not goods, however, and their choice raises issues that are quite distinct from those raised in the case of goods” (Kaufmann, 2004:570).

Thus, Kaufmann shows that Nozick is not right in his claim that principles of justice disregard historical entitlements of persons on their goods. Now second claim of Nozick was that redistribution is an interference with rights of individuals. Nozick defends that property rights are absolute rights, and are prior to all considerations of justice. Kaufmann’s objection is that Nozick is unsuccessful in showing why property rights are absolute. Nozick tries to explain absoluteness of property rights by following the way of Locke but according to Kaufmann, he fails. And also we know that property rights are not so absolute in Locke. Therefore Kaufmann asserts that property rights are not prior to considerations of justice and to other claims of rights (Kaufmann, 2004).



## **7. AN EGALITARIAN DEFENSE OF LIBERTARIANISM**

### **7.1 Otsuka's Alternative Interpretation**

We worked on Nozick's critics to Rawls and his assertions against egalitarian liberalism and distributive justice. Nozick's ideas are based on 'natural rights' theory which was affected deeply by Locke's views. Nozick sets his 'entitlement theory' by help of Locke's views about labor and property rights.

Otsuka, like Nozick, starts with 'natural rights' theory and uses Locke's views about 'the right of self ownership' which can not be eliminated by state power. But he differs from Nozick by trying to understand Locke's views in an egalitarian version. He declares in his book *Libertarianism Without Inequality* (2003) that he focuses on main topics of Locke's *Second Treatise of Government*. "One rights of control over oneself and the world, one's rights to use force in order to defend these rights, and the source and limits of political authority" (Otsuka, 2003:1).

Otsuka focuses on the concept of 'right of self-ownership' in Locke. He defines it as "a right consists robust and stringent rights of control over oneself: one's mind, body and life" (Otsuka, 2003:2). He defends that these rights are not incompatible with an equal distribution of property in a society. He proposes an equal distribution and redistribution of property and everybody should start his life in same conditions (same property) with others. One of the main reasons that Otsuka proposes equality of property, is to prevent uncontrolled improvement of state apparatus. Otsuka knows that egalitarian ideals may result with strict bureaucratic arrangements for redistribution and he wants to achieve his egalitarian ends by a minimal state as much as possible.

Otsuka aims to combine egalitarian views with libertarian ideas. Both Nozick and Cohen believe that right of self-ownership can not be thought together with equality. While Cohen is focusing on equality, Nozick defends that rights can not be eliminated to achieve equality (Otsuka, 2003). Cohen argues that the affirmation of

the egalitarian proviso implies the denial that we have a libertarian right of self ownership. But Otsuka does not think like Cohen. According to him, “libertarian self-ownership says nothing about rights in worldly resources beyond those that one is able to acquire through the exchange of one's labor for goods that others are entitled to trade” (Otsuka, 2003:30). He asserts that to combine libertarian views with egalitarian aims is possible by interpreting Locke’s views about property from an egalitarian viewpoint.

Otsuka says that, like Nozick, individual rights are natural, not artificial. Although there are not common rules and a sovereign, in a community no one allows someone to interfere with his life, body and property. He doesn’t have to look at any written or accepted rules that give him the right to protect himself. This is his natural right! (Otsuka, 2003). But unlike Nozick, he defends an egalitarian division of property. Nozick sets his entitlement theory on Locke’s views about first obtaining of property. Locke asserted that unowned lands of the world are common for humans until someone mixed his labor to use it then he owned it as his property. However Locke stipulated that enough land should have stayed for others who didn’t have any property. Nozick interprets that ‘Lockean proviso’ as when someone does not harm anybody while taking land as his property, this is just.

However, Otsuka interprets ‘Lockean proviso’ that ‘enough land should have stayed for others who didn’t have any property’ as a view which suggests an equal distribution of property, an equal distribution of worldly resources. He proposes that combination of equality with libertarian rights “will be possible to distribute initially unowned worldly resources so as to achieve equality of opportunity for welfare in a manner which is compatible with each person’s possession of an infringed libertarian right of self-ownership” (Otsuka, 2003:11).

## **7.2 Equality and Absolute Rights of Individual**

How can an equal distribution of property be together with libertarian right of self ownership? Otsuka firstly explains that ‘right of self ownership’ has two dimensions.

Firstly, it gives an absolute control to individuals on their own mind and body. Nobody can use other’s mind and body forcefully as means to his own ends.

Secondly, it gives an absolute control to individuals on their income which was gained by efforts of their own mind and body and without forcefully. Otsuka admits that although egalitarian liberals accept first dimension, they don't accept second one. But Nozick defends that second dimension follows first one. Otsuka (2003) agrees with Nozick. He gives an interesting example and shows that an income tax is unjust when it wants to redistribute someone's income to other people although it was earned by his own mind and body. Suppose that in a society there are just two persons; and if they don't want to freeze and they want to stay alive, they should find clothes and there is not any alternative rather than human hair for clothing. Suppose that one of them is bald while other is hairy. Second person may choose to use his hair only for himself and he may not prefer to weave also for other person. Then state imposes an income tax on hairy man and orders that he should use half of his hair to weave for other person. Is that just?

For Otsuka, not. He agrees with Nozick that everyone has an absolute right on his mind, body and income which was gained by his own mind and body. To impose this type of tax is an attack to natural rights of individual. "The weaver's rights of ownership over her means of production and the fruits of her labor can plausibly be grounded in her libertarian right of self-ownership. Her means of production consist of nothing more than her mind and parts of her body and the fruits of her labor consist of nothing more than parts of her body" (Otsuka, 2003:19).

