

INFORMATION TO USERS

This manuscript has been reproduced from the microfilm master. UMI films the text directly from the original or copy submitted. Thus, some thesis and dissertation copies are in typewriter face, while others may be from any type of computer printer.

The quality of this reproduction is dependent upon the quality of the copy submitted. Broken or indistinct print, colored or poor quality illustrations and photographs, print bleedthrough, substandard margins, and improper alignment can adversely affect reproduction.

In the unlikely event that the author did not send UMI a complete manuscript and there are missing pages, these will be noted. Also, if unauthorized copyright material had to be removed, a note will indicate the deletion.

Oversize materials (e.g., maps, drawings, charts) are reproduced by sectioning the original, beginning at the upper left-hand corner and continuing from left to right in equal sections with small overlaps.

Photographs included in the original manuscript have been reproduced xerographically in this copy. Higher quality 6" x 9" black and white photographic prints are available for any photographs or illustrations appearing in this copy for an additional charge. Contact UMI directly to order.

ProQuest Information and Learning
300 North Zeeb Road, Ann Arbor, MI 48106-1346 USA
800-521-0600

UMI[®]



Université d'Ottawa • University of Ottawa

DISTRIBUTION OF WEALTH: A CRITIQUE OF RAWLSIAN LIBERALISM

A THESIS SUBMITTED TO THE SCHOOL OF GRADUATE STUDIES AND RESEARCH
IN CANDIDACY FOR PH.D IN PHILOSOPHY
DEPARTMENT OF PHILOSOPHY

BY

LOUIS MANYELI

UNIVERSITY OF OTTAWA, CANADA

DECEMBER, 2000

© Louis Manyeli, Ottawa, Canada, 2001



**National Library
of Canada**

**Acquisitions and
Bibliographic Services**

**395 Wellington Street
Ottawa ON K1A 0N4
Canada**

**Bibliothèque nationale
du Canada**

**Acquisitions et
services bibliographiques**

**395, rue Wellington
Ottawa ON K1A 0N4
Canada**

Your file Votre référence

Our file Notre référence

The author has granted a non-exclusive licence allowing the National Library of Canada to reproduce, loan, distribute or sell copies of this thesis in microform, paper or electronic formats.

The author retains ownership of the copyright in this thesis. Neither the thesis nor substantial extracts from it may be printed or otherwise reproduced without the author's permission.

L'auteur a accordé une licence non exclusive permettant à la Bibliothèque nationale du Canada de reproduire, prêter, distribuer ou vendre des copies de cette thèse sous la forme de microfiche/film, de reproduction sur papier ou sur format électronique.

L'auteur conserve la propriété du droit d'auteur qui protège cette thèse. Ni la thèse ni des extraits substantiels de celle-ci ne doivent être imprimés ou autrement reproduits sans son autorisation.

0-612-67970-5

Canada

To my mother, Maflorina Manyeli, and the memory of my father, Titia Manyeli.

ABSTRACT

Can we distribute resources such that nearly all people can carry out their life plans? By sheer luck, some people happen to be naturally endowed, and their talents make them well off. Others, by brute bad luck, find themselves being naturally disadvantaged or less talented, and these conditions make them worst off. How can the frustrating and devastating situation of the latter group be remedied?

John Rawls, a prominent contemporary liberal egalitarian, thinks that a fair distribution of wealth can be achieved if people choose his two principles of justice. With the two principles in operation, Rawls maintains, people can retain their basic liberties while committing themselves to social duties, duties that require them to assist the least fortunate members of a well-ordered society. Rawls thinks that liberty and equality are reconcilable in his theory.

I trace the background to Rawls in Rousseau and Kant, and show how liberty and equality must be understood and significantly interconnected. The present work is primarily a critique of Rawls' theory of justice in regard to its position on the distribution of wealth, that is, Rawls' principle of distributive justice. My purpose is to show that Rawls' principle does not go far enough in the needed direction of redistribution, to provide what disadvantaged people genuinely require as a matter of fairness and actual opportunity; and further that this limitation in Rawls' position on economic distribution works to undermine Rawls' principle of equal liberty, as it applies in the real world. I also show that Rawls' critics, such as Nielsen, Sandel, Nozick, van Parijs, Dworkin and Kymlicka fail to provide a preferable solution to the problem of the distribution of wealth.

I make a case for a commitment to the extensive redistributive tax measures needed to insure truly universal education as the condition of equal opportunity. I argue that this proposal is, in fact, consistent with egalitarians' aim to achieve equality, and consistent with Rawls' equal opportunity

principle.

Although Hegel has hardly figured as a model for egalitarians in the history of political philosophy, I argue that he is a model for egalitarians, and that he offers a preferable solution to the antinomies of contemporary thought. This means that he is a potential interlocutor in these contemporary debates. The central claim which I try to establish is that the Hegelian concern to reconcile individual freedom with new forms of community is germane to his vindication of economic rights. To put my point another way, I argue that contrary to the liberals' formalistic preoccupation with rights, interests, and rational preferences, Hegel correctly urges us to return to the sort of full-bodied philosophical anthropology that can specify the fundamental moral, economic, and political needs of human beings.

Acknowledgements

This work could not have been accomplished without help from some very special people. I am greatly indebted to professor Guy Lafrance. His direction, remarks and comments have contributed to the success of the present work. I also express my sincere gratitude to professors Hilliard Aronovitch and Douglas Moggach. Their critical comments have helped me to support my claims with sound arguments. I highly appreciate the unshakeable financial support of the Oblates of St. Joseph province. Last but not least, I owe a huge "THANK YOU" to Fr. Anthony Lisema Matsoso for having given me the opportunity to carry out this work.

Louis Manyeli

i
Table of Contents

Introduction	1
1. <i>Setting the problem</i>	
2. Issues discussed in each chapter	
Chapter One	
Historical Sources: Jean-Jacques Rousseau And Emmanuel Kant	15
1. <i>Rousseau and his influence on Rawls</i>	15
1.1 Rousseau's theory of the general will is communitarian in the sense that it lays the foundation of the social community	
1.2 Rousseau's doctrine on individual liberty	
2. <i>Kant and his influence on Rawls</i>	27
2.1 Rousseau's influence on Kant, and Kant's contribution to political philosophy	
a) Rousseau's influence on Kant	
b) Kant's contribution in political philosophy	
2.2 The principle of humanity	
2.3 The principle of autonomy	
Conclusion	38
Chapter two	
A Socialist Critique Of Rawls' Egalitarianism	40
<i>Introduction</i>	
1. <i>The nature of Rawls' two principles of justice</i>	40
1.1 A general comment on the two principles of justice	41
1.2 The first principle of justice	43
1.3 The second principle of justice	46
2. <i>Nielsen's critique of Rawls' egalitarian liberalism</i>	49
2.1 Nielsen's two principles of justice	49
2.2 The impact of Rawls' difference principle on the liberty principle	53
2.3 A sharp difference between Nielsen and Rawls	59
2.4 Rawls' difference principle and self-respect	63
a) The nature of self-respect	
b) Nielsen's critique	

2.5 Rawls difference principle and the principle of fair equal opportunity	70
3. <i>Fair opportunity as preferential treatment: free education</i>	73
<i>Conclusion:evaluating Rawls' difference principle</i>	79
Chapter Three	
Sandel's Critique Of Rawls' Liberalism	84
<i>Introduction</i>	
1. <i>Sandel's critique of Rawls in <u>Liberalism and the Limits of Justice</u></i>	85
1.1 Political liberalism depends on an overlapping consensus	
1.2 Rawls defends liberalism by defending the Kantian conception of the person	
2. <i>Sandel's Critique of Rawls in <u>Democracy's Discontent</u></i>	97
2.1 The priority of right	
2.2 The same conceptions of right and different conceptions of the good	
2.3 Sandel on Rawls' principle of distributive justice	
<i>Conclusion</i>	110
1. The priority of right over the good	
2. The relation between the right and the good	
3. Does Sandel provide us with an alternative?	
Chapter Four	
A Libertarian Critique Of Rawls' Egalitarianism	120
<i>Introduction</i>	
1. <i>The nature of libertarianism</i>	120
2. <i>Nozick's libertarianism</i>	122
2.1 Nozick's critique of Rawls' difference principle	122
2.2 Nozick's principles of justice	126
2.3 Nozick on Rawls' idea of social cooperation	132
3. <i>Van Parijs and Rawls</i>	141
4. <i>Does Rawls abandon the ideal of a sharing political community?</i>	148

<i>Conclusion</i>	152
1. Nozick	
2. Van Parijs	
3. Rawls	
Chapter five	
A Liberal Egalitarian Critique Of Rawls' Difference Principle	156
<i>Introduction</i>	
1. <i>Will Kymlicka</i>	156
1.1 The intuitive equality of opportunity argument	156
a) The difference principle unfairly applies to all inequalities	
b) The difference principle cannot be applicable to all cases	
1.2 Evaluation of Kymlicka	161
a) Strengths and weaknesses	
b) On free education	
2. <i>Ronald Dworkin</i>	169
2.1 Dworkin on Rawls' difference principle	169
2.2 Dworkin's view on distribution of resources	173
2.3 Dworkin on equality and liberty	178
2.4 Dworkin's principle of victimization	184
2.5 Is Dworkin a liberal or a socialist?	187
<i>Conclusion: the merits and shortcomings of liberalism</i>	189
<i>Recapitulation</i>	191
Chapter six	
Can Political Liberalism Suffice To Solve The Unresolved Problem?	193
<i>Introduction</i>	
1. <i>The later Rawls' attempt to solve the problem</i>	194
1.1 Political liberalism and the two principles of justice	194
1.2 The later Rawls' commitment to equality	198
a) The idea of society as a social union of social unions	198
b) Social cooperation	199
c) The merits and shortcomings of Rawls' social cooperation	201

