

A Critique of John Rawls' Theory of Justice and its Relevance to Nigerian Politics

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Abstract

This article examines Rawls' 'Justice as Fairness' with a view to finding out how relevant and adoptable Rawls' theory is in a plural country such as Nigeria and how best Rawls' theory has been able to solve the problem of distributive theory in Nigeria. Rawls in 'A Theory of Justice' attempts to solve the problem of distributive justice by utilizing a variant of the familiar device of the social contract. The resultant theory is known as 'Justice as Fairness', from which Rawls derives his two principles of justice. Rawls, as considered in this study, attempts to answer questions such as: what are the just distributive principles a typical human society ought to adopt? How should material and non-material resources be distributed among self-interested individuals? What role (if any) does equality and priority play in the distribution of the common good?

Keywords: Fairness, Distribution, Resources, Common good, John Rawls' theory of justice.

Introduction

Nigeria's continuous co-existence and socio-political order is being threatened largely by the problem of 'who gets what' or how to distribute resources among the states. The problem of economic injustice is accentuated by the crisis of uneven distribution of resources. Out of 36 states of the country, only 7 states produce crude oil in commercial quantity. Hostilities from local communities have increased because oil exploitation, negotiations and bargaining

process are unfavourable, unjust, lopsided and frustrating. More so, the local communities are economically disempowered and infrastructural underdevelopments are palpable in the communities. How can this oil revenue be justifiably shared among the 36 states of the Nigerian federation? Nigeria's problems centre on insecurity, militancy, social and political disorder, corruption, etc. It can be argued that uneven distribution of economic and political power is one of the major causes of these problems. For example, some Niger Delta youths resort to militancy having complained about how the huge revenue Nigeria derives annually from oil operations have not been used to improve their living conditions or not used to develop their region. They have continuously alleged that their region has been excluded, marginalised, deprived and have remained underdeveloped for decades in spite of enormous oil wealth.

The imbalance in education and neglect of the public education in Nigeria, which is a result of unjust allocation of economic resources breeds illiteracy and its associated 'Boko Haram' insurgency. According to members of this group, 'Western education is forbidden or evil'. However, the group would not have gained much prominence, if education had been made publicly accessible and affordable to them. Peaceful co-existence in Nigeria is being threatened by this and other problems. For Nigeria to remain together as one indivisible entity, the problem of resource distribution, power sharing with associated imbalances, injustices, biases and other social problems should be amicably resolved. This may be difficult to achieve with the kind of greedy and corrupt politicians in government at present. However, it does not preclude that these problems cannot possibly be solved. The truth is that the country needs the right mind-set and the right approach to solve its problems. As such, the country needs a principle of justice that will have the ability to address such problems like economic and political injustice that breed insecurity problems and poverty.

John Rawls in his *Political Philosophy* addresses normative questions about how basic institutions (social and economic institutions) should be organised and distributed. This by implication raises, among others, the question of why, how the state and government originated or came into being; how does the government distribute resources in the society to cater for the citizenry. These have throughout history been at the centre of humans' philosophical

and political discourse. The major proponents of the contractualist theory attempt to answer those questions and others such as: why should 'men' agree to live in a society? Why the state? What are the criteria for bringing about political institutions? Why should men obey government? What is/are the source(s) and locus of political power? Are there limits to political powers? What are the best arrangements for managing public affairs? How does one determine what is right and just? And how resources should be distributed in a state? (Iroegbu & Izibili, 2004, p. 2). To answer these questions, this article examines the major social contractarian theories. John Rawls attempts to develop a theory of justice by revising the social contract tradition of theorizing about justice associated with writers such as, Thomas Hobbes, John Locke, Jean Jacques Rousseau and Immanuel Kant. The paper discusses the respective views on the social contract to form a basis to determine whether John Rawls' intention to take the social contract idea to a higher level of abstraction has truly solved the problem of distributive justice. This, however, will be determined in relation to the Nigeria socio-political milieu.