But there is a vital question here: Our example is about the right of someone over his own mind and body. But question is that whether someone's right of ownership over worldly resources which he uses in order to earn income is as full as someone's right of ownership over himself (Otsuka, 2003)? In our example, someone uses his own hair to weave clothes for himself. His hair belongs to himself. Therefore any tax to him is unjust. But we talk about the distribution of worldly resources. Whom do they belong? Otsuka here presents his interpretation of 'Lockean proviso.'

Locke stressed that, enough land should have stayed for others who don't have any property. If we interpret that proviso as Nozick done, it will not be fair. Because people who have more opportunity than others to own a land, can monopolize all resources and others who don't have property may remain in bad conditions. Otsuka interprets Lockean proviso as "it maintains that an individual can come to acquire

rights of ownership over a previously unowned bit of the world if and only if such acquisition places nobody else at a disadvantage” (Otsuka, 2003:22). Otsuka asserts that worldly resources are divisible. So, how should we divide them if we want nobody to be in a less-advantaged position? Of course we need an egalitarian division of resources. Then we should interpret Locke as “you may acquire previously unowned worldly resources if and if only you leave enough so that everyone else can acquire an equally advantageous share of unowned worldly resources” (Otsuka, 2003:24).

Nozick believes that persons have absolute rights over their life, body and property. They can use them how they want. You can use your property how you want but if you have so little property or do not have any property? Otsuka’s emphasis is about initial division of property. It should be divided equally between individuals. When it is divided equally, everybody will have equal opportunity. Opportunity for what?

For welfare. Otsuka defends equalization of opportunity for welfare. He gives an example to explain difference between equal opportunity for welfare and equal opportunity for resources: Two men are in an isolated island, and the only resource is a blanket. Should we divide it into two equal pieces? No. Because if one man is longer and fatter, equal pieces will be enough for short and thin; but will not be enough for fat and long (Otsuka, 2003). Now we apprehend what Otsuka means by ‘equally advantageous share of worldly resources.’: “Someone else’s share is as advantageous as yours if and only if it is such that she would be able to (by producing, consuming or trading) better herself to the same degree” (Otsuka, 2003:27).

Otsuka presents his arguments with interesting examples. For instance, how should property be distributed in an island where there are much people who have capacity to make production and a few persons who are disabled? If we approach to the issue as an egalitarian liberal, we should set complex redistributive systems to achieve a reasonable equality. This means that we should have a developed state apparatus to achieve redistribution arrangements. But as a libertarian, Otsuka prefers a minimal state as much as possible. Otsuka’s suggestion is that we should divide property equally by which both able-bodied and disabled persons will have equal opportunity for welfare. For example we may give seaside to disabled persons and may give

productive resources in the center of island to able-bodied ones. Therefore, people who have capacity for production, by using resources in the center of island may produce necessary fruits and they can share it with disabled persons in return of getting permission from them for access to the beach. Therefore nobody is forced to work for other persons and an improvement of state apparatus and bureaucracy is not needed to achieve equality (Otsuka, 2003).

The question of ‘next generations’ is also handled in Otsuka’s theory. Remember that saving for next generations is a duty for present individuals in Rawls’ theory. Otsuka’s suggestion is to achieve equal opportunity to every generations for welfare, so he opposes to the right of inheritance and asserts that when one generation dies, property of him becomes again unowned: “Each succeeding generation would therefore face a new world of unowned resources that is undiminished when compared with that which faced previous generation” (Otsuka, 2003:37). Justice requires redistribution of property equally between individuals and the redistribution should be open to revisions and new adjustments. Main aim is to provide every individual an equal advantage, so an equal opportunity for welfare. Otsuka refers to equal property, not equal income. Each individual can use his resources how he wants but state should provide them equal initial situation to have welfare.

### **7.2.1 A suggestion to help handicapped persons in the society**

Until here, we recognize that Otsuka defends equality of opportunity for welfare. However, he does not want to create a complex tax system which will cause an improvement of state apparatus. We see that therefore he offers an equal distribution of property which does not attack to absolute personal liberties and rights of people. Now here, he suggests another interesting model to provide opportunity for welfare to handicapped persons.

We may remember that, he described a model in which there were handicapped and able bodied persons who live in an island. By giving property in the seaside to the handicapped persons, he achieved equality without forceful pressure to able bodied persons. But how can be this model arranged in modern societies, and how can we achieve equality between able bodied and disabled persons?

He suggests a model in which he believes he can find a common ground between



liberal egalitarians and libertarians: “Assistance to the disabled would be provided by the coercive taxation of only those able-bodied individuals who have been properly convicted of performing justifiably criminalized acts” (Otsuka, 2003:42).

Otsuka’s recommends that, disabled persons can be assisted by compulsory taxation of criminals and taxation of them will mean a voluntary action done by them. I will open now how taxation of criminals will mean a voluntary action.

He makes four distinctive solutions for helping disabled persons: 1) a compulsory taxation to all able bodied persons which will mean that they should sacrifice some of their work to handicapped persons, that is universal taxation 2) All able bodied persons may compensate for them voluntarily, that is universal giving 3) Some people who are very helpful may give some of their work to disabled person, this is non-universal giving 4) a compulsory taxation to some able bodied persons who performed criminal acts, this is taxation of unjust.