2. <i>Can Hegel be enlisted in our problem?</i>	202
2.1 <i>Hegel's theory</i>	204
a) Abstract right	204
b) Morality	206
c) Ethical life	207
i) Civil society	207
ii) The Rational State	209
d) Hegel on Recognition	211
2.2 <i>Our obligation to assist others and the problem of obtaining absolute freedom</i>	
a) Libertarian's view	215
b) Rawls' view	216
c) My Hegelian position	218
d) Hegel's criticism of the social contract doctrine	220
2.3 <i>How can Hegel be deployed to address Rawls' unresolved problem?</i>	226
a) Rights are respected in Hegel's theory	226
b) Bourgeois individuals: rights and a system of all-round interdependence	229
c) Inadequacy of civil society	236
d) The rational state	237
<i>Conclusion: the relevance of universal education to our discussion</i>	248
Conclusion	254
1. <i>The strength and weakness of Rawls' liberalism</i>	254
2. <i>What about Nielsen's socialist principles of justice?</i>	256
2. <i>Can Hegel make a difference to our problem?</i>	259
4. <i>Free education</i>	261
5. <i>What remains to be resolved?</i>	262
Bibliography	265

INTRODUCTION:**1. *Setting the problem:***

The problem I address is that of the distribution of wealth for which John Rawls proposes a solution in his theory of justice as fairness. The prevailing issue of unequal distribution of wealth is problematic to those who are committed to protect the liberty of individuals while at the same time having equality as their ultimate goal. Under the existing unequal distribution of wealth, can individuals retain their liberty while pursuing equality as their goal? Since Rawls is the main figure I discuss, I will attempt to answer two main questions: First, do Rawlsian principles of justice, particularly his principle of distributive justice, provide a better solution to the problem of unequal distribution of wealth? Second, with regard to the question of distribution of wealth, is Rawls' emphasis on the liberty principle consistent with his ideal of a sharing political community that aims at achieving equality?

The problem of distribution of wealth unavoidably involves two issues, namely, the question of liberty and equality, and the relation of individuals to society. It can be summed as the problem of reconciling Rawls' aim to protect basic liberties, particularly the right to personal property, with his pursuit for equality as another goal. The main question that remains to be answered is: Can individuals retain their private property and at the same time be fully committed to achieving equality? Regarding this problem, Rawls faces a strong opposition, and he in turn strongly defends his position. Prior to stating my position, I discuss and evaluate the arguments of Rawls' critics and Rawls' own defence.

2. Issues discussed in each chapter:

Chapter 1: Historical sources - Rousseau and Kant

This chapter is historical in the sense that in it I discuss historical figures who seem to have been most influential to Rawls' liberal egalitarian view. Because of brevity of space I will confine myself to the doctrines of Rousseau and Kant which are both implicitly and explicitly manifested in Rawls' theory. Although Rawls does not claim to have been influenced by Rousseau, Rousseau's influence can be detected, as I am shortly going to show in this chapter. Having read both theorists, one discovers that Rawlsian citizens of an ideal well ordered state enjoy the same rights which Rousseauian citizens of the civil society have, namely, liberty, freedom and equality. Rousseauian contractarian citizens who are self-legislative and free are implied without mention in Rawlsian representatives in the original position.

1.1 Rousseau: The first part of the first chapter is devoted to Rousseau. In my view, the presence of individualism and collectivism in Rousseau's ambiguous presentation of the general will in his social contract seems is obvious. Either element in Rousseau's idea of the general will may be stressed depending on the doctrine one upholds. I am aware that Rawls does not talk about Rousseau's concept of the general will. But what this concept entails can be traced in Rawls' theory.

On the one hand, some liberals tend to collect scattered passages in Rousseau's writings and cite his authority when defending the doctrine of individual rights. On the other hand, some communitarians follow suit and cite the authority of Rousseau in reinforcing their social doctrine. Some try to assume a middle stand. For example, Jonathan Marks holds the view that "Rousseau views the human good not as a unity but as a set of disharmonious attributes or tendencies that must

somehow be arranged in a life so as not to tear the human being apart”¹. Marks, while acknowledging individuality and collectivity in Rousseau, holds that the human good in Rousseau’s doctrine comprises disparate and disharmonious elements and that the coexistence of these elements is unreservedly embraced.

What interests me is the fact that both individualism and collectivism are entailed in Rousseau’s general will. First, I show that Rousseau’s theory of the general will is communitarian in the sense that he lays the foundation of the social community. Second, I illustrate that Rousseau’s theory of the general will is also individualistic since it depicts the general will as the will of individuals themselves reflecting in a rational fashion on their long-term interests. Later, I will show how to a great extent Rawls seems to have been influenced primarily by Rousseau’s individualistic view.

1.2 Kant: The second part of the first chapter is devoted to Kant’s influence on Rawls. Kantian influence on Rawls’ theory is obvious. It is no exaggeration to maintain that Rawls’ theory is an application of Kantian ethical theory. It is not surprising, therefore, to observe that the authority of Kant is cited throughout Rawls’ *A Theory of Justice*.

First, I briefly show that Rousseau has influenced Kant, an influence which has helped Rawls to develop his theory. For example, Rousseauian formulation of self-determining free citizens is developed by Kant in his teaching that rational agents are autonomous because they are self-determining, self-legislating, and even enact universal laws. And later, Rawls talks about representatives in the original position as formulating principles which will be applicable to every

¹. Marks, Jonathan. 1998. “The Savage Pattern: The Unity of Rousseau’s Thought Revisited”. *Polity* 31, p. 105.

citizen of a well-ordered society.

I also discuss in passing that although Kant's *Groundwork of the Metaphysic of Morals* is a treatise of a moral theory, it has implications also for political philosophy. Thus, while the early Rawls refers to Kantian autonomous rational agents as legislating a law that is applicable to all other rational beings, the later Rawls echoes Kant's teaching on the kingdom of ends that we must assist each other if we want humanity to subsist.

Second, I talk about Kant's idea of rational beings as ends. For Kant, our duty toward others is to further their natural end. A rational agent must always act in accordance with a maxim which a being endowed with rationality, living in a community of rational beings, would will autonomously for the benefit of other rational beings in the community. Later, I will show that the later Rawls seems to have been influenced by Kant's doctrine on our duty toward others. Thus, Rawlsian justice as fairness is committed to a duty of mutual assistance and an obligation to relieve the suffering of the needy.

Third, I discuss Kant's formulation of the categorical imperative, namely, the principle of autonomy. A rational being is autonomous, that is, self-legislating because he is an end in himself. For Kant, the autonomy of the rational will is the basis of man's incomparable dignity. I show that in Kantian ethical theory the idea of autonomy is not diminished even when the idea of a moral community is introduced. I will also attempt to show that Kant's concept of autonomy is inseparably intertwined with that of freedom. In the succeeding chapters, I will demonstrate that Rawlsian theory which is greatly influenced by Kant, posits more emphasis on the autonomy and freedom enjoyed by citizens of his ideal well-ordered society. His first principle of justice, for example, is formulated in such a way that the rights of the free autonomous rational beings are not

diminished by the demands of the political community. Equally important to note is the fact that Kantian autonomous rational beings are equivalent to Rawlsian representatives in the original position who formulate principles which can be universally acceptable to all members of a given society. Rawls does not say that he was influenced by Kant's doctrine of duty to others. But it is hard to think that the similarity that exists between the two theorists is just coincidental, given Rawls' reliance on Rawls. I believe that Rawls has attempted to interpret and apply Kant's teaching to a given concrete situation

Lastly, I raise questions which Rawls' Kantian based theory faces: Is it the case that Kant develops his theory too much along monadological lines? If so, how does he defend the charge that he finds himself imprisoned in the then prevailing monadological conception of the self, and consequently fails to recognize the proper account of man's relatedness to others? As a Kantian, is Rawls not confronted with the same dilemma? The early Rawls posits primacy on individual rights, and the later Rawls recognizes the true nature of our relatedness to others. Does he succeed in his endeavour to reconcile the two? How does this affect the solution he proposes to the problem of the distribution of wealth?

Chapter 2: A socialist critique of Rawlsian egalitarianism

Rawls' overall theory can be summed up as an attempt to protect individual rights and a commitment to equality. In the present chapter I investigate whether Rawls is successful in his pursuit of equality. While retaining the basic liberties of all the members of a well-ordered society, he maintains that the difference principle is such that it can make the worst off better off. Given his commitment to protect individual rights, is he successful in his other commitment, namely, his

pursuit of equality?

Education is a useful tool which can in one way or another be introduced to ensure the success of Rawls' commitment to equality. In my view, providing an equal opportunity for all members of a well-ordered society to acquire an adequate education can be a significant achievement in the pursuit of equality. Presumably, this would expose even the least fortunate members of society to valued jobs. In the long run, providing an equal opportunity for educational programme could possibly be an attempt to solve the problem of unequal distribution of wealth. Rawls does talk about providing an opportunity for education. But, does he discuss this issue sufficiently and convincingly? Can Rawls accept universal free education?