The Contractarian Theories

The social contract theory is "the view that a person's moral and political obligations are dependent upon a contract or agreement among them to form the society in which they live" (Friend, 2004, p. 2). In other words, the social contract theory depicts the element of mutual agreement. As such, the social contract theorists were group of philosophers who believed that human beings, at a point in time (out of their volition) agreed to bind themselves together under a government and each person is duty bound to keep to the terms of this agreement. The social theorists in the history of political thought include: Thomas Hobbes, John Locke, Jean Jacques Rousseau, and Immanuel Kant.

Thomas Hobbes on the Social Contract (1588-1679)

The social and political upheavals in England, occasioned by the civil war greatly influenced Hobbes' writing. Hobbes prefers an absolute government to the political instability and near anarchy that characterized England during the civil war (Okoli & Okoli, 1990, p. 16). The civil war caused by political and class differences

devastated the country and made life insecure for everybody. Hobbes as quoted by Sushits Ramaswamy (2003) describes such a state, as experienced during the civil war in England, as the 'state of nature' where there is "continual fear, and danger of violent death; and the life of man, solitary, poor, nasty, brutish and short" (p. 137). In other words, the state of nature is a state where 'might' is right since humans are naturally selfish and filled with the instinct of self-preservation. As such, there is no notion of right or wrong, justice or injustice since there is no common law to regulate the affairs of men and women. Hobbes, therefore, imagined from the insecurity and brutality accompanying the civil war, what the world would be like without an order or government. Hobbes noted that the situation in the state of nature is not totally hopeless. Since human beings are reasonable, they can find their way out of such a state by recognising the laws of nature, which show them the means by which to escape the state of nature and create a civil society. The law of nature for Hobbes is a precept or rule found out by reason, telling what to do and what not to do. The first law of nature is, therefore, that every human ought to 'seek peace and follow it'. This law that urges one to seek peace is natural because it is a logical extension of one's concern for survival. One's desire for survival, therefore, impels one to seek peace.

Arising from the first and fundamental law of nature, is derived the second law which states that "a man be willing, when others are so too. As far as for peace and defense of himself, he shall think it necessary, to lay down his right to all things; and be contented with so much liberty against other men as he would allow other men against himself..." (Stumpf, 1993, p. 132). Hobbes opines that humanity realizes that the only way out of the 'state of nature' is for every human to surrender his/her natural rights, right to rule oneself, to a leviathan. Thus, according to Hobbes, the justification for political obligation is this: given that men and women are naturally self-interested, yet rational but with the possibility of the law of nature to be violated at will by 'might', the need for them to be organised into a state and a civil society under a powerful sovereign becomes compelling. For Hobbes, the contract in the state of nature is constituted by two distinguishable contracts. First, the people must agree to establish society by collectively and reciprocally renouncing the rights they had against one another in the state of nature.

Secondly, the people must imbue someone or assembly of persons with the authority and power to enforce the initial contract. In Hobbes' word, "this is more than consent, or concord; it is a real unity of them all, in one and the same person, made by covenant of every man with every man, in such manner, as if every man should say to every man, I authorise and give up my right of governing myself, to this man, or to this assembly of men, on this condition, that thou give up thy right to him, and authorise all his actions in like manner" (Hobbes, 1651, p. 10).

For Hobbes, this is, therefore, the 'social contract', that is, the mutual willingness and agreement on the part of men in the state of nature to voluntarily surrender their rights to an absolute monarch for the protection and preservation of life and property. However, in surrendering those rights, the rights of the law of nature of self-preservation and life cannot be surrendered, compromised and exclusively reserved to each individual. According to Hobbes, the sovereign power is absolute. In other words, the rights and power of the sovereign ruler are without limits. It is the sole duty and responsibility of the sovereign to determine what is good for the establishment and maintenance of peace and justice and the protection of the entire citizens. The sovereign wields the power to punish or reward, as the case may be, the people as prescribed by law. As such, Hobbes insisted on the concept of justice within the ambits of the idea of the Leviathan. Hobbes made it clear that the conception of justice and security offered by the Leviathan became imperative due to the low life expectancy, ominous danger and insecurity of life and possessions in the state of nature. However, Hobbes theory of justice suffers from certain internal contradictions. It does not fully account for the dangers arising from the illimitable powers that were bestowed on the sovereign as ruler. Hobbes did not reckon with the fact that these powers would pave the way for dictatorship, primitive accumulation, misappropriation, authoritarianism and the eventual denial of the same justice and security of lives and property that they profess to protect. It was this unresolved paradox of justice and security that other theoreticians tried to address. Hobbesian idea of justice fails in so far as the individualistic rational egoism that led to the emergence of the state or society has created a state that now unleashes the very injustice or non-justice situation that the state was supposed to arrest or modify.