He claims that in between these four different solution models, egalitarian liberals may prefer (of course they prefer universal giving most, but if it is not possible) non-universal giving to universal taxation, because universal taxation is coercive, so they prefer voluntariness of non-universal giving. Otsuka asserts that taxation of the unjust is a voluntary scheme like non-universal giving and unlike universal taxation. Because he stresses that an illegal act means a voluntary act to be forced for something. So by liberal egalitarians it may be preferable to universal taxation. “In case of taxation of unjust as opposed to universal taxation, one's forced contribution is the consequence of an unforced choice to do wrong. One is forced to make a contribution to disabled if only one has voluntarily performed an illegal act (Otsuka, 2003). Like liberal egalitarians, libertarians will accept taxation of the unjust: “If for example taxation of the unjust is to be regarded as a form of punishment, then a libertarian could not immediately object to it... This is because libertarianism, unlike anarchism, affirms the justice of punishing those who violate the rights of other” (Otsuka, 2003:49).

### **7.2.2 Punishment for protection**

As I said, Otsuka focuses on main topics of Second Treatise: “One rights of control over oneself and the world, one’s rights to use force in order to defend these rights,

and the source and limits of political authority” (Otsuka, 2003:1). After we talked on rights for worldly resources in Locke, now we can focus to rights of individuals to punish other people who committed an attack against themselves. Otsuka does not set a direct connection between these issues which are basically related with moral theory and his political theory. But maybe after we think on these issues, we may try to guess a connection.

According to Locke, before the formation of society, man is in a state of perfect freedom which means individuals have absolute rights to govern themselves. After government is founded, most of these rights pass from individuals to the government. One of them is the right to punish actions which violate rules. In state of nature, every individual has the right to punish people who violate the law of nature. Locke stresses that every individual has this right because it stresses the equality of individuals. “Locke assumes that people are by nature one another’s moral equals and argues that this equal status implies that each of us possesses this right to punish in a state of nature”(Otsuka, 2003:57,58).

Locke defends the natural right to punish in state of nature because it follows the natural right of self-protection. Otsuka believes that Quinn makes a better defense of the right to punish coming from the right to self-protection than Locke. According to Quinn, a man who is threatened by an aggressor, has right to punish for protecting himself, because the threat of punishment, may have an effect of deterrence to the aggressor. When aggressor knows if he attacks him, he will also be harmed, he may change his decision to attack. But Quinn thinks that to punish someone, can not be a means to prevent other attacks in the future. Because in that situation, punished man is used as a means for other ends. He is punished to prevent future actions which are not related with him (Otsuka, 2003). But according to Otsuka, punishment can also be used for preventing attacks in the future. He gives an example here: Suppose that for a man, a bluff to punish the aggressor is sufficient for deterring him from attack. In spite of this threat, if aggressor attacks to a man, and man does not punish, then other people will understand that he can not punish attackers, he can just make bluff. So there will not be any protection for the man against attacks from other people (Otsuka, 2003).

### **7.2.3 Killing the innocent in self-defense**

Otsuka, then argues to kill a person for protecting yourself although he is not responsible for his action that will harm you. He claims that you can not kill another person to protect your own life if he is not responsible for his attack. He makes a distinction between an Innocent aggressor and an Innocent Threat. He means by ‘innocent person’, a person who intends to harm you although he is not responsible for his action because he can’t control himself. By ‘innocent threat’ a person who threatens your life, maybe only with his existence although he is without intention to harm you. Otsuka stresses that neither to kill an innocent aggressor nor an innocent threat is justifiable. Why?

“Much of my argument for the wrongness of killing a threat or an aggressor rests on the assumption that it is wrong to kill an Innocent Bystander in self-defense where such a Bystander is someone who does not herself endanger your life and who is not responsible for whatever it is that does endanger your life” (Otsuka, 2003:67). Otsuka says that to kill a Bystander is similar with to kill a Threat although threat will harm you if you don’t harm her, but Bystander will not. They are similar neither Bystander nor Threat are responsible for their actions. “Even though a Threat is not strictly speaking, a Bystander in the technical sense nor is she literally bystander to her body, she is a bystander in the morally relevant sense” (Otsuka, 2003:75,76).

Otsuka tries to explain his view by denying some views which argue that Bystander is different from Threat. For example Thomson says that a Threat can be killed because it violates the right not to be killed. Otsuka says “if in fact someone will violate your right not to be killed unless you kill her, this fact may be sufficient to justify your killing her. However I do reject the premise that if they kill you Threats will violate your right not to be killed” (Otsuka, 2003:70). He gives an example that, whether any stone falling down on a person can violate her right not to be killed. Of course no! So there is no difference between a stone and an unconscious person which falls on her (Otsuka, 2003).

Otsuka knows Frances Kamm may argue that, there is a difference between a falling stone and a falling person. Because human being can determine not to be in a position in which she may kill another person. But stone can not choose its position. His answer to Kamm’s argument is that she may be kidnapped and rendered

unconscious by some people and then thrown on someone. In that situation although she is falling person, there is no difference from her and a falling stone. Otsuka (2003) means that in some conditions, persons may not also be responsible to be in an 'appropriate location' that will kill someone.

Both Thomson and Kamm believe although a person does not intentionally want to harm someone, she may be killed because she may be considered as responsible and violates other's right not to be killed. But Otsuka does not agree with them: "Human threats falling as the result of forces completely outside human control are morally indistinguishable from falling non-human objects whose trajectory is completely outside human control" (Otsuka, 2003:73).

Now, if we agree that it is impermissible to kill a Threat, then Otsuka argues that it is also impermissible to kill an Aggressor. The reason here is also not to be morally responsible. The only potentially morally relevant fact that distinguishes Aggressors from Threats is the presence of harmful agency: the Aggressor acts from an intention to harm her victim, whereas the Threat does not. The presence or absence of harmful agency is only morally relevant only in cases involving those who are functioning as morally responsible agents. Yet Aggressors and Threats are not functioning as morally responsible agents (Otsuka, 2003).

