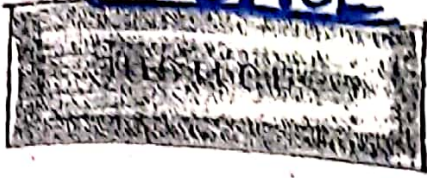


JUSTICE



Justice is architectonic principle, which means foundational principle.

Why foundational?

Because all other values like liberty, equality, Rights Dignity etc. are derived from Justice.

It's said that Political Science begins and end with the state. Justice is foundational principle of state in normative sense. No state can continue, until & unless people find that the system is just.

Political philosophers from times of Plato are dealing with the idea of Justice. Justice belong to normative political theory or philosophy

Contemporary Theories of Justice:

Among contemporary theories, most important theory is Theory given by John Rawls.

• Normative
= ideas and values or norms.

JOHN RAWLS [1921-2002]

• Introduction of Rawls as Thinker:

- Considered as greatest scholar / political philosopher of 20th century.

• Why

- Political science as a discipline has gone through many ups and downs. There was a time when scholars declared the decline or even death of political theory. The credit for revival of tradition of Normative Political Philosophy goes to John Rawls.

- With the publication of Rawls' Theory of Justice in 1971, there has been revival of political philosophy.

Rawls becomes reference point for all contemporary scholar.

• Rawls' School of Thought : Social liberal and critic of utilitarianism.

- Against utilitarianism, he gave tradition of

egalitarianism.

• What is the ambition of Rawls when he gives Theory of Justice?

• He wanted to give perfect theory of justice which can be also be seen as 'Universal Theory of Justice' which means all people in all times & in all societies will agree to his theory of Justice subject to condition they are rational.

• Reasons behind giving Theory of Justice:

• Rawls belong to USA. In 1960s, there were lot of protests in USA from for ex. Black Rights Movements, Feminist Movement, Movement for Peace and Disarmament. Hence, Rawls realised that for well ordered society, it's necessary that society is based on principles of Justice.

• Which principles of Justice?

• which are acceptable to all. which means; which appear fair to all.

• social liberals
• don't take any values from 'socialism' & rather they take inspiration from idealism.

• When modern socialism was challenged by socialism, they adopt some changes.

• Justice is an idea, which has reality called 'power'.

• Works of John Rawls:

- In 1958, his article 'Justice as Fairness' was published. In 1971, his book 'A Theory of Justice' was published. In 1993, his book 'Political Liberalism' was published. In 1999, his book 'Law of People' was published.

• Sources of influences on John Rawls:

(i) John Locke

- In his methodology to derive justice, Rawls have adopted the method of Social Contract because he believes that, it's most rational way of arriving at rational decisions.

(ii) Immanuel Kant

- Kant is biggest influence on Rawls. Rawls wasn't satisfied with tradition of utilitarianism because it undermines human dignity. Hence he revised tradition of Immanuel Kant.

Kant has given concept of "Categorical Imperatives"

What are categorical imperatives?

There are some fundamental values which can't be compromised, can be considered as categorical imperatives.

What is the basis of categorical imperatives according to Immanuel Kant?

It's based on "reason"

Which type of reason?

"Pure reason"

Pure reason means the reason not motivated by selfish interests.

Immanuel Kant has given list of categorical imperatives:

One such imperative is Human Dignity. Accordi-

← This motivated the social/positive liberals

ing to Kant basis for considering Human Dignity

as imperative is belief that all human beings

are rational. Hence, all human beings ought to

be respected.

Note:

Kant's Categorical Imperatives:

A categorical imperative denotes an absolute, unconditional requirement that exerts its authority in all circumstances, both required and justified as an end in itself. He gives the highest honour for the categorical imperative because it become universal law that can be applied to any & every one. Kant is saying that simply willing that our moral rule become a universal law produces a logical contradiction. His categorical imperative ensures that we aren't doing these acts in mimic of other, but rather inline with Universal law.

maxim =
A short, pit
statement
expressing
a general
truth or
of condu

① Act only according to that maxim whereby you can at the same time will that it should become a universal law. It states that one should choose our 'codes of conduct' only if they serve perfect/imperfect duty and are good for all. Perfect duties are blameworthy if not met & are the basic requirements of human beings. An example of perfect duty is avoidance of suicide.

② Act in such a way that you treat humanity, whether in your own person or in the person of any other, always at the same time as an end and never merely as a means to an end. This states that we should not use humanity of ourselves or others as a means to an end. An example of second maxim would be that of slavery.

③ Every rational being must so act as if he were through maxim always a legislating member in the universal kingdom of ends. This states that we should consider ourselves to be members in the universal realm of ends. We should consider our action to be of consequences to everyone else in that our actions affect not only ourselves but that of others.