John Locke on the Social Contract (1632-1704)

John Locke lived through the 'Glorious Revolution of 1688' and used the same social contract theory to prove that the British had the right to overthrow King James II and invite William of Orange to take over the throne. In his 'Second Treatises of Government', Locke begins his political theory as Hobbes did, with a discussion on 'the state of nature.' Locke described this condition in a very different way, even making Hobbes the target of his remarks. For Locke, the 'state of nature' is quite different from Hobbes's 'war of all against all'. To him, the state of nature is a state of perfect freedom and equality, where human beings live as they desire and each according to their liking. In Locke words, as quoted by Peter (1967), "men living together according to reason, without a common superior on earth with authority to judge between them are properly the state of nature" (pp. 40-55). Though men live freely, they are bound by the law of nature. In Locke words, we must consider, what state all men are naturally in, and that is, a state of perfect freedom to order their actions, and dispose of their possessions and persons, as they think fit, within the bounds of the law of nature, without asking leave, or depending upon the will of any other man (Locke, 2003, p. 185).

Even though the state of nature is a state of freedom and liberty, yet, it is not a state of licence. Humanity in that state has an uncontrollable liberty to dispose of their person or possessions; however, he has no liberty to destroy himself, or any creature in his possession. Put differently, although the state of nature is a state of freedom and wherein there is no civil authority to punish people for transgressions against laws, however, it is not a state without morality (Locke, 2003, p. 186). The state of nature is pre-political, but not pre-moral. In Locke's words "... equality of men by nature, the judicious Hooker looks upon as so evident in itself, and beyond all question, that he makes it the foundation of that obligation to mutual love amongst men, on which he builds the duties they owe one another, and from whence he derives the great maxims of justice and charity" (Locke, 2003: 192). By this Locke means the equality of human beings in the state of nature is bound by the law of nature which is the basis of all morality and from where justice and charity are derived. Accordingly, the law of nature is reason and it is this reason that governs the state of nature. It obliges and teaches men

and women not to harm another's life, health, liberty or possession.

However, the state of nature is defective since it lacks civil authority to enforce law and order and once war begins it is likely to continue since whoever suffers transgression in such state has the right to retaliate. In Locke's words, "want of a common judge with authority, puts all men in a state of nature, force without right, upon a man's person, makes a state of war..." (Locke, 2003, p. 192). As such, unlike Hobbes, man's problem is not how to escape from the state of nature but rather how to maximize the enjoyment of all the rights such as the preservation of their lives and property that nature has given, thus, the reason men have to abandon the state of nature by contracting together to form civil government. In Locke's words, all men may be restrained from invading others rights, and from doing hurt to one another, and the law of nature be observed, which willeth the peace and preservation of all mankind, the execution of the law of nature is, in that state, put into every man's hands, whereby everyone has a right to punish the transgressors of that law to such a degree, as may hinder its violation: for the law of nature would, as all other laws that concern men in this world 'be in vain, if there were no body that in the state of nature had a power to execute that law, and thereby preserve the innocent and restrain offenders (Locke, 2003, p. 200).