All these interesting issues related with moral theory are not directly connected to Otsuka's political views. But we can make some predictions. In these argumentations, Otsuka wants to limit rights of both government and individuals to kill other persons for protecting their own life. As a (left) libertarian, Otsuka wants to minimize role of state apparatus in daily life, like in distribution of goods.



## **8. MORAL PRINCIPLES BEHIND EQUALITY OF RESOURCES**

### **8.1 Equal Importance and Special Responsibility**

Another thinker who thinks about the problem of justice and equality is Ronald Dworkin. His essays about equality are collected in *Sovereign Virtue* (Dworkin, 2000). For Dworkin, equality means equal concern of government for citizens. He claims that any government cannot be legitimate for their citizens if it does not show equal concern to each of them. "Equal concern is the sovereign virtue of political community" (Dworkin, 2000:1). How can be equal concern achieved? Firstly we should know that, if in a society, wealth is divided very unequally between members, there cannot be equal concern. He states that "when a nation's wealth is very unequally distributed then its equal concern is suspect" (Dworkin, 2000:1).

Dworkin's understanding about problem of distribution is similar with Rawls. We may remember that Rawls suggested applying principles of justice to the major institutions of society. Of course, he didn't only talk about distribution of wealth. He also considered distribution of liberties, rights and opportunities. Dworkin, like Rawls, thinks that wealth is a production of collective work of individuals and distribution of it, is the work of legal system. He says that "a citizen's wealth massively depends on which laws his community has enacted not only its laws governing ownership, theft, contract and tort (like Nozick states) but its welfare law, tax law, labor law, civil rights law, environmental regulation" (Dworkin, 2000:1).

We see that for Dworkin, equality means equal concern and equal concern "is the sovereign virtue of political community". What does equal concern require? For some thinkers it requires same wealth for all citizens. And for some thinkers, "to secure a level of nutrition, housing and medical care for everyone" (Dworkin, 2000:2). According to Dworkin it "requires that government aim at a form of material equality which is called equality of resources" (Dworkin, 2000:3).

Dworkin presents his theory as 'equality of resources'. This is a liberal egalitarian viewpoint. I will open Dworkin's views. But firstly we should focus on background of his ideas. We know that in Rawls' theory, political morality does not rise from any comprehensive moral theory. Rawls does not set justice on comprehensive ethical goods which all citizens should live according to orders of it. Justice is an overlapping consensus between many individuals who have different ideas about what is good and have different philosophical, ethical or religious guides. However, Dworkin's political theory rises from comprehensive ethical principles: According to him, two principles of ethical individualism can be basements for any 'liberal' theory, be basements of equality (Dworkin, 2000). What are these two principles?

The first one is 'the principle of equal importance': Every individual's life is important, and this importance is same for each of them. Second principle is special responsibility. Dworkin asserts that "though we must all recognize the equal objective importance of the success of a human life, one person has a special and final responsibility for that success.- the person whose life it is" (Dworkin 2000:5). Dworkin explains that he does not mean by equal importance that all individuals are equal or all of them are same. Some thinkers explain importance of individuals according to the principle of beneficence. He reminds utilitarian principles or Rawls' difference principle: In utilitarian views, one person's life is important because it maximizes benefits to average or total utility. In difference principle, one person's life is important because it maximizes benefits for the least advantaged people in society. Equal importance is related with political communities. If we form a political community, in it, all members require equal concern, objective and impartial approach. "A political community that exercises dominion over its own citizens and demands from them allegiance and obedience to its laws, must take an impartial, objective attitude toward them all" (Dworkin, 2000:6).

By 'principle of special responsibility' Dworkin means that every individual is responsible from his life. Every individual chooses how to live by himself and he/she can follow whatever principles he/she wants. Results of his/her choices belong to himself/herself. Choices can be affected by biological, psychological, environmental and cultural factors however this does not change the position of individual who is

the only person responsible from his choices (Dworkin, 2000). This view is similar with Rawls' idea that every individual has his own life plan.

Therefore Dworkin asserts that government should act according to these two principles of ethical individualism. Firstly government should show equal importance to all its citizens without considering their race, gender, culture, social position. Government should "adopt laws and policies that insure that its citizens' fates are insensitive to who they otherwise are" (Dworkin, 2000:6). And secondly government should provide citizens to choose their own life. It should "work to make their fates sensitive to the choices they have made" (Dworkin, 2000:6).

Dworkin thinks that neither 'left' old egalitarian models nor 'right' libertarian models can achieve these two principles of equality and responsibility for society. According to him, old 'left' egalitarian thinkers focused on rights of individuals for equal importance and gave society a collective responsibility to show equal concern to all its members. But they didn't consider responsibility of every individual for himself. 'Right' libertarian thinkers truly considered that every individual is responsible from his choices although these choices change according to his race, culture, social position. But they forgot that community had to show equal concern for all its members and ignored collective responsibility of society to citizens (Dworkin, 2000).

