John Rawls' Concept of Justice: Panacea to the unhealthy Ethnic Consciousness and Politics of Exclusion in Nigeria

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Abstract: Many have assumed that providence brought different ethnic groups together in Nigeria to form one great indivisible-nation. This assumption is probable especially now that nations are merging to form a formidable force in the world. Nigeria, on the other hand, has continuously wrestled with the problem of integrating properly these ethnic groups into one entity as a result of her delicate ethnic consciousness. The danger of this apparent consciousness is marginalization as seen in the exclusions in the distribution of both fortune and ascendancy in the country. These have endangered the continuous survival of Nigeria though, the togetherness of Nigeria has been viewed as inviolable. However, it would be decently objectionable for the oneness of a country like ours not to be priced under the present situation of marginalization, injustice and unhealthy ethnic and religious consciousness, which has compromised the basic principles of justice. In concrete terms, there cannot be any justification for the continuous existence of a country like Nigeria that has thrown to the dogs equality, social justice and that which should hold the country together as one indivisible entity. If the country is to remain united, it must hold with high esteem the philosophy of fairness regarding all citizens. Therefore, this paper aims at offering some solutions to the problem of injustice provoked by politics of exclusion and multi-ethnicity in Nigeria. It is hoped that in the end this paper will explore both the limits and the potentials of the ideas enshrined in Rawls' principles of justice.

Keyword: Ethnicity, Ethnic Nationalities, Pluralism, Politics of Exclusion, Equality, Marginalization.

Preamble:

Ethnic consciousness has been a persistent problem in Nigeria political trajectory since Independence in 1960. Given the complexities of the amalgamation of the country where more than 250 ethnic groups have been put together as one entity, political actors have been equipped with little or no political philosophy and ethical measures towards containing the situation. So, ethnicity has endured till date as an issue to be grappled with in Nigeria. As such, exclusions in the political involvement and ascendancy has in fact been the upshot of this problem. From all indications, there appears to be a deliberate control of one ethnic entity over the others. Hence, the issue of marginalization and the demand for social justice has been a topical issue at every moment; especially seen from various attempts by some ethnic microcosm to secede and disaffiliate from the superficial and invented entity called Nigeria on the grounds of the perceived inequality in the polity. These ethnic groups and other minority groups are still agitating for self-determination because they feel their interests are not satisfactorily given any consideration. Meanwhile, in all of these, the unity, oneness, continuous and cooperate existence of Nigeria has been considered inviolable, and therefore, should not be negotiated.

Another problem is that Nigeria is also trapped in a justice system where both the common man and the state authorities do not have confidence anymore. There exists at all levels a yawning gap between the ideal and what is operational, especially as regards the inadequacy of the justice system (Osasona 125-162). The judicial system and its operations have been largely politicized, while corruption, ethno-religious bigotry have permeated through the system; poor working condition and operations, bribery and corruption within and outside the system have circumvented the dispensation of duties and justice to Nigerians (Afon & Badiora 241-256); the courts have become business centers where people go in for services to be done as they pay

for, corruption has become the order of the day, the judicial service has become politicized and bastardized by politicians, the judges are themselves confused, over-worked and uncoordinated thus contradicting one another in their actions and verdicts (Salawu 107-124). These have led to a situation where the general public and other state authorities themselves despise and have lost confidence in the justice system (see also Oduntan 35-51), and injustice arguably has become a huge threat to peaceful coexistence and stability in our social structure. Hitherto, unjust act are more or less a national affair. In fact, the worldwide manifestation of injustice has been evident in in our judicial system which in recent times has become worse than ever.

In every society with the above scenario, the looming issue that is likely to create chaos is the problem of injustice more importantly the injustice meted out by oppressors or the rich and powerful to the poor in the society, which John Rawls in his quest for a just and stable society sought to unravel by looking at the moral foundations behind unjust acts and proffering principles that will help to a considerable extent curtail this problem of injustice.

Justices theories especially that of John Rawls has been misconceived by many as mere principles or another theory out of the many. In the case of Rawls, his theory of justice stands out and needs little adjustment to fit into the various social structures and organs of Nigeria. Thus, since, the unity of Nigeria ought to be guarded jealously, it is expected that the political actors should be prepared to adopt and implement some integrative philosophies that will ensure the existence of Nigeria as an entity, rather than breeding unwholesome rivalry with their unruly ways of steering the wheel of the country's political affairs. From the foregoing, the role of justice in a country like ours cannot be over emphasized, being the first and good quality of all human and social institutions, likewise all laws, their establishments maintenance and regulation would have to be transformed if they fail to dispense justice and it is so for every state and society that cherishes sustainable peace, order and prosperity. In any stable society, justice is not bargained or left to the dictates of goodwill. Justice system and its operation in every state and society should be a reflection of its extent of civilization, its efficiency and the confidence the public has in the system.