Political societies come into being when individuals come together in the state of nature and each agrees to give up the executive power to punish those who transgress the law of nature, and hand over that power to a government. Having done this, they then become subject to the will of the majority. Not to a sovereign leviathan. In other words, it is the majority's decision that must prevail if the state has to survive. The principle of consent by the majority is supreme and if this is true, then in Locke's words, "absolute monarchy which by some men is counted the only government in the world is indeed inconsistent with civil society and so can be no form of civil government at all..." (Locke, p.48). For John Locke, having created a political society and government through consent, it follows that men then gain three things which they lacked in the state of nature: laws, judges to interpret laws and adjudicate in dispute, and the executive power necessary to enforce these laws. Although the people surrender their rights and power to the state, unlike in Hobbes' theory where the people cannot protest

against the monarch without 'just cause'; and the government having been instituted, the citizens forfeit their right to change the form of government. The state or government must understand that the supreme power remain with the people who can revolt or reject any government that is not conforming to the will of the people. In other words, since sovereignty resides in the people, they are at liberty to remove their government if it fails to live up to its obligation in the contract. The guiding principle of the sovereign, therefore, must be 'salus populi suprema lex', that is, the welfare of the people should be the supreme law. Locke propounded the theory of consent of the governed and this formed the basis to good governance and the development of democracy in contemporary society.

Jean Jacques Rousseau on the Social Contract (1712-1778)

Rousseau begins his account of *The Social Contract* with the most famous words he ever wrote: "men are born free, yet everywhere are in chains" (Rousseau, 1974, p. 9). By this, Rousseau means the state of nature is a condition of freedom and equality where men and women enjoy idyllic happiness, ironically, however, they are enslaved. Rousseau, like Locke and Hobbes, asserts that human beings hold dear the law of nature of self-preservation. This is more so in that men and women though free and equal still suffered some hindrances in enjoying their right. The freedom of a human being is a natural derivative from his or her humanity, but is doubtful if humans have any choice but to maintain their qualities. In Rousseau's words, "there is no possible compensation for anyone who renounces everything. Such a renunciation is incompatible with the nature of man, and to remove all freedom from his will is to remove all morality from his acts ... An agreement that stipulates absolute authority on one side and unlimited obedience on the other is vain and contradictory" (Rousseau, 1974, p. 13).

By this, Rousseau attempts to critique Hobbes' idea of absolute authority in that by totally submitting one's right to an absolute authority will not guarantee freedom and justice. For Rousseau, the only legitimate political authority that will guarantee freedom and justice is the authority that represents the 'general will' of the people who have agreed to such government by entering into a social contract for the sake of their mutual preservation. The collective grouping of all people, who by their consent enter into a civil society,

is called the sovereign, and this sovereignty may be thought of, metaphorically at least, as an individual person with a unified will. This principle is important because while actual individuals may naturally hold different opinions and wants according to their individual circumstances, the sovereign as a whole expresses the general will of all the people. Rousseau defines this general will as the collective need of all to provide for the common good of all (Rousseau, 1987, p. 150). To Rousseau, humans need to enter a pact with each other "to devise a form of association which will defend and protect the person and possessions of each person with all the collective strength, and in which each is united with all, yet obeys only himself and remains as free as before" (Rousseau, 1974, p. 9). Although humans still retain their freedom as before, the formation of the state gives them 'the collective strength' which is greater than that of the individual. Rousseau further asserts that, "each of us puts his person and all his power in common under the supreme control of the general will and we collectively receive each member as an indivisible part of the whole" (Rousseau, 1974, p. 17). By 'general will', Rousseau means the 'collective good', different from the interest of private individuals. Succinctly put, the general will is not the will of one person or majority of the people, but the will of all the people in the society. The general will is supreme to all the individual will, and as such, the state can compel an individual to obey or abide by the general will. In his words,

In order then that the social compact may not be an empty formula, it tacitly includes the understanding ... that whoever refuses to obey the general will shall be compelled to do so by the whole body. This means nothing less than that he will be forced to be free ... This alone legitimizes civil undertakings, which, without it, would be absurd, tyrannical, and liable to the most frightful abuses. (Rousseau, 1974, p. vii)

Rousseau claims that to maintain awareness of the general will, it is quite the case that the sovereign must convene in regular, periodic assemblies to determine the general will, at which point it is imperative that individual citizens vote not according to their own personal interests but according to their conception of the general will of the people at that moment. (Rousseau, 1987, p. 165). There is the regular attendance at the people's assemblies, there is no such thing as representation. Rousseau explains that it is crucial

that all the people exercise their sovereignty by attending such assemblies, for, whenever people stop doing so, or elects representatives to do so in their place; their sovereignty is lost (Rousseau, 1987, p. 170). Foreseeing that people may disagree on matters of rights and obligations, Rousseau argues that there should be advocates for the existence of a court, to mediate in all conflicts between individual persons (Rousseau, 1987, p. 182).