In particular, I discuss Kai Nielsen's critique of Rawlsian egalitarian liberalism. I have decided to start with Nielsen's critique because among the critics of Rawls I have selected, he offers an extensive and a complete critique of Rawls. I regard his critique to be complete since it comprises Rawls' two principles of justice and he provides an alternative to Rawls' principles. This enables me to commence our discussion by first explaining the nature of Rawls' principles of justice.

In the first part, I explain the nature of Rawls' two principles of justice. The second is devoted to Nielsen. First, I talk about Nielsen's two principles of justice. Second, I discuss Nielsen's main argument that Rawls' difference principle is such that it tends to undermine some of the basic liberties of the least advantaged members of society. Third, I talk about a sharp difference that exists between Nielsen and Rawls. Fourth, I discuss Nielsen's critique of Rawls' difference principle and self-respect. Fifth, I discuss Nielsen's critique of Rawls' difference principle and the principle of fair equal opportunity. I regard the third part as a follow up from the

discussion on the principle of fair equal opportunity. I talk about fair opportunity as preferential treatment, and I elucidate a policy of free education at all levels. In conclusion, I give my own evaluation of Rawls' difference principle.

Chapter 3: Sandel's critique of Rawls' liberalism

It is hard to know exactly where to situate Sandel. Both in his *Liberalism and the Limits of Justice* and *Democracy's Discontent*, he seems to favour a type of communitarianism that is sharply opposed to liberalism. But, in the second edition of his *Liberalism and the Limits of Justice* he vehemently denies the views that tend to associate him with communitarianism, and maintains that he does not find himself on the communitarian side.

However, my interest in Sandel lies on his critique of Rawls' first principle of justice. Since Sandel's critique is more focussed on Rawls' principle of liberty, I assess the soundness of his arguments. Most important, how is his critique linked with the problem of the distribution of wealth?

First, Sandel challenges Rawls' claim that the right is prior to the good. He also argues that Rawls wrongly identifies and justifies rights in a way that does not presuppose the conception of the good, that is, he challenges the way Rawls relates the right to the good. The enquiry is on whether Rawls successfully defends the position he maintains. Does Sandel propose a preferable solution to the problem at stake? Second, Sandel touches upon the question of the principle of distributive justice. How different is his argument from Nielsen's on Rawls' principle of distributive justice?

In his *A Theory of Justice and Political Liberalism*, Rawls defends the claim for the priority of the right over the good. First, Rawls defends a liberalism that supports the priority of right over

the good by defending the Kantian conception of the person. Second, in his political liberalism, his defence is detached from the Kantian conception of the person. Sandel thus maintains that “rather than seek a philosophical foundation for the principles of justice, political liberalism seeks the support of an overlapping consensus”². Is the later Rawls consistent with his earlier work? By detaching liberalism from the Kantian conception, does Rawls succeed in defending his position? Our discussion will be focussed on Sandel’s objections and on Rawls’ response. In conclusion, I ask whether Sandel is a communitarian. The importance of this question consists in that if Sandel is a communitarian, then he provides an alternative to Rawls’ view; and if he is not a communitarian, he does not provide us with an alternative. Some may think that perhaps Sandel offers an alternative from within liberalism. If, having criticised Rawls, he tells us how we can protect our basic liberties while being committed to equality, then he offers an alternative.

Chapter 4: A Libertarian critique of Rawls’ egalitarian liberalism

Rawls’ insistence in his first principle of justice on equal basic liberties that may not be infringed upon even for the purpose of promoting socio-economic equality marks him clearly as belonging to the liberal tradition. Despite Rawls’ attempt to fashion his liberalism in a social democratic form, he faces a strong opposition from the socialist camp. On the other hand, by committing individuals to communal responsibility, Rawls is sharply opposed by libertarian liberals.

Some people regard Rawls’ liberalism to be egalitarian (and Rawls also maintains this opinion) since in his theory he conceives the role of the state not only as protecting individual rights and private property, but the state is also seen as having a role to play in alleviating poverty by

². Sandel, Michael. 1998. *Liberalism and the Limits of Justice*, 2nd ed. Cambridge: Cambridge University Press, p. 190.

providing better housing, health care, education, and the like, of all members of a well-ordered society, particularly the naturally disadvantaged members of society.

On the contrary, libertarian liberalism maintains that the role of the state is confined to protecting individual rights and private property of individuals. David Boaz, one of the prominent contemporary proponents of libertarianism, holds the view that “for libertarians, the basic unit of social analysis is the individual. It’s hard to imagine how it be anything else”³. According to Boaz, since society as a ‘whole’ has no separate existence, only individuals have rights, not society. Summing up his discussion on ‘individualism’, Boaz maintains that “libertarianism is the kind of individualism that is appropriate to a free society: treating adults as adults, letting them make their own decisions even when they make mistakes, trusting them to find the best solutions for their own lives”⁴. Rawls agrees with Boaz that individuals as free and equal persons have a right to make decisions for their own lives. But he goes further and insists that individuals as members of a political community are bound by duty to assist others.

More in line with Boaz, Robert Nozick opts for a minimal state that is confined to protecting the rights of individuals. According to Nozick, the night-watchman state is apparently redistributive because it forces some people to pay for the protection of others. The state in Nozick’s view cannot compel some people to be accountable for the protection of other people without violating the rights of the former. The minimal state, therefore, must be confined to the functions of protecting individual rights and private property.

In particular, I shall focus on Nozick because he elaborately attempts to criticize “theories

³. Boaz, David. 1997. *Libertarianism*. New York: The Free Press, p, 95.

⁴. *Ibid.*, p. 104.

of distributive justice which do envisage a more extensive state, focussing on the recent powerful theory of John Rawls"⁵, and because he provides an alternative to Rawls' theory of justice. First, I discuss Nozick's critique of Rawls' difference principle. Second, I evaluate Nozick's principles of justice. Third, I discuss Philippe van Parijs' moderate libertarian critique of Rawls. Fourth, I ask whether Rawls abandons the ideal of a sharing political community.

Chapter 5: A liberal egalitarian critique of Rawls' difference principle

Rawls shares one common goal with the left-wing liberals, and that is commitment to liberty and equality. But as to how this goal is to be attained, differences arise. Inasmuch as the liberty principle is concerned, left-wing liberals seem to be in agreement with Rawls. They seem to be mainly discontent with his difference principle. I will confine myself to the most prominent contemporary critics of Rawls, namely, Will Kymlicka and Ronald Dworkin. I have singled them among many because they give a more elaborate critique of Rawls' difference principle.

First, Kymlicka's main complaint is that Rawls' difference principle unfairly applies to all inequalities. For Kymlicka, the weakness of Rawls' difference principle consists in that it cannot be applied to all cases. Against Kymlicka's arguments, does Rawls successfully defend his position? Having shown the weaknesses of Rawls' principle of distributive justice, does Kymlicka provide a preferable alternative?

Second, Dworkin's discontent about Rawls' difference principle consists in that it is insensitive to the natural handicaps, and that it does not sufficiently classify the worst off people. Is Dworkin right, and how does Rawls maintain his position? With his 'distribution of resources',

⁵. Nozick, Robert. 1974. *Anarchy, State, and Utopia*. New Jersey: Basic Books, p. xi.

Dworkin introduces an income tax scheme in pursuit of equality. Can this be a better solution to the problem of unequal distribution of wealth? Dworkin attempts to show that it is not the case that there is a conflict between liberty and equality. For Dworkin, “liberty... demands nothing but the freedom of genuine equality, and equality cannot be served by any outrage to liberty”⁶. If that is the case, it would seem to me that liberalism has finally overcome one of its main weakness, namely, an inconsistency that exists between liberty and equality. If reconciliation between liberty and equality can be achieved, maybe the problem of unequal distribution of wealth can be solved. I investigate whether Dworkin has succeeded to reconcile liberty and equality.

Chapter 6: Can political liberalism suffice to solve the unresolved problem?

In the previous discussion, I attempted to investigate whether the early Rawls can duly attain his goal, namely, protection of individual rights and commitment to communal responsibility. The later Rawls still insist that the parties in the original position would choose his two principles of justice. He still maintains that with these principles in operation, individual rights can be protected while people commit themselves to communal responsibility. If that is the case, does Rawls’ political liberalism make any difference? Why does Rawls feel that he must add, or subtract, or further explain what he has said in his initial work?

While restating his initial position, the later Rawls talks more about individuals’ relatedness. Rawls’ elaborate discussion on individuals’ relatedness is intended to show that people must work together to improve each other’s situation. He also does this to show that his insistence on individual rights does not imply that he abandons his commitment to communal responsibility.

⁶. Dworkin, Ronald. 1987. “What is Equality? Part III: The Place of Liberty”. Iowa Law Review 73, p. 48.

Does the later Rawls' account of man's relatedness to others allow individuals to commit themselves to communal responsibility? If his endeavour in this regard is successful, how does he reconcile the apparent conflict between the liberty principle and the commitment to equality?

In the first part, I discuss Rawls' political liberalism and the two principles of justice. The fundamental basis that underlies Rawls' theory is his two principles of justice. Rawls cannot explicate his conception of justice as fairness without talking about the two principles of justice. First, I want to investigate how the later Rawls explains his two principles of justice. If there is any novel in his explanation, does it solve the problem of reconciling the apparent conflict between the liberty principle and communal responsibility? Second, I want to discuss the later Rawls' commitment to equality. Rawls notes that his conception of justice as fairness is criticised on the account that "the kind of liberalism it represents is intrinsically faulty because it relies on an abstract conception of the person and uses an individualist, nonsocial, idea of human nature"⁷. He attempts to show that the opposite is true in his discussions on the ideas of society as a social union of social unions and social cooperation. How successful is Rawls' endeavour to show that he is committed to equality?