- In Ethics there are two traditions:

(i) Teleological, (or Consequentialism)

Ex. Utilitarianism.

(ii) Deontological.

- Deontological Theory is based on belief in some fundamental values whatever maybe the consequences. Thus Kant's concept of categorical imperative represent deontological approach.

RAWL'S' THEORY OF JUSTICE :

What's importance of Justice and why Rawls

gives Theory of Justice?

"Justice is the first virtue of a social system

just as truth is the first virtue of system of thought."

Context :

① He has witnessed the disorder, protests in the society of USA.

② He realised that the reason behind disorder is that people don't believe that system is

← You can begin essay related to social issue by writing his statement

- virtue = quality, something that is desirable.

just.

③ No system can continue until & unless people consider it as just.

④ Justice is first virtue of social system.

• What does first virtue means?

• It means there are other virtues also. For example, order, efficiency, merit. etc.

• Which society is best society?

(a) which is based on principle of efficiency.

(b) which is based on principle of merit.

(c) where focus is on law & order.

(d) which is based on idea of Justice. ✓

(i.e. Ideal of Justice should be prevailing value to organised society. For him, India is best society than China. Because, China has curbed idea of justice in name of law of order).

• Which institutions Rawls includes in social institutions?

He includes political, economic and other institution of civil societies.

It means he excludes family because family belongs to personal sphere.

Response of feminists:

Rawls has overlooked the necessity of Justice in the institution of family.

What's Justice according to Rawl?

According to Rawls, justice is fairness.

Where's the original location of idea of Justice?

Location of idea of justice is in Human Reasoning.

Rawls belongs to school of intuitionism.

Rawls suggest that his Theory of Justice is "Deontological" which means it's based on some fundamental principles.

What's the fundamental principle according to Rawls?

Fundamental principle of Rawls is principle of "human dignity."

- Rawls has criticised utilitarian idea of Justice.

The fundamental principle of utilitarian is 'utility' or 'greatest happiness of the greatest number'. Rawls is critique of 'greatest happiness of greatest number'.

According to Rawl theory of Justice has to be based on 'inviolability of human dignity'.

Justice is the first virtue of social system. as ^{person's dignity can't be violated}

truth is the first virtue of any system of thought.

A theory howsoever elegant and economical it ^{↑ (criticism of utilitarianism)} may appear, must be rejected or revised if it's

untrue; likewise laws and institutions no matter

how efficient and well arranged must be abolish

if they are unjust. ^(other virtues) ← criticism of caste system.

Each person possesses inviolability founded on

the principles of justice, that even the welfare of

the society as a whole can't be overright.

For this reason, justice denies that the ~~low~~ less

of freedom for some is made by greater good shared by others. It doesn't allow that the sacrifices imposed on few are outweighed by the larger sum of advantages enjoyed by many. Therefore, in a just society the liberties of equal citizens are taken as settled, the rights ~~sec~~ secured by justice aren't subjected

to political bargaining or calculus of social interests..... Being first virtue of human

activity: truth and justice uncompromising.

• How Rawls derived the principles of justice?

- According to Rawls, in order to understand the principles of justice we have to follow rational procedure to derive the principles of justice.

Whatever principle will emerge out of rational procedure are bound to be rational hence he calls his theory of justice as procedural theory of justice.

What makes final outcome fair, is fair procedure, background should be fair.

Rawls has adopted methodology of social contract because he considered it as most rational.

Concept of Original Position:

What's original position?

Original position is conceptual framework adopted by John Rawls to derive principles of justice.

Features of Original Position:

It denotes a situation where people have come together to derive the principles of justice.

What type of persons they are?

They are "rational negotiators / person". They aren't Hobbsian individuals. It means they are having a fair sense of fairness. They are "mutually disinterested". Even when they are mutually disinterested, they are ready to offer fair terms to each other.

Flowchart
of Rawls
Theory:

Rawls



procedure



Rational

(free from
biases)



Approach
Original
Position



Impartial
& rational



primary
goods



Secondary
goods.

What are they deciding?

They have come for determining the principles of the distribution of "primary goods".

What are primary goods?

The goods which aren't secondary goods.

What are secondary goods?

Every person has some "rational plan" in his life. This rational plan is primary secondary good. Primary goods are required to achieve secondary goods.

According to Rawls, there are 5 primary goods:

- ① Free and Equal Liberty.
- ② Equality.
- ③ Income.
- ④ Wealth.
- ⑤ Dignity.

Concept of 'veil of Ignorance'

What's veil of Ignorance?

It's a thought experiment. (heuristic device)

rational plan =
calculated /
strategic plan.

In case of me,
my secondary
plan is
clearing UPSC.

↓
coaching, book
etc. required.

↓
It requires money

• Heuristic =

• Enabling a person
to discover or
learn something
for themselves.