Immanuel Kant on the Social Contract (1724-1804)

For Immanuel Kant, the original contract is an idea of reason that forces the sovereign to “give his laws in such a way that they could have arisen from the united will of a whole people and to regard each subject, insofar as he wants to be a citizen, as if he has joined in voting for such a will” (Kant, 2002, p. 297). This original contract, Kant stresses, is only an idea of reason and not a historical event. Any rights and duties stemming from an original contract do so not because of any particular historical provenance, but because of the rightful relations embodied in the original contract (Kant, 2002, p. 294). Kant argues that human being has the moral capacity to reason and judge principle from a universal and impartial point of view. With humanity’s ability to reason, they come together to form a society to be devoid of injustice. Kant argues for and defends a hypothetical social contract, an idea that is justified by reason alone. This hypothetical social contract specifies what rational man/woman should consent to, and not what they may or may not have consented to in the past. The hypothetical social contract is the source of men’s/women’s moral obligation to obey the government. Kant dismisses any ‘empirical’ investigation into the origin of the state as irrelevant to men’s/women’s moral and political obligation to the government. In other words, a person’s consent to be ruled by a government is based on his/her ability to reason and not on historical information of the government.

Kant stresses that the ‘original contract’ is an idea of reason and not a historical event. In order for a human being’s moral autonomy to be protected from the risk of living in a state of nature that lacks the rule of law and impartial arbiters to resolve disputes, a human being consents to be ruled by a government and agrees to obey its laws. A person has moral duty to obey the dictates of reason, and reason demands that everyone voluntarily submit right and freedom

to a legitimate moral authority of government in order to be protected. Like Hobbes, Kant argues that the government must be centralized and have a coercive power to compel obedience. As such, regardless of how corrupt or despotic a government may be, and how much a law may violate the rights of innocent people, the people don't have any right to revolt. In other words, those who argue for the right to revolt on the grounds that the social contract must have been an actual historical occurrence from which the people could withdraw misunderstand the nature of a social contract. Since the social contract is only an idea of reason which sets moral limits to the sovereign's legislative acts, and the sovereign's judgment alone determines how these limits are to be interpreted, then there is no independent contractual agreement to which the people could refer in its complaints. The most Kant conceded for the people to do is what he calls 'passive disobedience'. By this, he means one may refuse to comply with a law if and only if one passively submits to the legally prescribed punishment for disobedience.

Kant also defended freedom of speech and press as a legitimate way to reform an unjust law. However, there is limit to this freedom. Speech that will incite citizens to disobey or resist the decrees of an established government is not permitted. In other words, the people are allowed to voice their grievances through their use of public reason, but they can do nothing more than attempt to persuade the sovereign to adopt or repeal decisions. A substantial difference between Kant and Hobbes is that Hobbes bases his argument on the individual benefit from the contract, whereas Kant bases his argument on right itself, understood as freedom for all persons in general, not just for the individual benefit that the parties to the contract obtain in their own particular freedom. To this extent Kant is influenced more by Rousseau's idea of the general will.

John Rawls on the Social Contract (1912-2002)