In the second part, I want to see whether involving Hegel in the problem under discussion can make a difference. The critics of Rawls I have selected exclude Hegel from their debate on the problem at stake. Rawls briefly responds to Hegel's criticism of the social contract doctrine (which I shall have an occasion to discuss). In his latest work, Rawls talks about Hegel on individuals' right to private property. Does Rawls provide a fair interpretation of Hegel? But when Rawls attempts

⁷. Rawls, John. 1996. *Political Liberalism*, 2nd ed. New York: Columbia University Press, p. xxxi.

to apply his two principles to our problem in his two major works, he excludes Hegel from his overall discussion.

Rawls' critics too, at least those I have discussed so far, have put aside Hegel in their respective criticisms of Rawls. But some of their main arguments seem to be Hegelian. For instance, in his critique of the Kantian tradition as exemplified by Rawls, Sandel unfortunately ignores Hegel in his writings, particularly in his *Liberalism and the Limits of Justice* where he elaborately attempts to show the shortcomings of Rawls' theory. Sandel's main objection consists in that Rawls fails to rescue the Kantian doctrine from the charge of relying on an illusory image of the self as a disembodied entity separate from its desires and interests, from other selves, and from the community as a whole. The arguments supporting the claim that it is inconceivable that a person can be separated from its desires and interests are the same in Sandel and Hegel. Given the familiarity of Hegel to Sandel, it is hard for me to believe that similarity between the two is coincidental.

Having been introduced to Hegel's *Philosophy of Right*, I think that Hegel can appropriately fit in the debate. I want to show how Hegel can be an asset that could be deployed to solve the apparently unsolvable problem Rawls is struggling with. If I can be successful in my endeavour, I will have shown that maybe he was excluded by mistake.

First, I want to attempt to give a brief explanation of Hegel's theory. Given its complexity, I will try to confine myself as far as possible to certain aspects of it which I consider to be most relevant to our debate, and they are abstract right, ethical life, and recognition. On ethical life and recognition, Hegel talks about citizens' obligation to commit themselves to communal responsibility. I presume that some liberals are likely to ask why people should feel obliged to

commit themselves to communal responsibility. My response to such a possible and plausible question will be of utmost importance since it will give me an opportunity to show one fundamental difference between Rawls and Hegel.

Second, I want to discuss the similarities and differences that can be observed in Rawls' and Hegel's theories respectively. One notable similarity is that both Rawls and Hegel accommodate a competitive market economy in their theories. By so doing, they are sharply opposed by socialists who maintain that a free market enterprise causes and sustains inequality. In particular, socialists are opposed to the idea of providing incentives, given that they cause and sustain inequality. Can Rawls be defended in favour of incentives? On the other hand, a notable difference between Rawls and Hegel consists in the role each ascribes to public authority. With regard to their differences, whose view seems to be preferable, and why? Can Hegel make any contribution to the problem under discussion?

Last but not least, I want to conclude by talking about the type of free education I have been discussing from the second chapter. Unlike me, Rawls, his critics and Hegel do not specifically discuss it in their debates. I have made it clear from the onset that I do not regard the issue of free education as a solution to the problem, but rather as something that can be instrumental, or as part of the solution to the problem. Can my interpretation of Hegel's theory, particularly where he talks about education, accommodate a free education that I suggest?

Chapter One

Historical Sources: Jean-Jacques Rousseau And Emmanuel Kant

Introduction:

This chapter is historical in that I discuss briefly the main figures that lie behind Rawls' theory. I will confine myself to Rousseau and Kant, and attempt to show how they have influenced Rawls when formulating his two principles of justice.

1. *Rousseau and his influence on Rawls:*

Rousseau's general will entails both collectivism and individualism. First, I show that Rousseau's theory of the general will is communitarian in the sense that he lays the foundation of the social community, and I show that the later Rawls reinstates Rousseau's collectivism. The later Rawls recognizes the true account of man's relatedness to others. Second, I show that Rousseau also lays the foundation for the liberty principle, and I show how the early Rawls has been influenced by Rousseau when formulating his celebrated liberty principle. The early Rawls posits primacy on individual rights, rights that protect basic liberties. But, before that I discuss briefly other contractarian theorists, namely, Hobbes and Locke, and attempt to show why Rawls would prefer Rousseau's view to theirs.

1.1 Rousseau's theory of the general will is communitarian in the sense that he lays the foundation of the social community:

Rousseau's famous saying that human beings are 'born free; and everywhere he is in chains', is ambiguous and hence subject to diverse interpretations. For communitarians, Rousseau is understood to claim that man is autonomous and that his autonomy is essentially social since it can

only be realized through interaction with others in a community of equals. This communitarian interpretation of Rousseau is intended to show the importance of the communal aspect of man which they think that liberals tend to undermine.

This mode of thought has led Andrew Levine to maintain that Kantian moral community is basically constituted by Rousseau's social contract⁸. For Levine, a social contract whose establishment begets full equality of citizenship renders man who is born free, but everywhere in chains to become a full autonomous agent. In this sense, it is only in a moral community that individuals become fully autonomous. In a 'state of nature', that is, outside a moral community, individuals are unable to respect moral personality in themselves and others. The social contract enables autonomy since it favours and respects individuals' self-determination. It is important to note that outside the social contract people cannot exercise and enjoy their freedom and autonomy.

Rousseau maintains that "the right of any individual over his own estate is always subordinate to the right of the community over everything; for without this there would be neither strength in the social bond nor effective force in the exercise of sovereignty"⁹. For communitarian theorists who conceive social values as being prior to individual rights, this passage is but one instance among many whereby Rousseau is conceived as laying the foundation of the social community. The formulation of the social compact is such that an individual must aim at subordinating his private interest so that he may seek the realization of the general interest which is best for the whole community. However, this does not amount to the deprivation of individual

⁸. Levine, Andrew. 1993. *The General Will: Rousseau, Marx, Communism*. Cambridge: Cambridge University Press, p. 165.

⁹. Rousseau, Jean-Jacques. [1762] 1978. *On The Social Contract*. Trans. Judith Masters. New York: St. Martin's Press, bk. I, ch. 9.

rights. In entering into the social contract an individual still retains his rights. But most important, he becomes an indivisible part of a moral and collective body. When making the general will his own, an individual is less concerned with what is best for him; rather, he is more concerned with what is best for the collective body, himself included.

On the whole, Rousseau seems to be saying that individuals should coordinate their activities by seeking to advance their interests as integral members of the collective entity they freely constitute. For Rousseau, the people freely subordinate their private wills which merely aim at private interests, to the general will which aims at the interest of the whole community.

Inevitably, there exists in Rousseau's social contract a sense of community, a form of society whereby the social community is taken to be basic and primary. The later Rawls in his *Political Liberalism* reinstates Rousseauian doctrine on a sense of community. Rawls emphatically talks about the communal aspect of man, and further maintains that it is absolutely necessary that people work together if they want to lead a complete life. However, it would be unfair to associate Rawls with social Marxists who from Rousseau's account of the general will maintain that individuals should coordinate their activities by seeking to advance their interests as integral members of the collective entities they freely constitute¹⁰. Rawls' repeated emphasis on the priority of the liberty enjoyed by the citizens of a well-ordered society clearly indicates that he is to a great extent more influenced by Rousseau. While Rousseau holds that liberty is an essential constituent of man, Rawls maintains that basic liberties cannot be sacrificed whatever the circumstances without being

¹⁰. Levine, Andrew. 1993. *The General Will: Rousseau, Marx, Communism*. Cambridge: Cambridge University Press. In his introductory remarks, Levine sets out to defend communism and hopes to "enlist Rousseau in defence of communism and communism in defence of the cogency and timeliness of the general will" (p. 3).

violated. Rousseau's concept of the general will has an individualistic aspect since it is the will of the individuals themselves reflecting in a rational fashion on their long-term interests. Similarly, Rawls holds that individuals are self-determining, that is, they themselves make decisions about their own lives.

1.2 Rousseau's doctrine on individual liberty:

It is important to note that the social contract doctrine does not directly deal with the problem of the distribution of wealth. However, it is both important and relevant to the present work since contemporary liberal theorists return to this hypothesis to justify their conception of the superiority of the individual to society. Highlighting individual liberty has a great impact, as I am going to show later, on the distribution of wealth.

a) Hobbes:

Rousseau's contractual theory coincides with that of contemporary liberal theorists in that it highlights individual liberty in society. Rousseau's social contract theory differs from that of his predecessors. According to Thomas Hobbes' contractual theory, for instance, individuals agree to hand over their will and rights to a sovereign who stands outside the covenant, not being a party to it. They freely bestow power on one man or an assembly of men to direct their actions to the common benefit. Thus, each declares: "I Authorise and give up my Right of Governing my selfe, 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"¹¹.