Rawls on the Idea of Justice

In his theory of justice, Rawls leaves bare the question "What is the most appropriate moral formation of justice for a multi-ethnic society?" (Freeman, 2007:1). In theory, he pursues this question as part of a more general inquiry into the nature of social justice and its compatibility with human nature and a person's good. Thus, he attempted to work out a conception of justice that provides a realistically systematic substitute to the utilitarian model. As an alternative to this utilitarian model, Rawls, drawing on the social contract tradition, develops an idea of justice "that is highly Kantian in nature" but that the utilitarian model is a teleological theory (Rawls, 2001:77). In the theory of justice as fairness, the principle of equal rights for all citizens has priority over the goal of producing the greatest amount of happiness for the largest number of individuals, but in utilitarian theory the goal of producing the greatest amount of happiness for the largest number of individuals has priority over the principle of equal rights for all citizens. According to this conception, justice requires that basic social goods liberty and opportunity, income and wealth, and the basis of self-respect be equally distributed, unless an unequal is to everyone's advantage but under favourable social conditions a special conception, "justice as fairness," applies (Freeman 2). Thus, he tries to construct a theory of justice which brings equality and liberty together with special consideration for the citizens as regards to liberty.

Cooperative arrangement freely made is fair when the participants agree to the principles which govern their association, and when those principles are applied consistently. Rawls therefore is of the view that we envision the principles of justice as chosen by members of society themselves from a specially designed perspective, which he calls "the original position"

to guarantee a choice which is both rational and fair (Rawls, 1999:90). Care must be taken to avoid Rawls' use of the term 'justice as fairness' which does not in any way imply that justice and fairness are identical, but that the principles of justice are agreed to under fair conditions by individuals who are in a state of equality. 'Justice as fairness' also implies that the principles of justice apply equally to all individuals (89). These principles must be decided upon in such a way as to benefit all individuals, and must not be merely designed to favour the interests of a particular group of individuals over another group of individuals.

According to Rawls, the two principles of justice which would be agreed to by rational and mutually disinterested individuals in the 'original position' of equality are that; each individual should have an equal right to as much liberty as is compatible with the rights of others; and any social or economic inequalities which occur between individuals should be designed to benefit every individual, and should belong to positions which are equally available to all individuals (Rawls, 2001:70).

However, the problem with this position is that everyone at one point or the other desires to protect certain interests, and the rationality to advance this conception of the good for everyone is unattainable and unrealistic under such circumstances, since no one has a reason to consent in an enduring loss for him or her i.e. having to sacrifice his/her interest in order to achieve a greater equilibrium and satisfaction for everyone, and in the absence of these strong and lasting benevolent instincts and impulses, a rational man would not accept a structure merely because it is altruistic or because it maximizes the sum of advantages irrespective of its permanent effects on one's own basic rights and interests.

Accordingly, the idea is that since everyone's welfare is dependent upon a structure of mutual understanding without which no one could have a suitable life, the division of benefits should be carried so as to accommodate the disposition and cooperation of all partaking members in it, including those who are underprivileged (79). It may be beneficial but it is not just that some should have less in order that others may prosper. But there is no injustice in the greater benefits earned by a few provided that the state of life of persons not so privileged is protected (80). Thus, the two principles mentioned seem to be a fair agreement on the basis of which those with higher advantage and more privileged in the social structure, neither of which we can be said to deserve, could expect the willing cooperation of others who are underprivileged when some reasonable system is a prerequisite for the welfare of everyone (Daniels, 1975:69).

For this reason, Rawls presents the ideal principles of justice chosen under a condition he called *a veil of ignorance* which is to vouchsafe that no one is unnecessarily favored or underfavored in the choice of principles and by the effect of natural chance or the exigencies of social situations (Rawls, 2001:118). Going further a bit, it is equally expected that no one is able to project principles to favour his particular condition since the essential features is that no one knows his place in society, his class position or social status, nor does anyone know his fortune in the distribution of natural assets and abilities, his intelligence and strength. This is what Rawls refers to as the *original position* (102). This for him will ensure the principles of "justice as fairness": since it is assumed that just and fair distribution is agreed upon in an initial situation that is unbiased because those who decided the distributive process and structure *ab initio* never had a pre-informed understanding of the class structure and those who might be favored in the process (Rawls 97).