## **8.2 Expensive Tastes**

We said that Dworkin presents his theory as 'equality of resources'. To explain it, Dworkin firstly makes a division between two general theories of equality; one is equality of welfare and other is equality of resources. He explains his critics to equality of welfare with an example. Suppose that a man who has several children. One of them is blind, another is a playboy with expensive tastes, third is a politician with expensive desires and another a sculptor who works in expensive material etc... How can he divide his wealth to achieve equality of welfare between his children? Of course the handicapped child needs more than others and that is justifiable. But can we think that playboy who has expensive tastes is in the same conditions with the handicapped. Does he entitle more wealth than others like the blind girl? He will not have equal welfare with others unless his desires are met. What can we say for



politician or sculptor? They also need more wealth to meet their desires. But is it just to give them more for equality of welfare. Equality of welfare shows that handicapped people need more resources than others. But it fails in the example of man who has expensive tastes. For equality of welfare he needs more wealth, but this is not just (Dworkin, 1981a). Therefore Dworkin means that we cannot clearly evaluate who has more welfare than others or we cant be sure how can we make welfare of people equal. “The concept of welfare is insufficiently clear to permit the necessary distinctions. We cannot tell how much any welfare differences between two people who have equal wealth are in fact traceable to differences in the cost of their tastes or in the adequacy of their physical or mental powers” (Dworkin, 1981a:190).

### **8.3 Equality of Resources**

Now we can start to think about Dworkin’s suggestion for equality of resources. Dworkin stresses that market was seen as an obstacle for equality. But according to him, market should be in the center for equality of resources. He says that market was interpreted since eighteenth century in two different ways. Some thinkers thought that market was an effective device to achieve community-wide aims such as efficiency and utility. Some thinkers believed that market was very important for individual liberty. In market, individuals are responsible from ownselfes and they can make contracts each other freely. However, economic market was also interpreted as an obstacle for equality. In modern societies, market arrangements resulted with very unequal division of property. Dworkin (1981b) opposes with this idea and suggests market arrangements in which prices of goods and services are set for achieving equality of resources.

Dworkin tries to explain his views with some abstract examples. For example he gives an example that in it there are people whose ships sank and they swam to an island. In island there are many resources and nobody lives there except them. Of course none of them are entitled to these resources therefore it should be divided equally between them. Dworkin says that they also accept envy test according to which a distribution of resources is not equal if any one of them prefers other’s resources. Although all these resources are distributed equally there may still be

problems. For example some resources may be indivisible or if we divide land equally some parts of land may be more productive than others. But suppose that with trial and error, we divide all resources to equal  $n$  packages and everybody takes one package. But there is still a problem, although it passes envy test. For example divider could take resources into equal packages by changing all resources into stock of plovers' eggs and pre-phylloxera claret and divided them into equal packages of baskets and bottles. Dworkin says that nearly everybody becomes very happy from this distribution. But he makes an addition: What can be done if one person says that he does not like plovers' eggs and pre-phylloxera claret? He will not prefer any other's package so that division will pass envy test, but he will feel that, he was not treated as an equal person with others and he will be right by thinking so. Someone may suggest that different mixtures of packages may be done with resources and then although one person does not take the package in which there is his favorite mixture, by trade, he can have the one which he wanted. But if some people take a package in which there is their favorite mixture, they may not want to make trade (Dworkin, 1981b).

Dworkin gives these abstract examples to explain that he needs a market arrangement or some form of auction to distribute resources equally. Suppose that a divider gives each individual equal and many clamshells to use them as money. Then everything in the island except immigrant's themselves come to the market to be sold. When someone wants to buy any piece of land or any product, he announces his wish. Then auctioneer proposes a price according to demands to that piece or that product. According to market and auction rules, that part of land or that product are sold to the person who wants it much (Dworkin, 1981b). Dworkin proposes an auction model and in that auction, everyone has equal resources. They have same numbers of clamshells. And they can bid whatever they want and they can buy whatever they want in that auction. So everyone makes his own choice. Dworkin proposes that model because he wants to show that, he needs a market system to achieve equality of resource.

### **8.3.1 Luck, handicaps and insurance**

Dworkin shows that with this auction model, equality of resources is achieved. But what will happen after auction ends, and all individuals begins trade or farming?

Some persons may be more skillful and have impressive results in farming or some may be very successful in trade. Some may be healthy but some may have health problems. Then maybe after ten years, some people will prefer other's resources and so that situation will not pass envy test. Dworkin asks that whether that situation in which some becomes wealthier than others and some becomes very poor is consistent with equality of resources. Dworkin uses new concepts here as brute luck and option luck. He defines option luck as "it is a matter of how deliberate and calculated gambles turn out" (Dworkin, 1981b:293). Someone may prefer taking risks and at the end of his risky acts he can win or lose. To prefer it is in his responsibility. Brute luck is "a matter of how risks fall out that are not in that sense deliberate gambles" (Dworkin, 1981b:293). When you are walking in the way, if a meteor hits you, it means that your brute luck is bad. But, for example, if you are in traffic and when red light is on, you don't stop and if a car hits you this shows that your option luck is bad. Because you preferred to gamble and didn't stop when lights are red and you lost. Now Dworkin asks whether it is compatible with equality of resources when individuals have different wealth because of results of option luck. For example some people may take risks and try to produce valuable fruits although to produce them is very difficult. Or some people may buy insurance against changes in the weather. All of those actions are preferences of individuals' themselves. We remember that, according to Dworkin every individual is responsible for his own actions. If we interfere own decisions of individuals and try to redistribute wealth which is result of option luck, this is an attack to individual liberty. Individuals are responsible for their choices, and to take from winners for giving losers is an attack to individual choice and responsibility. Differences in option luck don't have to be compensated, because in option luck persons have equal chance to choose what kind of a life they want to live. Dworkin reminds that "equality of resources requires that people pay the true cost of the lives that they lead" (Dworkin, 1981b:296). I think he defends an egalitarian viewpoint against arguments of libertarians who says that luck also belongs to liberty. Dworkin accepts libertarians' argument and tries to form an egalitarian model in which luck still belongs to individual liberty. Wealth which is result of individuals' gambles shouldn't be redistributed.