For Hobbes, an assembly, such as a parliament, can have no rights independent of the

¹¹. Hobbes, Thomas. [1651] 1991. *Leviathan*. Ed. Richard Tuck. Cambridge: Cambridge University Press, part III, chap. 17.

monarch, if we suppose that the monarch is sovereign. It does not follow, however, that from Hobbes' position that a monarch cannot make use of a parliament in governing a nation; but it does follow that the parliament does not enjoy part of the sovereignty and that in the exercise of its delegated powers it is necessarily subordinate to the monarch. Similarly, if an assembly which is not coextensive with the people is sovereign, the people do not and cannot enjoy part of the sovereignty. For they must be considered as having conferred unlimited and inalienable sovereignty on that assembly. Hence, sovereign power cannot be forfeited.

b) Locke:

Unlike Hobbes, Rousseau and Locke maintain that men do not give up their liberty to enter a state of servitude. They both discard the idea of absolute monarchy in that it is contrary to the original social compact. For Locke, in order to avoid the arbitrary dictatorship of the absolute monarch, individuals consent only to submit to the will of the majority. Thus he maintains that:

Whosoever out of the state of nature unite into a community, must be understood to give up all the power necessary to the ends for which they unite into society to the majority of the community, unless they expressly agreed in any number greater than the majority... It is necessary that the body should move that way whither the greater force carries it, which is the consent of the majority¹².

In Locke's theory the original compact must be understood as involving the individual's consent to submit to the will of the majority. Locke evidently considered that the right of the majority to represent the community was preferable to Hobbes' absolute rule of the monarch. However, he apparently did not consider the possibility that a majority might act tyrannically with regard to the community. At any rate, however, his main concern was to show that absolute monarchy was contrary to the original social compact, and he doubtless thought that the danger to liberty from

¹². Locke, John. [1690] 1990. *Concerning Civil Government*. Ed. Robert Maynard. Chicago: William Benton Publisher, chap. viii, 99, 96.

majority rule was much less than the danger to liberty which comes from absolute monarchy. Thus, having included consent to majority rule in his original compact he concluded that absolute monarchy “is indeed inconsistent with civil society, and so can be no form of civil government at all”¹³.

Dissatisfied, Rawls points out another striking difficulty illustrated in Locke’s doctrine¹⁴. According to Rawls, Locke’s doctrine paves way to unequal political rights to the members of society who freely entered the social compact. The well-off members in society owning property have more access to exercise political authority than the propertyless and least advantaged members. Similarly, the right to vote is measured by how much property one owns so that the propertyless are deprived of their right to vote. For Rawls, individuals’ right to vote is violated in Locke’s doctrine. According to Rawls, people as free and equal being have a right to vote regardless of what they have or have-not.

c) Rousseau:

Some, without argument, conceive the idea of the concept of the general will as a rationalization for pseudo-democratic tyranny, asserting that it has served as the ideological foundation of modern totalitarianism¹⁵. In his “Rousseau, The General Will and Individual Liberty”,

¹³. Ibid., chap., vii, 90.

¹⁴. Rawls, John. 1996. *Political Liberalism*, 2nd ed. New York: Columbia University Press, p. 287.

¹⁵. Russel, Bertrand. 1945. *A History of Western Philosophy*. Oxford: Oxford University Press. For example, Russel holds the view that Rousseau is “the inventor of the political philosophy of pseudo-democratic dictatorships as opposed to traditional absolute monarchies” (p. 660). He also maintains that although the doctrines entailed in Rousseau’s social contract “pay lip-service to democracy, [they] tend to the justification of the totalitarian State” (p. 669).

Philip Kain rightfully denies that Rousseau's social and political thought are prone to end in totalitarianism¹⁶. Kain holds the view that those who contend that Rousseau is a totalitarian conceive Rousseau's general will as a collective entity existing on its own and interpret him as requiring that the individual identify totally within that entity. In this sense, the individual becomes totally absorbed into this entity to the point where the individual's own interests and liberties are annihilated, and the only interests and liberties that count are those of the collective entity. Thus interpreted, for Rousseau, sovereignty which is the exercise of the general will is absolute and consequently individuals can have no rights whatsoever.

Contrary to this misinterpretation of Rousseau, Kain¹⁷ recognizes two inseparable sets of elements in Rousseau's social contract which are not incompatible. First, there exists in Rousseau's social contract a sense of community, a form of society whereby the social community is taken to be basic and primary. Second, present also is an individualistic element, an element later adopted by Rawls, where individuals are basic and primary, where society becomes secondary and derivative. However, it is important to note that Rawls does not indicate that he is adopting an element from Rousseau's general, but it is implied in his explanation of his liberty principle. The general will is not a collective entity which overpowers and absorbs individuals, their interests and liberties. On the contrary, the general will is the will of individuals themselves reflecting their own long-term interests abstractly in a rational fashion unhampered by natural inclinations or impulses.

¹⁶. Kain, Philip. 1990. "Rousseau, the general will, and individual liberty". *History of Philosophy Quarterly* 7, pp. 315-331. Kain argues that Rousseau's critics wrongly consider him as a totalitarian. Their error, Kain maintains, lies in their failure to understand correctly Rousseau's concept of the general will.

¹⁷. *Ibid.*, pp. 323-324.

Undoubtedly, this view is individualistic because its focus is exclusively on the rights of individuals.

With this liberal interpretation of Rousseau, it is important to note that individual self-interest is essential to the realization of the general will. Liberals support their claim with Rousseau's teaching that self-interested reflection is crucial for the realization of the general will¹⁸. Each individual is entitled to determine in an abstract and rational inquiry concerning what is right. Individuals consider their self-interest in the abstract case where laws will be equally enforced for all. However, I think that Kain misses an interesting point in his discussion, namely, to show how a communitarian form of society is not incompatible with an individualistic form of a society. Later, I am going to argue that the same omission is present in Rawls' theory.

Leaving aside Rousseau's commentators, it is clear from our previous discussion that Rousseau's theory of the social contract differs from that of his predecessors. In his theory, for instance, Hobbes finds the concept of free will absurd. In his world view, the concept of free will is equivalent to freedom with arbitrariness and thus makes free action incompatible with morality understood as obedience to a system of norms.

On the contrary, in Rousseau's theory the original contract creates a sovereign which is identical with the contracting parties taken collectively. He maintains that "what man loses by the social contract is his natural liberty and unlimited right to everything he tries to get and succeeds in getting; what he gains is civil liberty and proprietorship of all he possesses"¹⁹. Inevitably, if the original contract creates a sovereign which is identical with the contracting parties taken together,

¹⁸. Rousseau, Jean-Jacques. [1762] 1978. *On The Social Contract*. Trans. Judith Masters. New York: St. Martin's Press, p. 62.

¹⁹. *Ibid.*, p. 16.

then the Hobbesian solution in centralized government, in a theory of sovereignty which emphasizes above all things the position of the government, is undoubtedly not Rousseauian. For Rousseau, the government is simply an executive power which is dependent for its power on the sovereign assembly or body politic.

The social contract which men have freely adopted becomes the standard by which they set out to govern their ways of living. Rousseau argues that as they have made it among themselves, without handing over their natural liberty to any person other than themselves as a body politic, they can fairly be said to remain as free as before. They were free before, but they could not exercise their freedom. The compact they have agreed to enables them to exercise their freedom and achieve full autonomy. Most important, they have now gained the service of a social instrument through which they can give themselves collectively a new moral status.

Rousseau emphatically insist that it is inconceivable that man renounces his liberty since that is equivalent to renouncing his humanity.

To renounce one's freedom is to renounce one's status as a man, the rights of humanity and even its duties. There is no possible compensation for anyone who renounces everything. Such a renunciation is incompatible with the nature of man, and taking away all his freedom of will is taking away all morality from his actions²⁰.

I have already shown that in Hobbes' contract theory individuals freely hand over their liberty to a sovereign who stands outside the covenant. Similarly, in Lockean social contract theory individuals consent to submit to the will of the majority. On the contrary, in Rousseau's social contract theory individuals retain their liberty even after having made a social contract of forming a civil society. Rousseau's main argument seems to be that liberty is an essential characteristic in human nature

²⁰. Ibid., p. 50.

without which man ceases to be human. Hence, to deprive man of his liberty is equivalent to depriving him of his humanity.

Given Rousseau's insistence on liberty, and given his desire to show that the change from the state of nature to that of organized society was not a substitution of slavery for freedom for the sake of mere security, he felt himself compelled to show that in society a higher form of liberty is acquired than the one enjoyed in the state of nature. It is not surprising, therefore, that Rousseau posits more emphasis on the mutual agreement between the contracting parties which creates a new moral entity in which each member realizes himself more fully than he could do in the state of nature.

Along with civil liberty, man acquires moral freedom in civil society. For Rousseau, "to the forgoing acquisitions of the civil state could be added moral freedom, which alone makes man truly the master of himself. For the impulse of appetite alone is slavery, and obedience to the law one prescribes for oneself is freedom"²¹. According to Rousseau, in the social contract man's true nature is fulfilled, as it were, in the social order. Man becomes, "instead of a stupid and unimaginative animal... an intelligent being and a man"²². If one considers the state in its essence, one must say that its institution is one incalculable benefit to man because it becomes the source of rights. In the state man acquires moral freedom and is fully in charge of himself. It is important to note that for Rousseau, freedom and equality are inseparable²³.

Besides his insistence on the liberty, freedom and equality which man enjoys, Rousseau's

²¹. Ibid., p. 56.

²². Ibid., p. 56.

²³. Ibid., p. 75.

individualism is manifested in another form in his other writings besides the Social Contract. For example, in his *Reveries* he writes: “When men later reduced me to living alone, I found that by sequestering me to make me miserable, they had done more for my happiness than I had been able to do myself”²⁴. He thus characterizes his expulsion from society as an unintended favour granted by his enemies, a stroke of luck. Again, in the *Second Discourse*, Rousseau depicts a somewhat self-conquering kind of individualism. He speaks highly in favour of independence and the capacity to live and take pleasure in solitude. He thus holds:

After several observations it is easy for them to see that all our labors are directed toward only two objects: namely, the commodities of life for oneself, and consideration among others. But how are we to imagine the kind of pleasure a savage takes in spending his life alone in the middle of the woods, or fishing, or blowing into a bad flute²⁵.