Rawls' Two Principles of Justice

According to John Rawls, when we conceive of justice, the first thing that should readily come to mind is fairness as such, the first principle of a conception of justice is for "each person to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others" (Rawls, 1999:53). In another place he expressed his idea of justice as fairness thus; "that each person has the same indefeasible claim to a fully adequate

scheme of equal basic liberty which scheme is compatible with the same scheme of liberty for all" (Rawls, 2001:98). As such, the first principle of justice for him is referred to as 'the principle of greatest equal liberty' (Rawls, 1999:53). The second principle has two parts and it bothers on reasonable economic distribution which in a way in intricately tied around the first principle. The principles primarily apply to the basic structure of the society and govern the assignment of rights and duties and regulate the distribution of social and economic advantages (53). These two parts of the second principle are 'the difference principle' and 'the principle of fair equality of opportunity. According to Rawls, the two principles are arranged in a serial order with the first principle of justice logically (and lexically) prior to the second, in that for justice to be attained the first principle of justice as fairness must be plausible before the second principle can be accomplished. As such, the first principle cannot be justified or compensated with the second if it is violated. The logical order of the second principle of justice to be attained the principle of opportunity, and (b) the difference principle. Thus, for justice to be attained the principle of fair equality of opportunity must be satisfied before the difference principle is satisfied (54).

Rawls further explains that the two principles are not mutually exclusive but rather specific in their content and their acceptance rest on certain assumptions that the logical priority of the first principle of justice over the second principle implies that violations of basic rights cannot be compensated by arguing that such violations may produce economic or social advantages (56). Furthermore, the logical priority of the first part of the second principle over the second part implies that infringements upon fair equality of opportunity cannot be justified by arguing that such infringements may produce economic or social compensations when the first is violated *ab initio*. For him therefore, injustice is simply inequalities that are not to the benefit of all (54). Thus both equality and inequality should be to the advantage of all. Again, Rawls also explains that judgments about the principles of justice in the 'original position' of equality among individuals are most likely to be reasonable and impartial if they are made in conditions of 'reflective equilibrium' and are not distorted by temporary or changing circumstances (56).

Rawls in his formal argument presented that the principle of *efficiency* which is another form of principle may be applied to the method by which basic rights and duties are assigned and to the method by which social or economic inequalities are structured (54). To understand this fully, the method by which rights and duties are assigned may be described as efficient, that means that if there is no possible rearrangement which could be performed to make this assignment of rights and duties more advantageous to any particular individual without simultaneously making it less advantageous to another individual. He continues by saying: when the principles mention persons or require that everyone gain from an inequality, the reference is to representative persons holding the various social positions, or offices established by basic social structure (56). Thus, the method by which social or economic inequalities are structured may be described as efficient if there is no possible restructuring which could be performed to make this structure (56). Thus, the method by which social or economic inequalities are structured may be described as efficient if there is no possible restructuring which could be performed to make this structure (56). Thus, the method by which social or economic inequalities are structured which could be performed to make this structuring more advantageous to any particular individual without simultaneously making it less advantageous to another individual (Eryilmaz, 2019:105). So, these principles work in tandem to reduce structural inequality (Mandel, 15). The second principle basically intends social-economic institutions to regulate socio-economic inequalities (Rawls 53).

As such, the basis of Rawls' argument is that, the *difference* principle may be applied to the method by which rights and duties are assigned and to the method by which social or economic inequalities are structured. The method by which rights and duties are assigned may be described as fair (justice), and impartial (injustice), if it cannot be made any more than fair to any particular individual without simultaneously making it less fair to another individual. Similarly, the method by which social or economic inequalities are structured may be described as fair and impartial if it cannot be made any more than fair to any particular

individual without simultaneously making it less fair to another individual (Gilabert 847). However, to Rawls the principle of *efficiency* and the *difference principle* are mutually compatible and are principles of justice for social institutions. Principles of justice for individuals include fairness, benevolence. generosity, the duty to keep promises, the duty to offer mutual aid, the duty to show mutual respect, the duty not to cause unnecessary suffering, the duty not to harm or injure others, and the duty to uphold justice (Rawls 79).