John Rawls set out to present a conception of justice which would generalize and carry to a higher order of abstraction than the familiar theory of the social contract as found in Locke, Rousseau and Kant (Rawls, 1971, p. 13). According to Rawls, it is the case that justice is what free and equal persons would agree to as a basic term of social cooperation in conditions that are fair for this purpose. This idea he calls "justice as fairness" (Rawls, 1971, p. 15). For Rawls, to

successfully formulate his social justice, he, like all social contractarians, proposes his own version of the social contract. In developing his theory, Rawls posits two basic principles. In his words, Rawls indicates that the first principle is that: "each person is to have equal rights to the most extensive total system with a similar system of liberty for all" (Rawls, 1971, p. 215). Rawls' second principle occupies itself with the social and economic inequalities which are to be determined for everyone's advantage and under conditions of equal opportunity. He declares as follows: "Social and economic inequalities are to be arranged so that they are both: (a) to the greatest benefit of the least advantaged, consistent with the just saving principle, and (b) attached to offices and positions open to all under conditions of fair equality of opportunity" (Rawls, 1971, p. 215). Rawls' social contract takes a different view from that of previous contractarian thinkers. Rawls develops what he claims are principles of justice through the use of an artificial device he calls "the original position" in which everyone decides on principles of justice from behind a veil of ignorance (Rawls, 1971, pp. 118-119). John Rawls' idea of the original position and the veil of ignorance will be discussed in the following subheading.

The Original Position and the Veil of Ignorance

Rawls method is based on the original position behind the veil of ignorance. In the opening paragraph of *A Theory of Justice*, Rawls declares that justice is the first and indispensable virtue of social institutions. An unjust society must be reformed or abolished. We must see the society as a cooperative venture for mutual advantage. That is, members of the society should be seen as equally cooperating with the individuals for the production of primary social goods. These social goods are rights, liberties, powers, opportunities, income and wealth. There arises a problem of distributive justice since individuals are not indifferent with regard to how the product of their cooperation is to be distributed. The condition of fairness obtains when no party to the agreement is at an advantaged position over others in furthering his own interest. Such a fair position is what Rawls calls "the original position" which he wants us to understand as a hypothetical condition which requires us to visualize the negotiators of the basic terms of political association, conducting their negotiations behind a "veil of ignorance". That is, having no

knowledge of their individual life conditions such as talents, intelligence, sex, race, class, religion, wealth and conception of the good (Okon John, 2014, p. 15).

To ensure an agreement, he draws his argument on the tradition of a hypothetical "social contract" (Rawls, 1971, p. 195). The reason for this is to ensure that people are treated equally, fairly and justly. Since individuals are inclined to abuse their favourable starting points in society and their greater natural capacities to their advantage when negotiating the principles of just distribution. Rawls develops a method which he calls "the original position" behind the "veil of ignorance" in order to get rid of human self-interest. In this position, people are no longer aware of their vested interests or their position in society, nor do they know their natural capacities, they are behind a "veil of ignorance" (Kymlicka, 2002, p. 63). To say people are behind the "veil of ignorance" is to say they do not know their social status, race, sex, political affiliation, physical handicaps, generation and religion. John Rawls' proposed method sought to determine which social customs are just and which are unjust. The veil of ignorance criterion is as follows: a rule is just if everyone would agree to it given that they were made ignorant of their position in society. That is, the just society would be chosen by people who had set aside considerations of their own gender, wealth, race and ethnicity, etc. He refers to the original position as favoured philosophical interpretation of the initial situation. However, Rawls assumes that the participants in the just society have general knowledge about nature and human societies. The participants understand the workings of politics and economic theory, and as well assumed to be acquainted with the laws of human psychology, and they are fully aware of the benefits of social cooperation and organizational life. There are no limitations on general laws and theories, since conceptions of justice must be adjusted to the characteristics of the systems of social cooperation which they are to regulate (Murphy & Solomon, 2002, p. 104).

Rawls agrees with his second principle known as the difference principle that social goods are to be equally distributed unless an unequal distribution is to the advantage of the weakest members of the society. This is why Rawls sees justice as "simply inequalities that are not to the benefit of all" (Rawls, 1971, p. 62). People are born into different social positions with different character traits,

physical and mental. These are natural and social contingencies that the society ought to equalize in the distribution of social goods and benefits. Rawls' justice as fairness is a rejection of utilitarianism since when there is a conflict between individual rights and general well-being, utilitarianism holds that it is the claims of the latter which counts.