In this passage, Rousseau gives independence more weight than community in his depiction and praise of savage nations. The savage knows the pleasure of being alone, a privilege that a civilized person does not have.

On the whole, the essence of Rousseau’s social contract doctrine is correctly summed up by David Hiley in his interpretation of Rousseau. Equality according to Rousseau, Hiley maintains, “is recognized by individuals as an irreducibly communal value. Equality in this sense is a necessary condition for entering the contract”²⁶. As Hiley also notes, freedom that man achieves through the social contract differs from natural freedom since he achieves it through others; “yet it

²⁴. Rousseau, Jean-Jacques. [1782] 1979. *The Reveries of the Solitary Walker*. Trans. Charles Butterworth. New York: New York University Press. Third Walk, p. 32.

²⁵. Rousseau, Jean-Jacques. [1755] 1964. *The First and Second Discourses*. Trans. Judith Masters. New York: St. Martin’s Press, pp. 223-224.

²⁶. Hiley, David. 1990. “The Individual and the General Will: Rousseau Reconsidered”. *History of Philosophy Quarterly* 7, p. 171.

will be equivalent because in relations with others, one's sense of worthiness will arise from oneself and one will obey only one's own will"²⁷. The point that is worth mentioning here is that having entered the social contract, a person retains her freedom.

However, Rousseau's liberal individualistic view which is happily embraced by liberals with their rights-based ethic, as I am going to show later, seems likely to beget unintended consequences. For Rousseau, "as each gives himself to all, he gives himself to no one"²⁸. He is subject to the whole, and yet subject to no man, and the essential point is that there is no one above him. The argument runs as follows: as soon as the social body is begotten by the contract, each is much absorbed in that common "I" which he has willed, namely, that in obeying it he still obeys himself. Thus, the more man obeys not another man but the general will, the more free he is supposed to be. Whereas in the state of nature men existed only as persons, in no way as parts; in the state of society they no longer exist except as parts. We are thus confronted by a pure individualism that misconceives man's proper account of his relatedness to others. This being the case, the result seems to be a pure statism as soon as an effort is undertaken to constitute society.

In his *A Theory of Justice*, Rawls appears to have been influenced to a great extent by Rousseau's other element of an individualistic form of society in his theory. For Rousseau, citizens are free if the customs which shape inclination, feeling and desire are in accord with reason and the general will. Similarly, in justice as fairness, Rawls maintains that rational persons freely choose principles that will govern their basic social and political institutions, yet remain autonomous.

²⁷. Ibid., p. 167.

²⁸. Rousseau, Jean-Jacques. [1762] 1978. *On The Social Contract*. Trans. Judith Masters. New York: St. Martin's Press, p. 50.

Rawls, thus returns to Rousseauian social contract hypothesis when developing his conception of justice.

Rawls' justice as fairness, as I am going to show in the next chapter, is a theory of right developed to secure and protect the rights of individuals and posit their basic liberties prior to everything else. The questions worth pursuing in the coming chapters are: How does Rawls respond to the charge that his theory is confronted by a pure individualism that misconceives the reality proper to the social bonds added to individuals by the demands of nature? Given the priority of the liberty enjoyed by citizens of a well-ordered society, is Rawlsian liberal egalitarian theory practicable enough to attain equality, or at least a rough equality?

2. *Kant and his influence on Rawls:*

First, it is worth mentioning that Rousseau has influenced Kant, and that influence has helped Rawls to develop his theory. Also, I briefly discuss in passing that despite the fact that Kant's *Groundwork of the Metaphysic of Morals* is primarily a treatise of a moral theory, it also has implications for political philosophy. Second, I discuss Kant's teaching on communal responsibility, and attempt to show how he has influenced the later Rawls. Third, I discuss Kant's formulation of the categorical imperative, that is, the principle of autonomy, and show how it has an enormous impact on Rawls' liberty principle.

2.1 Rousseau's influence on Kant and Kant's contribution to political philosophy:

a) Rousseau's influence on Kant:

The great contemporary influence on the way in which Kant states his ethical theory is Rousseau. According to Richard Velkley, "Rousseau's place in the Kantian endeavour is normally

conceived in terms of the contribution of Rousseauian formulations about self-legislative freedom, in the Social Contract, to the related Kantian formulation about the supreme moral law, the categorical law”²⁹. In his *Groundwork of the Metaphysic of Morals*, Kant provides grounds for the liberty, equality and freedom enjoyed by Rousseauian citizens of the civil state.

There seem to be some similarities between what Rousseau says without much argument in Book I of the celebrated *The Social Contract* and the views in which Kant worked out and analysed in his *Groundwork of the Metaphysic of Morals*. In Book I, chapter I of the Social Contract, Rousseau maintains that in the passage from the state of nature to the civil state justice replaces instinct, ‘the voice of duty’ replaces ‘physical impulse’, and that man, who had initially consulted his own interest, now has to consult his reason rather than study his inclinations. Again, when civil society has been formed, man is no longer a slave to his appetites, but acquires ‘moral freedom’ and this involves obedience to a law one prescribes to oneself.

b) Kant’s contribution in political philosophy:

In his *Groundwork of the Metaphysic of Morals*, Kant is neither concerned with the state nor with political philosophy, but his moral theory is presented in a form which has implications for law and politics. He presents the principle of universal law to demonstrate that some people could go against them but would then be parasitic on the trust of others, and that if all were to follow suit, society itself would be rendered impossible. His principle of humanity stipulates that going against the laws of morality would involve treating people as things to be utilized rather than as persons deserving respect. Maxims transgressing the moral law would lead men into subjection to rules

²⁹. Velkley, Richard. 1989. *Freedom and the End of Reason*. Chicago: University of Chicago Press, p. 7.

which could not be recognized as just by everyone. These negations and the like presuppose a positive ideal, that of a community whereby every member is respected by all the others, and in which only those rules of conduct recognized to be reasonable are followed by everyone.

2.2 The principle of humanity:

In his treatise on what is involved in treating rational nature as an end, Kant makes an important remark which runs as follows:

Humanity could no doubt subsist if everybody contributed nothing to the happiness of others but at the same time refrained from deliberately impairing their happiness. This is, however, merely to agree negatively and not positively with humanity as an end in itself unless everyone endeavours also, so far as in him lies, to further the ends of others. For the end of a subject who is an end in himself must, if this conception is to have its full effect in me, be also, as far as possible, my ends³⁰.

This remark adds significant content to Kant's idea of treating rational beings as ends. It requires one to see others in ways consistent with the realization of their ends but in ways that positively further their ends. Kant's dictum that 'seek the perfection of self and the happiness of others' means that our duty to others is to further their natural end, happiness, since each individual himself must be held responsible for improving his own rational nature. My duty to others, therefore, is to promote their happiness.

On our duty to others, Kantians comment that a refusal to aid one's neighbour is an illustration of a volitional inconsistency which is caused by willing one's maxim to be a natural maxim, when in fact, it is inconsistent with one's genuine maxims. When one freely decides to remain indifferent from the needs of his fellow man, he actually naturalizes a maxim which is incompatible with his genuine natural maxim that he achieve his own goal in life. Naturalizing

³⁰. Kant, Emmanuel. [1785] 1964. *Groundwork of the Metaphysic of Morals*. Trans. H.J. Paton. New York: Harper & Publishers, p. 98.

one's maxim that a rational being should refuse to come to the aid of a needy fellow man, one dissociates himself from attaining possible future ends. This maxim being inconsistent, illustrates that one's maxim to refuse to help one's fellow man is immoral³¹.

When a person who is in need is helped, the principal reason for coming to his aid is that he is in need and not that helping him will add luster to our virtues. The situation may be generalized and we may thus respond to it in terms of a general maxim about assisting other persons. Such being the case, it is at least partly because we cannot depend upon the presence of appropriate moral sentiments to motivate an altruistic action. Duty, Kant maintains, comes to the assistance of wavering sentiments, admonishing us in case of indifference toward a needy neighbour. Kant's realism with respect to the moral sentiments of mankind is thoroughly justified. We may simply be insensitive to our neighbour. The moral law instructs us to put aside our peevishness and concern ourselves with our neighbour's welfare. To renounce such a doctrine would be tantamount to rejecting moral rules.

In many ways, Kant reminds us in his teaching that man is naturally called upon to assist other men in need of his help. In his 'ideal kingdom of ends', he discusses a distinctive feature that every man is himself a law-maker by willing his own law and that every man has duties to every other man. This comes after the categorical imperative that 'always act as a self-legislating (autonomous) member of a kingdom of ends'. In other words, one ought always to act in accordance with a maxim which a being endowed with rationality, living in a community of rational beings, would will autonomously for the benefit of other rational beings in the community.

³¹. Kant, Emmanuel. [1786] 1970. *Kant on the Foundation of Morality*. Trans. Brendan E. A. Liddell. Indiana: Indiana University Press, p. 146.