After Dworkin explains his views about luck and the difference between option luck and brute luck, he offers a hypothetical insurance model to link between brute and

option luck. Suppose that one person who has no problem in his eyes decided to take insurance for blindness. Other person who also has no problem in his eyes didn't prefer to have insurance. Then if both has an accident and becomes blind that means that both have bad brute lucks. But one of them has good option luck because he preferred to take insurance against blindness. Therefore, according to equality of resources we can't take from one man who insured to give man who didn't. Because choosing to have insurance belongs to personal responsibility. But, some people may be blind by birth therefore they will not have enough resources for insurance. And of course to be blind by birth is not a personal responsibility and it should be compensated. So, Dworkin offers an insurance market for handicaps, and handicapped people (Dworkin, 1981b).

### **8.3.2 Unequal abilities and periodic redistribution**

Now, we provide equality of resources by auction and correct handicaps with an insurance market. But still, persons may have different income. Suppose that they are equal in skills but one of them works very hard, produces more and sells more. Therefore he will gain more than others. If there is equality of talents but every individual chose a different life and different occupation nobody has a right to envy. Therefore Dworkin does not offer equal income, he offers equal resources. But he warns us that equality of resources shouldn't be confused with 'starting-gate theories'. According to starting-gate theories, if all individuals start with same conditions, they can keep fairly what they will have with their own skills and efforts. I think Otsuka's theory was a starting-gate theory. He offered equal property but then left individuals free to earn what they can by their own property. Starting-gate theory orders initial equal resources and after equal auction, it offers laissez-faire economics. But according to Dworkin they are not compatible: "If justice requires an equal auction when they land, it must require a fresh, equal auction from time to time thereafter; and if justice requires laissez-faire thereafter, it must require it when they land" (Dworkin, 1981b:309).

Dworkin, here, by stating the difference of his theory from starting-gate theories, expresses that government should prevent unequal skills to produce income differences. People are responsible from their ambitions. For example if someone works hard he wins more and his wealth shouldn't be redistributed. Or someone may

choose to make investments instead of consuming, and he is responsible for results of that decision. But people are not responsible for their skills, and income differences caused by unequal skills should be redistributed. Dworkin explains that view as the distribution of resources is ‘ambition-sensitive’, not ‘endowment-sensitive’. Dworkin says that “we must not allow the distribution of resources to be affected by differences in ability of the sort that produce income differences in a laissez-faire economy among people with the same ambitions” (Dworkin, 1981b:311). Laissez-faire economics violates equality of resources when people are unequal in skills. Dworkin offers a periodic redistribution of resources by taxation. But he knows that it is not easy to create a scheme in which ambitions of individuals should be effective but skills of them shouldn’t be in division of income and wealth. He says that equality of resources is a complex ideal. It is an indeterminate ideal that accepts, within a certain range a variety of distributions. However Dworkin states clearly an egalitarian society ought, in the name of equality, to devote special resources to training those whose talents place them lower on the income scale (Dworkin, 1981b). Equality requires that those who choose more expensive ways to live have less residual income in consequence. But it also requires that no one have less income simply in consequence of less native talent.

#### **8.4 Comparisons with Nozick’s and Rawls’ Theories**

Dworkin then makes comparisons between his theory and other justice theories. Firstly he makes a comparison with utilitarianism. In utilitarianism, it is aimed to maximize some conception of welfare of whole society, and of course equal initial resources is objectionable for utilitarianism. Additionally, equality of resources does not consider any conception of welfare. But an auction model for goods and services is applicable for utilitarianism. In Dworkin’s theory equal division of resources is achieved by an auction and “an auction would promote overall utility better than a more mechanical division of available goods into equal lots” (Dworkin, 1981b:335). But this is the only connection between his theory and utilitarianism, in other aspects they are wholly different.

Dworkin then compares his theory with Nozick’s libertarian interpretation of justice and focuses on Chamberlain argument. Firstly Dworkin accepts that both he and

Nozick defends a market system for just distribution of goods and services. Remember Nozick's Chamberlain argument: Fans pay for watching Chamberlain's playing and Chamberlain takes extra fees from everyone who watches him and he becomes very rich. And although in the beginning Chamberlain and other people have equal wealth, then a big difference in wealth arises. Dworkin accepts that Chamberlain gains so much because he is very skillful as a basketball player. In Dworkin's hypothetical insurance market, nearly nobody takes insurance for not having this type of skill which causes so big wealth, because it is very irrational to make an investment like that. Therefore it is not justified taxing Chamberlain's earning for equality (Dworkin, 1981b).

There will be big differences in wealth between Chamberlain and fans. But in that example, only difference is between Chamberlain and fans and still there are not big differences between fans. Dworkin offers to think on that example in a community like 1970s Philadelphia where a lot of people gain not more than average supposed coverage of a hypothetical insurance market. Although big differences in wealth caused by unequal skills, not by unequal initial resources, it is required to create a tax system here and Chamberlain has to pay in that tax system depending on his earning and a nightwatchman state is insufficient here to achieve equality of resources. Although both Dworkin and Nozick defend a market system, they interpret market differently. Dworkin says that in Nozick's interpretation of market's role in distribution is 'negative and contingent'. For Nozick, if someone acquires something fairly and exchanges it with other goods and services fairly, it can't be touched and redistributed. Nozick's theory is historical which focuses how goods acquired and exchanged. But who has what is determined contingently, not according to a rational arrangement. In Dworkin's theory, market has a positive role. It achieves equal shares of social resources among members of society (Dworkin, 1981b).