Nigeria is seated on a keg of gun powder which can explode anytime if equity, fairness and justice continue to be perverted. Suffice this to mean that corporate co-existence of the nation is threatened. Since Nigeria's independence in 1960, the country has continuously been confronted with among other issues, the problem of a weak and unjust social structure resulting in widespread social injustice. This is the cause of most of the crises and social malaise of the Nigerian society and is made more serious by the problems associated with ethnicity and arbitrariness by the government. The effects of this social injustice, due mainly to an unfair principle of distribution of income, resources, goods and burdens in society, include poverty, insurgency, political crises, etc. As such, the nation seeks a theory of justice which can address the challenges in theory and practical reality. One can definitely agree with Rawls that what makes one to acquiesce to an erroneous theory is the lack of a better one. But how much better is Rawls theory of justice?

Critique of Rawls

The difference principle is an agreement to consider the products of natural talents as a common asset. Younkins writes that "in this view, an individual's natural endowments are not considered to be his own, but rather, the product of the society" (Younkins, 2004, p. 3). In formulating the difference principle, Rawls obviously misses certain facts about the human talent. For instance, he fails to recognize that talents are not a common pool. Rogers has observed that the British Commission on Social Justice is quite explicit in rejecting Rawls' strictures against letting individuals profit from their natural skills and endowments. Rogers accordingly poses the following puzzles: what is the reason that, despite its commendability, Rawls' theory has not had any great impact on the "real" world?(Rogers, 2002, p. 10). In the same vein, natural resources of a state are to be shared equally and if not equal, it should be to the greatest benefit of the least advantaged. Given this principle

and given, for example, a country like Nigeria where only seven states are oil producing out of the thirty-six states of the country, then how just is Rawls' distributive theory in sharing the produce from crude oil? Succinctly put, crude oil is the mainstay of Nigeria's economy and out of the 36 states in Nigeria, only 7 states produce crude oil in commercial quantity. Having in mind the following premises: that the communities in the Niger Delta whose land bears the oil have remained politically ostracised, economically disempowered, ecologically frustrated and 'infrastructurally' underdeveloped; hostilities from local communities have increased because oil exploration negotiations and bargaining process were unfavourable, unjust, lopsided and frustrating. Then, how come the huge revenue generated from oil that was exploited from 7 states are better and justifiably shared among the 36 states? This problem has led to the agitation and call in some quarters for 'resource control' and 'restructuring' of the country.

At this point, one needs to examine the relevance and practicability of Rawls' social justice to the Nigerian society. Historical circumstances have made the Nigerian society a culturally heterogeneous society. That is, a society divided along ethnic lines. This explains why most people (if not all), for instance, are first of all regarded as Ibibio, Hausa, Igbo or Yoruba before he or she is expected to act as a Nigerian (Okon John, 2014, p. 17). In other words, most (if not all) of the citizens first identify with their ethnicity before Nigeria as a country. This explains why a President of about 190 million people and more than 250 ethnic groups could tell the World Bank President, Jim Yong Kim, to focus on Northern Nigeria for its developmental programmes and projects. In such a pluralist state, there is tendency for the major ethnic groups to dominate and marginalize the minority groups if there is no strong social justice that can restrain the urge. In emphasizing the need for social justice, it is imperative to note that social conflicts arise when groups possess or have confirmed the suspicion that the state has short-changed or deprived them of accruing social benefits, rights and entitlements. In Nigeria, for example, the Niger Delta people are a case study of those who feel that they have been denied their rights and privileges. Niger Delta people have raised serious equity issues that include: lack of participation in the oil economy, lack of development, absence of employment opportunities, distribution process, revenue

allocation formula, environmental damage of their pre-existing farming and fishing economy, economic deprivation, and political marginalisation.