To a great extent, Rawls seems to have been influenced by Kant's doctrine on our duty toward other persons. Rawlsian justice as fairness is committed to a duty of mutual assistance and an obligation to relieve the suffering of the least advantaged members of society. Rawls talks about an ideal community of citizens having 'shared final ends' and regarding the scheme of cooperation as a good in itself. Rawlsian difference principle serves as an incentive tool that obliges the well off to fulfil their duty of relieving the worst off from their miserable condition. Like Kant, the later Rawls in his *Political Liberalism*³² recognizes our duties toward other members of our community as equally binding with our duties toward ourselves. The question that is worth pursuing in the coming chapters is whether there is any coherency between the later Rawls and the early Rawls who highlights the liberty of autonomous citizens of a well ordered society.

2.3 On Autonomy:

After the formula of the end in itself, Kant calls his next formulation of the categorical imperative 'the principle of autonomy'. For Kant, the principle of autonomy is the principle of ethics. In his celebrated *Groundwork of the Metaphysic Morals*, he maintains that:

The law making which determines all value must have a dignity- that is, an unconditional and incomparable worth- for the appreciation of which, as necessarily given by a rational being, the word 'reference' is the only becoming expression. Autonomy is therefore the ground of the dignity of human nature and every rational nature³³.

For Kant, such an inestimable value is based on autonomy. A rational being is self-legislating because he is an end in himself. While being a maker of his own law, man is making a law which

³². Rawls, John. *Political Liberalism*, 2nd ed. New York: Columbia University Press. Rawls devotes Lecture VIII talking about social cooperation and citizens' duty to the community.

³³. Kant, Emmanuel. [1785] 1964. *Groundwork of the Metaphysic of Morals*. Trans. H.J. Paton. New York: Harper & Publishers, p. 103.

universally binds every rational nature. Kant's argument for the essence of dignity seems to run as follows: Whatever determines the value of everything else must itself be above value. Being a rational being, man must necessarily be of greater value than any end he creates by his interest. But the value of moral action is incomparably greater than anything in nature. Only the good will, that is, the source of the moral choice, has an unqualified value. It is the autonomous law-making by the rational will which is the basis for the incomparable value of a moral action. Hence, the autonomy of the rational will is the basis of man's incomparable dignity. According to this mode of thought, it follows therefore, that in the concept of autonomy the ultimate foundation of all morality is found.

For Wolff, Kant's argument for autonomy is that man's submission to a valid categorical imperative is due to the fact that man himself has legislated it. If one submits to a categorical imperative because he has some interest, then his submission is not unconditional and is therefore a mere hypothetical imperative. Hence, a categorical imperative can move man if and only if he himself wills it. It is only to the laws man himself have legislated that an unconditional obligation applies³⁴.

It is important to note that the idea of autonomy is not diminished even when the idea of a moral community is introduced. In this moral community of rational agents, each man is both subject to and a source of the laws of the community of which he is a member. Each member of the kingdom of ends is an autonomous rational creature. In their moral legislation they attain unanimity by each member independently legislating for himself, as though he is legislating for all,

³⁴. Wolff, Robert Paul. *The Autonomy of Reason*. New York: Harper & Row Publishers, p.180.

an objective law required by the canons of pure reason. Unanimity is, therefore, never attained by collective deliberation.

It is equally worth mentioning that Kant's concept of autonomy is inseparably intertwined with that of freedom. On freedom, Kant distinguishes negative freedom from positive freedom. Viewed negatively, he maintains that genuine freedom is the property of being able to act independently of determination by alien causes. In this sense, a genuine free agent is not determined to act by the law of its own inclinations. Whereas viewed positively, freedom of the will is the property which a will has of being a law to itself³⁵. And this property is what he calls autonomy. On the one hand, Kant talks about freedom in the negative sense when rational beings follow a formal synthetic principle, and they do so because their will is free from empirical determination. On the other hand, he maintains that since a will requires some law for its determination, a rational being must not follow a law given to it by nature since this can only be a law given completely by reason itself and not by reason working on the data of experience. It follows, necessarily, that the will must be free also as self-determining, that is, in a positive sense.

For Kant, rational agents are bound to substantive policies if and only if they have freely chosen those policies. In order to be bound by substantive policies rational agents must have necessarily legislated those policies themselves. In his discussion on autonomy and heteronomy, Kant states that heteronomy means being enslaved to objects outside the self. This bondage may either arise out of desire, as for pleasure, or it may arise out of a rational conception, such as the principle of perfection. Autonomy of the will, according to Kant, is the property the will has of

³⁵. Kant, Emmanuel. [1785] 1964. *Groundwork of the Metaphysic of Morals*. Trans. H.J. Paton. New York: Harper & Publishers, p. 114.

being a law to itself independently of every property belonging to the objects of volition. Autonomy, is therefore, freedom from bondage to external objects.

In the previous section, I have tried to show that Kant recognizes our duties toward other persons as equally binding with our duties toward ourselves. In his principle of humanity, Kant's recognition of our neighbourliness seems to be obvious. However, critics of Kant like George Schrader, maintain the view that Kant seems to be establishing our moral relatedness to others, that is, our duties to them in a seemingly superficial manner.

Critics of Kant reject his claim that the source of our duty toward others derives solely from one's own rational will and from the concrete reality of the other as a person. Since these two alternatives are not exclusive, they hold that they must both be affirmed. They also hold that Kant's argument seems to be such that because in affirming our own humanity we affirm humanity as such as an end of action, by implication we establish the autonomy of other persons. Since we have a shared universality, it would be absurd for us to consider ourselves as ends and deny the same status to other persons with whom we share the same nature. The criterion of our likeness is that we all possess rational will. This argument appears to be awkward since it simply begins with a purely abstract relation to others in order to establish a concrete obligation. Kant seems to be saying that we are morally committed to treat any person we encounter in accordance within abstract and universal obligation. This artificial way of establishing moral duties toward others becomes manifest when we take into consideration the fact that our duties to other persons presuppose their existence. We would have no social relations if there were no other persons. Hence, the initial foundation of our obligation to another person is the very fact of his existence in all his concreteness.

I have already mentioned that maybe it would be unfair to Kant to maintain that he ignores our obligation to others. However, critics of Kant insist that although Kant apparently recognizes the importance of our duties to others and our participation in a community of moral persons, he seems to be developing his theory too much along monadological lines³⁶. In other words, Kant seems to be caught up by the prevailing monadological conception of the self, and as a result, fails to recognize the true nature of our moral relatedness to others. A failure to regard our relatedness to others as a primary fact of moral life ultimately leads to an inadequate social reference for the moral law and social justice.

If that is the case, Kant's main defect is that he seems to have been hampered in his formulation of our duty to others by his initial emphasis upon rational autonomy. What is at stake is the source of our duty toward others. Does it derive from one's own rational will or from the concrete reality of the other as a person? Since it is derived from both, there seems to be an overemphasis upon autonomy in Kant's ethical theory. Although he rightfully recognizes autonomy and rationality as necessary conditions of morality, they become for him however too exclusively ends-in-themselves. However, it is important to clarify that I do not intend to pursue Kant critics' arguments against Kant; I simply raise these arguments to show that the doctrine upon which Rawls has based his theory is controversial. What remains in the coming chapters is to investigate whether Rawls can defend his position against similar charges.

Rawls is to a great extent influenced by Kant's doctrine on the principle of autonomy. Rawls acknowledges his debt to Kant in his celebrated *A Theory of Justice*, and interprets Kant's conception of the autonomy of the will in the following way: "Kant held, I believe, that a person is

³⁶. Ibid. p. 139.

acting autonomously when the principles of his Action are chosen by him as the most adequate possible expression of his nature as a free and equal being”³⁷. Thus understood, the claim that moral laws are laws given by the rational will means that in moral activities, everyone is exercising one’s capacity as a rational being which is one’s essential nature. To be autonomous is to be able to express one’s essential nature. In his theory, Rawls echoes Kant: that men are genuinely free only if they are autonomous.

In a section devoted particularly to the Kantian interpretation, Rawls says that “the original position may be viewed, then, as a procedural interpretation of Kant’s conception of autonomy and the categorical imperative”³⁸. The idea seems to be that, in choosing in abstraction from, or in ignorance of their particular characteristics, abilities, and personal histories, the parties are choosing as though they were noumenal rather than phenomenal beings. Since each of them freely chooses the principles under whose rule he will live, each of them is a law-giver to himself and hence is autonomous. Of course, it is open to them not to adopt the point of view of the original position, but their decision to do so “expresses [their] nature as free and equal rational persons”³⁹.

Rawls compares his theory with classical utilitarianism⁴⁰. He rejects utilitarianism on the grounds that it countenances the sacrifice of some persons to the happiness of others, and treats

³⁷. Rawls, John. 1971. *A Theory of Justice*. Massachusetts: Harvard University Press, p.252.

³⁸. Ibid., p. 256.

³⁹. Ibid., 256.

⁴⁰. In his *A Theory of Justice*, Rawls discusses extensively the classical utilitarian view. His main aim is to show that compared to utilitarianism, his theory of justice as fairness is a preferable alternative.

individual human beings as so many dimensions along which happiness can be distributed⁴¹. Rather, he takes over the Kantian doctrine that conceives individual human beings as autonomous moral agents each independently pursuing a freely chosen course of action with reason and dignity. Rawls rejects utilitarianism, and builds his theory of justice upon Kantian doctrine of the inviolability and dignity of moral personality. In chapter three I will attempt to show that it is on Kantian doctrine of the inviolability and dignity of moral personality that Rawls defends the priority of right over the good.