Rawls describes three types of teleological theories of justice as the classical principle of utility then the average principle of utility, and the perfectionism (85). Looking at this critically, the classical principle of utility, that the best action produces the greatest amount of utility for the greatest number of individuals. According to the average principle of utility, the best actions maximize the average utility which may be enjoyed by each individual. According to perfectionism, the best actions maximize human achievement (e.g. in the arts and sciences) or maximize the attainment of some desired goal. Rawls argues further that a major defect of utilitarianism is that the principle of utility may require that individuals who are disadvantaged in relation to others in their ability to attain primary social goods (e.g. rights, opportunities, income, and wealth) may have to suffer even greater disadvantages if this redistribution of rights and opportunities produces greater happiness for a larger number of individuals.

According to Rawls, the principles of justice (including the principle of greatest equal liberty, the principle of fair equality of opportunity, and the difference principle) may be fulfilled by a constitutional democracy. However, a frequently-seen defect of constitutional democracy is that it may allow a greater disparity in the distribution of wealth and property than is compatible with equality of economic, social, and political opportunity for all individuals. Another frequently-seen defect of constitutional democracy is that it may allow political power to accumulate in the hands of a particular group or party who may use the institutions of government to gain greater advantage. Rawls concludes that in order to correct these defects, it is necessary for political equality of opportunity (i.e. equal rights of participation in the political process) to be constitutionally guaranteed.

Analyzing the Nigerian Predicament

Rawls' theory is meant to deal effectually with the problem ethnic consciousness which is one of the features of modern societies. One might be tempted to ascertain the relevance of Rawls' theory to Nigeria. There is this erroneous tendency to think that Rawls' theory is meant to address pluralism and its attendant problems in the western democracies alone but his theory is not just limited to western democracies neither can we impose a limit to the limitless potentials of his theory. As a matter of fact, the theory, essentially, serves as an antidote to the variability that goes with any multi-ethnic society as well as any democratic society which no doubt, Nigeria qualifies as one due to the nature of our heterogeneity.

As we have noted earlier, Nigeria is not only experiencing the problems associated with religious diversity, but also ethnic diversity. Therefore, Nigeria could be likened to the picture that Rawls painted. Predictably, with 250 ethnic groups and of course, with diverse religious affiliations, a country like ours, has so much to contend with as regards finding a balance to accommodate such multiplicity. More importantly, Rawls himself never intends to put a limit to the limitless application potentials his theory has. In this conviction, Young reiterates emphatically that "with the theory of justice, Rawls unswervingly confronts the problem of modern democratic societies...." (Young 5).

Since independence in 1960, the right to occupy certain political positions in Nigeria depends essentially on the particular ethnic nationality that one is affiliated with. Likewise, for any particular ethnic group to attract any substantial developmental project from the federal government, it also depends almost entirely on the ethnic group's affinity with the powers that be. Thus, without mincing words, this indicates the type of politics that is practiced in Nigeria.

This is what is understood as politics of exclusion and over the years, there seems to be no genuine effort on the part of the authorities to fashion out more inclusive style of leadership in the country.

No doubt, this politics of exclusion cannot exist without any moral basis considering the circumstances of our amalgamation in the first place. It should be recalled that before the British came, there were only nations, empires, autonomous communities and independent ethnic groups. These autonomous groups and communities were rudely interrupted and forthwith amalgamated on equal basis, and they became citizens of and invented Nigeria on seemingly equal notes. So the existence of politics of exclusion is an aberration, and calls the moral issue of equality of all groups and citizens into question. As a matter of fact, "...a society lives up to the ideal of community if its members are treated as free and equal persons" (Kymlicka 208). It would be pertinent to note that the Nigeria ought to live up to the ideals of modern democratic society if all these ethnic groups are treated on an equal basis in every facet of life. Obviously, in Nigeria, it appears that individual's rights are either guaranteed or not depending on the section of the country he or she comes from. In this case, it is; therefore, correct to say that ethnic consciousness comes first before the individuals that make up the group. Therefore, guarantying the equality of the various ethnic groups is tantamount to guarantying the equality of individuals in the country as a whole. Thus, such ideology of equality would not help to realize a just and invariably a stable society, especially when the citizens tend to be viewed from the particular section that they identify with. Hence, our constitutional arrangement ought to be in line with the notion that the equality of communities corresponds with the equality of individuals across the country.