Dworkin then compares his theory with theory of Rawls. He firstly focuses on differences between equality of resources and the difference principle. He stresses that the difference principle is insensitive to handicapped people. Handicapped people don't belong to the least advantaged group of society because Rawls conceives society as a social cooperation and all individuals should be active economically. He offers compensation for handicapped people by principle of

redress but the difference principle does not include principle of redress (Dworkin, 1981b).

Additionally it is pointed out that the difference principle is insufficiently related with earnings of other classes above the worst-off. We can't decide that a society is just or unjust only by looking at the position of worst-off group. Dworkin defends that he does not point out any group in society, because he understands equality as an individual right, not right of any group. According to him, Rawls ties justice to a class, not particular individuals (Dworkin, 1981b).

Dworkin says that it is impossible to know that either equality of resources or the difference principle will achieve great equality. He gives an example. According to his theory a tax system is needed for handicapped and underemployed people. In the long term, the tax system may decrease investments and therefore positions of the worst-off group may be worsened. But if we look at that example from eyes of an individual who is handicapped or unemployed, he/she needs that taxation (Dworkin, 1981b).

Dworkin gives another example to criticize the difference principle. Suppose that in a just society, there is a problem in economy and officials have two options. Options are to worsen conditions of the least advantaged group by a small amount or to worsen all other groups of society by a large amount so nearly all groups will be in conditions like the least advantaged group. According to the difference principle, all other groups are sacrificed against a small loss of the least advantaged group. Dworkin stresses that to sacrifice more people to a small number of people is an act against equality, because equality requires no further attention to others (Dworkin, 1981b). However Dworkin warns that with that example, equality of resources shouldn't be confused with utilitarianism. His objection is not about number of people who will be affected negatively. According to Dworkin, the difference principle will not be satisfactory if applied person by person. It defends a flat equality without considering differences of desires for consuming, or desires for working between persons. Dworkin states that if a person consumes more than other but still has same wealth with other, this is not equality. Or if a person chooses to work in a productive area, but still has same wealth with other who prefers idleness, this is not equality (Dworkin, 1981b).

#### **8.4.1 Critique to original position**

Dworkin has some critiques to Rawls's arguments about original position. We know that Rawls' original position is a version of classical social contract theories seen in Hobbes, Locke, Rousseau and Kant. Dworkin stresses that the main difference of Rawls' original position from classical social contract theories is existence of veil of ignorance. Persons who have ordinary skills, tastes etc don't know their position in society and they don't have any idea about their abilities, about their life plans.

Suppose that one person chose two principles of justice behind veil of ignorance. But after 'veil' is lifted he recognizes that he couldn't evaluate his self-interest well and he wants to change his idea. Rawls' argument that, he can't change because he made a contract. Dworkin's opposition is that it was a hypothetical contract so it can't enforce anybody to obey rules of contract. Fairness of two principles does not arise from a hypothetical contract. "His contract is hypothetical, and hypothetical contracts do not supply an independent argument for the fairness of enforcing their terms. Hypothetical contract is no contract at all" (Dworkin, 1973:502). Suppose that I had a painting which was very valuable and it should have been very expensive. But I didn't know that it was valuable and I sold it to you for 100 dollars on Monday. On Tuesday I learnt that my painting was very valuable and 100 dollars was too little to sell it. Dworkin asks whether you can enforce me to sell it again for 100 dollars on Wednesday. Can you claim that we were agreed to 100 dollars on Monday? Dworkin shows similarity between that example and social contract signed behind veil of ignorance. Our agreement was hypothetical and after I see that my self interest is not compatible with two principles of justice, I don't have to obey contract. You should find different reasons for fairness of two principles of justice (Dworkin, 1973).





## 9. CONCLUSION

In that work, I focus on how we can achieve justice in a society. Rawls argues that justice can be achieved by a balanced relationship between liberty and equality. He settles principle of liberty as the first principle of justice. He gives special protection to what he calls basic liberties by which he means the standard civil and political rights recognized in liberal democracies, such as right to vote, to run for office, free speech and mobility, property right, religious freedom... Everyone should have these liberties equally. For Rawls, liberty is prior to equality. For any economic benefit any limitation to equal main liberties can not be done. Rawls didn't impose a complete state control on distribution of things. He believed that, if state had that power it would easily interfere with liberties of individuals. He believed that all individuals were autonomous, they could choose their own way and they may have different life plans. State should be impartial against those plans of individuals and it should only provide necessary things, he called as 'primary goods' (Rawls, 1971).

How should property be distributed? How should a liberal society distribute property? Rawls connects the concept of justice to an equal slice of social primary goods, such as liberties, rights, opportunities, money and property, but also he adds an important twist. We don't lift all inequalities but only those which disadvantage someone. If certain inequalities are favorable for everyone by drawing out socially useful talents and energies, then they should be permitted for benefits of everyone. When some people have more than us, if that distribution also promotes my interests, it should be permitted (Kymlicka, 2002). Rawls does not understand from equality a pure strict egalitarianism. By a strict egalitarianism, all people may be equal but all of them may have less wealth than people who live in a limited inegalitarian system. Thus he offered a system in which inequality would be permitted if only those inequalities would work for maximizing benefits of the least advantaged class and positions for good jobs will be possible for all citizens equally. "Inequalities are allowed if they improve my initial equal share but are not allowed if they invade my

fair share like in utilitarianism” (Kymlicka, 2002:55). Rawls gives the less well off a kind of veto over inequalities which they would exercise to reject any inequalities which sacrifice rather than promote, their interests.