Behind veil of ignorance, person doesn't know "particular facts" about himself as well as about others which means he neither knows what are his strengths and weaknesses and what are strengths & weaknesses of other persons. (Suppose, you want to make policy on reservation, when you enters in room for debate you keep your all ~~pre~~ identities outside. You will be all unbiased, in debate.

Take example of Kashmir which have 3 stories or discourses. You need to be fair & not biased while deliberating over this issue.)

- The purpose of 'veil of ignorance' is bringing people in state of impartiality. In the original position people reach to the following principles of justice :

• According to Rawls people will agree on the following 2 principles of justice :

① Maximum Equal Liberty - Liberty principle

② Equality of Opportunity - Equality principle

③ Helping the disadvantage or least advantaged

④ "Each person is to have equal rights to most extensive liberty compatible with similar liberty for all."

⑤ "Social and economic inequalities are to be arranged so that they are both."

(a) Reasonably expected to be everyone's advantage.

(b) Attached to position and offices opened to all.

Explanation:

- Rawls gives maximin principle

- Maximin principle is considered as rational choice

According to him rational person would like to maximise his advantages if any, He would also like to minimise his disadvantages if any.

- Hence rational person would prefer liberty & equality of opportunity to maximise advantages

Lecture 44

- veil of ignorance =
I don't know whether I'm advantaged or disadvantaged.

- Liberty =
freedom of what I want to do.

- For Bentham & [Utilitarians]

↓
liberty comes first

- For Marx

↓
Equality comes first.

Both consider dignity at 3rd place.

he may have.
- However rational person will also think he maybe the least advantaged and would prefer some type of insurance against his disadvantages. Thus rational person would prefer both: liberty as well as dignity.

- Above 3 principles of Justice are in Lexical Order.

- What's Lexical Order?

- Order with a specific sequence of priority. According to Rawls out of 3 principles, people will prefer these principles in following order

① has priority over 2 → 2B has priority over 2A
→ 1 > 2b > 2a

- It means liberty will have priority over equality of opportunity, which will have priority over 'Difference Principle.' (i.e 2a)

- Explanation of his principles:

① According to him, first preference of people will be for liberty.

Since people differ in talents, liberty will result into inequalities.

For Rawls the question is what to do with inequalities.

(A) solution with utilitarians. - They are not concerned with inequality.

(B) solution with socialists - Inequality is not acceptable and hence they will be abolished.

② solution offered by Rawls : (Social liberal)

- We need the principle so that inequalities which are natural, appear justified.

What are the conditions in which inequality will be justified?

- Two conditions need to be fulfilled.

(i) It should be the result of fair equality of opportunity.

(ii) It should result into a provision for welfare for least advantaged, which means, those

are advantaged they should give a share of their income to help the least advantaged.

- Thus Rawls would support policies like Progressive Taxation or Corporate Social Responsibility to help disadvantaged.

- Why these principles are fair?

- Utilitarianism is unfair to the poor.

- Socialism is unfair to rich.

- We should have a system which is fair to both.

Thus Progressive Taxation can be treated as fair to both. It's giving opportunity to advantaged to gain maximum advantage of their talents. It's also giving an opportunity to the least advantaged to improve their situations.

- Why the most advantaged will agree?

① The most advantaged must acknowledge that whatever they possessed is not because of just their talent. It's a matter of chance. They have certain advantages over the other.

② The most advantaged must understand that society is like a chain where the weakest link

is as important as strongest link.

② Without justice as fairness, there can't be peace and harmony in the society.

③ Society is based on the principle of Reciprocity

Thus Rich should contribute for development of poors and poors should recognise the right of rich or advantaged. They should offer each other fair terms of cooperation.

④ They have agreed to these principle behind the 'veil of Ignorance'. Thus these principles are the rational principle if we don't act with biasness.

• According to Rawls, Natio "Natural Distribution" is

neither just or unjust. It's not unjust that a person

is born into a society at some particular position,

these are simply natural facts. What is just and

unjust is the way institutions deal with these

facts.

- Explanation:

- According to Rawls there is no justice or injustice

in scheme of nature. For ex: It's not just or

- Rawls don't talk anything about reservation. He just suggest that affirmative actions.

or unjust if a person is male or female; dark skinned or fair skinned. They become just or unjust because of society in which they live. Hence we can create such institution to avoid possibility of injustice with anyone. Hence, he proposed that society be based on the principle on 'Justice or fairness.

Note:

Reflexive Equilibrium

- Reflexive Equilibrium is method of reasoning applied to ethical question.

According to this approach the source of Ethics is

reason / ~~cautious~~ ^{conscious} (intutions). We will accept only those

principle which matched to our inner self. We hold

certain principles, but when we go for critical exami-

nation of these principles, we can understand these

principles more clearly. Our principles when applied in

real life situations, we are able to understand them

with more clarity.