How can one claim to be a citizen of a particular country, whereas he is excluded in certain areas of political life? In fact, citizenship entails equal rights and opportunity according to the first principle of justice of Rawls. So, the exclusions of certain section of the country without impunity in the political life of Nigeria goes against what citizenship stands for. A citizen must be allowed to identify "with the community to which he or she belongs, and committed to promoting its common good through active participation in its political life" (Miller 53). One cannot actually claim to be a citizen of a country that set limits to his or her rights and privileges. In the same vein, when restrictions are placed on a certain section of a society or are treated as second class citizens with regards to the extent they can go politically in relation to other sections, such citizens within that section cannot in any way claim to be true citizens of the society in question. An ideal society fights to protect and guarantee the basic rights and liberties of its citizens and anything contrary to this, such a society cannot boast of an ethically sound society, and not worthy of existence. As earlier pointed out, guaranteeing the equality of all ethnic groups is tantamount to guaranteeing the equality of all individual citizens, especially in Nigeria.

Another problem is that each ethnic group has got its unique philosophy, religious and cultural orientations, which they tend to guard jealously, which tend to create polarity because these cultural as well as religious orientations regulate their daily lives. In the light of this, Rawls in his own words states,

...a reasonable doctrine...covers the major religious, philosophical, and moral aspects of human life in a more or less consistent and coherent manner. It organizes and characterizes recognized values so that they are compatible with one another and express an intelligible view of the world (Rawls 59).

Rawls emphasizes that rationality lies in the 'receptive disposition' of a comprehensive doctrine towards other comprehensive doctrines. In a like manner, ethnic groups ought to have the same disposition among them towards each other's' cultural expression.

This suggests that in a country like Nigeria, all sections should have certain principles and

ideals which they must agree to as the foundational basis of their existence. That is of course what Rawls is talking about when he said that the opposing doctrines have their own conceptions of the good, and there is the possibility of one such conception to be recognized by all citizens who are fully reasonable and rational (134). Meanwhile, all can view these principles and ideals as appropriate manifestation of their own comprehensive doctrines in the realm of politics. Rawls, nevertheless, issues a warning against a possible misunderstanding of what overlapping consensus is all about. To that effect, he states that overlapping consensus should not be understood as a mere *modus vivendi*, for this is a mere agreement to 'live and let live'. An agreement of this kind is not capable of sustaining stability in any society, because none has the moral responsibility to keep such agreement.

Conclusion:

In Nigeria today, there is always the situation of "war of everyone against everyone" or "war of all against all" as if it was in the State of nature. This is because, the Nation-Nigeria ordinarily was not a nation created on the consent of the people as pointed our earlier since the amalgamation was made under duress. The Imperial leaders coerced the people but did not unite them. Thus, how Nigeria can achieve this eluding unity is a major problem as many ethnic nationalities are becoming more conscious of their identity. The problem lies in the attainment of consensus, which is only possible in the Nigerian context if every ethnic group in the country comes together on certain political values which permeate through all the groups. This is because, "the desire of the individual to stick to his own group may originate from narrow-mindedness, but results in racism or ethnocentrism (Kazim 48).

Although our country is said to be practicing a democratic system of government, facts on ground show that we are far away from what a true democracy stands for. Instead, what we practice could better be described as false democracy (pseudo-democracy). It is a democracy of displacing, misplacing and replacing of the citizens instead of representing them. Nigeria presently is lacking the qualities upon which true principles is predicated. This is why Rawls' attempts to examine the theory of justice by proposing in a way a new social contract theory, where he construed the idea of justice in terms of maximization of liberty, equality and opportunity as the central theme in a social system or social institution seeing 'justice' in the light of 'fairness' by invariably debunking the perception of justice that lies in the greatest good done to greatest number of people on the basis of inherent fault about the fact that justice is not being done towards those who do not constitute amongst the greatest number of people. In a summary, John Rawls' theory of justice is still very helpful at a time like this when all that everyone desires regarding maximizing the welfare of society. There is therefore the need to reconsider the Rawls' original position of the different cultural, religious and ethnic beliefs before the forceful amalgamation in order for us to achieve the objectives of the various agitation for restructuring. There is therefore the need to dis-amalgamate in order to reamalgamate if need be according our cultural, religious and ethnic systems.

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