Then what about equality of opportunity? When a person holds a position in which he earns much more than average, is that just? For Rawls, it is not, unless it also benefits others, benefits people who earn less than her. Why does Rawls put that kind of a limitation to inequality? If there is fair competition for positions, gains provided by holding those positions are acceptable. If someone is pursuing some personal ambition in a society her success or failure should be determined by her performance, not by her race, class or sex. Fortune of individuals should not be affected by morally contingent reasons such as racial or ethnic groups which they belong. If any person’s success or failure is not determined by her social circumstances, in that society, her fortune is in her own hands (Kymlicka, 2002). Rawls does not only limit inequality caused by social factors. He also asserts that natural differences should not be effective in division of money between citizens. Natural talents and social circumstances are both matters of chance and people’s moral claims should not depend on chance.

In what conditions principles of justice are chosen? Rawls’ hypothetical social contract model is famously interesting. He suggests that principles of justice are chosen as if we made an agreement to decide what principles we will choose. He wants to settle general and universal rules which will not be affected by any particular situation of persons. This is similar with Rousseau’s and Kant’s views. Rousseau argues for general will which shouldn’t be affected by particular interests of individuals. Citizens should think for common good of society. Kant wants to create universal moral rules which will be valid in every condition. For following Rousseau and Kant, Rawls offers a model which is known as ‘veil of ignorance’. According to veil of ignorance, parties who participate agreement, don’t know their particular situation society. They don’t know whether they are rich or poor, which ethnic and religious group they belong, their race and sex and also their life plans. So they reason for general principles. They can’t argue for their personal interests because they don’t know what they are. They only possess thin theory of good. They know that whatever they want, they will need social primary goods such as liberty,

opportunity and money. I believe that Rawls' social contract model is most powerful part of his theory (Rawls, 1971).

After Rawls, I studied on Nozick's views because unlike Rawls he defended a very limited state power and asserted that state shouldn't have any aim like achieving equality. According to him, an aim to provide equality would interfere with liberties of individuals. He defended a pure market capitalism in which distribution of goods and services would be decided by voluntary actions of self-interested individuals (Nozick, 1974).

Nozick's critics is important, because it drove me to think about whether justice and a degree of equality can be achieved without limiting rights and liberties of citizens. Otsuka came to my help. Unlike Nozick, he asserts that persons don't have absolute rights to have property as much as they can have. Nozick attributed his views about absolute property right to Locke. Otsuka did same and asserted that according to Locke's views about property, everybody should have equal property. He was aiming to provide an equal system with limited state apparatus. By equal property, without complex state apparatus, people would have equal conditions at birth. Then in free market economy, people will have different incomes according to their work, capacity, luck. Dworkin agreed with Otsuka, to achieve equal starting conditions for all persons by equality of property was a good idea. But would that be just? Individuals might use their resources how they want in a laissez-faire economy and so they may have different incomes. But would results be fair?

Dworkin asserted that individuals may have different skills from each other and that would affect results (so incomes). We were now coming to the place that we started. Rawls aimed to limit effects of natural and social contingencies on things people had. Dworkin, like Rawls, was questioning role of different natural abilities of people on their wealth. He offered a periodic redistribution of wealth by hypothetical auction models and insurance markets against disability and differences in skills (Dworkin, 1981b).

Here we can make a comparison with Rawls and Dworkin. For that, I call here Steinberger's arguments. Steinberger criticizes Rawls' view about equality. He finds his egalitarianism insufficient. Rawls makes a distinction between a theory of desert and a theory of justice. Rawls says that inequalities caused by natural and social

contingencies are not deserved and they should be corrected. But when advocating principles of justice, he does not consider desert's factor. According to Steinberger, problem in Rawls' theory that although inequalities between natural skills and social positions are undeserved and therefore inequalities in gains from them are undeserved, difference principle permits those inequalities if they are also useful for the least advantaged group in society. Steinberger says that Rawls considers theory of desert as bringing the conditions of justice, these conditions are different from principles of justice and they don't have any role in distributional shares. Steinberger asks why this is so! Why will not individuals prefer a principle of equality which is based on desert rather than inegalitarianism of the difference principle (Steinberger, 1982). I use Steinberger's argument because he shows that Rawls is not much successful in limiting effects of social and natural chance although one of main aims of his theory is that. By making a distinction between 'desert' and justice, he does not give any role to desert in distributional shares. But this is a wrong way. He should have stopped all inequalities caused by natural and social contingencies. For achieving economic efficiency and utility, he permits those inequalities.

I agree with Steinberger. There is another theory which is more successful in limiting social and natural luck. This is Dworkin's model. By equality of resources, social conditions will not be effective in distribution because every individual will start with same conditions. It will not be very important from which family you are coming, which ethnic group you belong, your sex etc. Everybody will have equal resources, they will start with same conditions and so social position will not be important. But we know that Rawls also wants to limit effect of natural skills. You may start with same conditions, but if you are less skillful than another person, he will earn much more than you. Dworkin proposes insurance markets against differences in skills (Dworkin, 1981b).

Rawls consider society as an organization in which everybody has a role for creating social goods. He does not say much about disabled people. Dworkin's insurance markets not only work against differences in abilities. It also works against disabilities. Although Dworkin's model is not sophisticated like Rawls' theory, his suggestion for equality of resources seems more successful than Rawlsian difference principle in creating a just society.

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