The current environmental situation in the Niger Delta is pathetic and life-threatening. The communities in Niger Delta have limited access to fishing and agricultural activities since oil spillages contaminate and kill the fishes in their water and this has caused loss of livelihood and poverty. Then, how should the revenue from crude oil that has almost taken their other means of livelihood be shared among the states if according to Rawls 'justice as fairness', all generations have the same rights to resources, the same rights to the revenue the resources generates? Any attempt at redistribution or equalization would give some persons less than they merit. How can this then be fair? The Niger Delta region which lay the golden egg that feeds the nation is marginalized, underdeveloped and the indigenes wallow in poverty. The revenue generated from the crude oil the region produces is spent by the Federal Government to develop other regions at the detriment of the Niger Delta region. It is in view of the above that Magill argues, "If social products fell like manna from heaven, the difference principle might be a suitable rule for their distribution. But it is not the appropriate model of deciding how to divide up the pie when the contributors to the pie are known" (Magill, 1990, p. 682). This means that if the least advantaged persons are starving, one has no duty to share one's food with them. They can only appeal to one's sense of generosity but no one has any right to seize one's food and share it equally among all.

Rawls' conception of justice does not recognize the right of a person to what he creates. His idea of justice constitutes intolerable limitations on individual liberty. Since Rawls makes the concept of 'rights' conditional upon it aiding the rest of society, so to speak, then 'right' is not something that a person possesses but only a privilege given him or her (Rasmussen, 1974, p. 304). Speaking from the point of view of the veil of ignorance, it can be argued that even behind the veil of ignorance there will not be consensus as to which rules are best, throwing into question the assumption that the veil of ignorance would reveal the unique best set of rules, which is one of the reasons Rawls seem to favour it. 'Overlapping consensus' in a pluralist is quite difficult to achieve. More so, it can be argued

that a decision made in the 'original position' behind 'the veil of ignorance' can be rescinded when the veil is taken away. A vivid example is the turning around and rejection of the 2014 Nigeria National Confab Report by northern Nigeria after reaching a consensus at the Confab. The northern leaders rejected the report on the grounds that it was not only skewed in favour of the south, but also that it was anti-north (Okurounmu, 2017). It is, therefore, imperative to note that the kind of stability that would be needed in a democratic society that is marked by a pluralism of reasonable but comprehensive moral views is inconsistent with the account of stability given in Rawls' theory. Rawls comes to realize that his *Theory of Justice* is inconsistent. He also comes to realize that while the liberal society is meant to permit a great diversity of value systems, the arguments he advances for it would only ever appeal to those who accepted one set of values (Rogers, 2002, p. 21).

Conclusion

Rawls tries to provide what he considers to be a model of social order based on a conceptualisation of justice. His ideas tilt towards the redistribution of wealth and opportunities typical of social democratic theorisation. Rawls' concern is with how social goods are distributed not according to merit, but by equality. The equity issue and the politics of resource control and revenue allocation have been central in the Niger Delta oil crisis. There has been series of agitation for restructuring in some quarters. The agitators believe that without restructuring, Nigeria will remain an *animal farm* where some animals are more equal than others. The contentious issues of revenue distribution and the resource allocation process have remained unresolved, thereby leaving room for palpable tension and friction in the country. Although Rawls seems to argue that his theory serves some practical purposes, however, 'justice as fairness' from the angle of distributive justice is an area where an idea is good in theory but not in practice. If the difference principle is not good in practice then it is not a good theory either. In other words, Rawls' theory of justice as fairness looks attractive but is an unrealistic idea for a democratic society, especially a pluralist country like Nigeria. Justice in Rawls' idea is difficult to achieve in a country where the leaders are first divided along ethnic lines before the country. The leaders in Nigeria, more often than not, divide the

country along ethnic line and with selfish desire and reason. As such, Rawls conception of justice lacks practical relevance in a country such as Nigeria. The article submitted that any attempt at redistributing or equalising the resources owned by some would give some persons less and some more than they merit. How can this then be fair? Therefore, Rawls idea of redistribution or equalization would only lead or result to the problem of injustice he attempts to solve. The solution to Nigeria's problem of justice, distribution of resources and its associated problems can be sourced from true federalism where each state would have control over its own resources. The various constitutions put up by Nigerian leaders after the 1963 constitution concentrate too much power in the central government (at the centre) and, therefore, weighed heavily in favour of the ethnic group in power making inequality and injustice to prevail. It is in view of this selfish desire that the 1963 constitution was distorted in order to concentrate too much power to the centre and put the interests of the region in power above other regions.

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