With Rawls in mind, I have tried to show that Kant conceives the concept of autonomy as being inseparable from that of freedom. Kant utilizes the concept of freedom to explain the autonomy of the will. While maintaining that the autonomy of the will is the sole principle of all moral laws, he concludes that the moral law expresses nothing else than the autonomy of pure practical reason, which is freedom. In his theory, Rawls influenced by Kant, stresses the autonomy and freedom enjoyed by citizens of a well ordered society. He thus sets out to formulate the first principle of justice in such a way that the rights of the free autonomous rational beings are not diminished or hampered by the demands of society.

In the following chapters, I attempt to discuss extensively the arguments that posit a challenge to Rawls' theory. Some critics tend to think that with his inestimable value of the liberty conferred on citizens as autonomous rational beings, Rawls develops his theory too much along monadological line? Are they justified in their claim that Rawls is caught up by the prevailing monadological conception of the self, and as a result fails to recognize the true account of our moral relatedness to others? If that is the case, does not a failure to regard our relatedness to others as

⁴¹. Ibid., pp.22-27.

primary factor of moral life ultimately lead to an inadequate social reference for the moral law and social justice? Kant's recognition of freedom and reason as necessary conditions of morality may become for him too exclusively ends in themselves. Is not freedom and liberty recognized by Rawls overstated at the detriment of undermining citizens' duty toward society? What impact does these questions have on the problem of the distribution of wealth?

Conclusion:

In this chapter, I have shown that Rousseauian theory entails both individualism and collectivism. Rousseauian citizens of the civil state coordinate their activities by seeking to advance their interests as integral members of the collective entity they freely constitute. They subordinate their private wills to the general will whose end is the interest of the whole community. Without direct mention of Rousseau, the later Rawls talks about citizens of a well ordered society cooperating to meet the needs of other members of their society.

I have also discussed Rousseau's liberal individualistic view. For Rousseau, liberty is an essential characteristic element in human nature without which man's humanity is diminished. Along with civil liberty, citizens acquire moral freedom in civil society. Influenced by Rousseau, the early Rawls posits more emphasis on the liberty enjoyed by citizens of a well ordered society. It is not incidental, therefore, that he talks about the primacy of basic liberties and regards his first principle of justice which protects basic liberties as being prior to the second principle.

I have also attempted to show that in Kant's *Groundwork*, two elements are observable, namely, our duty toward others and the autonomy enjoyed by rational agents. First, for Kant, the idea of treating rational beings as ends in simple terms means that our duty to others is to further

their end. Rawls seems to have been influenced by Kant's doctrine on our duty toward other persons. His justice as fairness is committed to a duty of mutual assistance to the worst off. The later Rawls echoes Kant in his discussion about an ideal community of citizens having shared final ends.

Second, I have discussed Kant's doctrine on the autonomy of rational beings. For Kant, autonomy means that a rational being is not only self-legislating, but also makes a law which binds every rational nature. Man's incomparable dignity is based on the autonomy of the rational will. I have also shown that Kant's rational agents remain autonomous even when he introduces the idea of a moral community and that his concept of autonomy is inseparable to that of freedom. Rawls is to a great extent influenced by Kant's doctrine on the principle of autonomy. The early Rawls stresses the autonomy and freedom the citizens of a well ordered society have acquired. Rawlsian representatives in the original position formulate principles which bind all members of their society. Rawls' repeated phrase 'free and equal persons' echoes Kant's autonomous rational beings.

Undoubtedly, Rawls has been greatly influenced by both Rousseauian and Kantian communitarian and individualistic views. In the coming chapters, I intend to show how these two elements are of utmost importance to the topic under discussion. Communitarianism and liberalism respectively propose different solutions to the prevailing problem of unequal distribution of wealth. Influenced by both elements, is Rawls trying to reconcile these seemingly incompatible views in his endeavour to propose a preferable solution to the problem of unequal distribution of wealth? How successful is he in solving the problem of unequal distribution of wealth?

Chapter Two

A Socialist Critique Of Rawlsian Egalitarianism:

Introduction:

Rawls' overall theory can be summed up as an attempt to protect individual rights and a commitment to equality. In the present chapter I want to investigate whether Rawls is successful in his pursuit of equality. While retaining the basic liberties of all the members of a well-ordered society, Rawls maintains that the difference principle is such that it can make the worst off better off. Given his commitment to protect individual rights, is he successful in his other commitment, namely, his pursuit of equality? Education can be instrumental to Rawls' commitment to equality. In fact, it is in line with Rawls' equal opportunity principle. Providing an equal opportunity for all members of a well-ordered society to acquire an adequate education can be an effective means used in the pursuit of equality. Presumably, this would expose even the least fortunate members of society to valued jobs. Also, such an opportunity can enable people themselves to protect most of their basic liberties.

In particular, I discuss Kai Nielsen's critique of Rawlsian egalitarian liberalism. I first explain the nature of Rawls' two principles of justice. Second, I explain and evaluate Nielsen's own principles of justice. Third, I discuss Nielsen's arguments against Rawls' difference principle. Lastly, I give my own evaluation of Rawls' difference principle. And, I explicate the policy of free education at all levels, a policy that can be instrumental for the pursuit of equality and for enabling people to secure their own basic liberties.

1. The nature of Rawls' two principles of justice:

For Rawls, the primary domain over which justice operates is the distribution of goods, where 'goods' is taken broadly to include much of what one might reasonably aspire to have: wealth, position, opportunity, liberty. As to how such goods are distributed in a just society will depend on what principles of justice are reflected in the system of right. The conception of justice as fairness is articulated in the two fundamental principles of justice.

According to Rawls, "the primary subject of the principles of social justice is the basic structure of society, the arrangement of major social institutions into one scheme of cooperation"⁴². By the basic structure of society, Rawls means a public system of rules whereby every participant knows the rules defined and agreed upon. Specifically, by an institution he means a system of rules which defines offices and positions together with their rights and duties. These rules are enacted in such a way that they provide the criterion that specifies acts that can be permissible or forbidden, and they provide rewards to permissible actions and penalties when violation occurs. The principles of justice are applicable to social arrangements of this type of public system of rules.

1.1. A general comment on the two principles of justice:

Before explaining each principle in detail, Rawls begins by attempting to give a general comment on them⁴³. The two principles of justice, he maintains, apply to the basic structure of society. First, the role of the first principle is to govern the assignments of rights and duties. This principle defines and secures the basic liberties of citizens. The first principle requires the basic liberties to be equal; citizens of a just society are entitled to obtain equally these basic rights.

⁴². Rawls, John. 1971. *A Theory of Justice*. Massachusetts: Harvard University Press, p.54.

⁴³. *Ibid.*, p. 61.

Second, the role of the second principle of justice is to regulate the distribution of social and economic advantages. This principle applies specifically to the distribution of income and wealth and to the conferring of positions of authority and offices of command. The second principle, also called the difference principle, arranges social and economic inequalities in such a way that all can benefit.

Rawls identifies his two principles of justice with Kant's categorical imperatives. He holds that "to act from the principles of justice is to act from categorical imperatives in the sense that they apply to us whatever in particular our aims are"⁴⁴. Rawls interprets the Kantian categorical imperative to mean a principle of conduct that is applicable to us in virtue of our nature as free and equal rational beings. The argument for the two principles of justice, Rawls maintains, assumes that the parties in the original position desire certain primary goods. These are the goods that it is rational to want whatever else one wants. Now, given the nature of human beings, desiring primary goods is part of being rational. Hence, a desire of certain primary goods comes from the most general assumptions about rationality and the conditions of human life.

However, Rawls rejects a Kantian interpretation that claims that Kant's notion of autonomy stresses the place of generality and universality in Kant's ethics⁴⁵. Rawls thinks it is a mistake to claim that Kantian moral principles are general and universal. He argues that it is inconceivable that a moral theory can be constructed on such a weak premise since to restrict the discussion of Kant's ethics to the notions of generality and universality is similar to reducing it to triviality. But, in his

⁴⁴. Ibid., p. 253.

⁴⁵. Ibid., pp. 251ff.

theory, Rawls maintains that the two principles of justice must be general and universal⁴⁶. First, they must be general in the sense that their formulation be such that they are without the use of what would be intuitively recognized as rigged definite descriptions. In this way, the predicates used in their statement must express general properties and relations. Second, they must be universal in application in that they apply to everyone in virtue of their being moral persons. In view of the consequences of everyone complying with them, the first principles of justice are chosen. And, “a conception of right is a set of principles, general in form and universal in application”⁴⁷.

1.2 The first principle of justice:

The first principle’s formulation is such that “each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others”⁴⁸. The first principle primarily governs the assignments of rights and secures the liberty enjoyed by citizens of a well-ordered society. The first principle of justice is prior in the lexical order because of the incomparable worth Rawls accords to liberty. Liberty is such that it can not be compromised whatever the circumstances. What remains is to discover the reasons why Rawls posits such an inestimable value on liberty.

Rawls holds that his theory must be taken “as suggestions for relating justice as fairness to the high point of the contractarian tradition in Kant and Rousseau”⁴⁹. With regard to the first principle of justice, it seems to me that Rousseau’s argument for liberty in his contractarian doctrine

⁴⁶. Ibid. pp. 131-133.

⁴⁷. Ibid., p. 135.

⁴⁸. Ibid., p. 66.

⁴⁹. Ibid., p. 252.

is presumed by Rawls when emphasising the priority of liberty. For Rousseau, what man gains by the social contract is civil liberty and proprietorship of all he possesses. Rousseau's main argument for an inestimable value on liberty rests on his claim that liberty is an essential trait in human nature.

He maintains that:

To renounce one's freedom is to renounce one's status as a man, the rights of humanity and even its duties. There is no possible compensation for anyone who renounces everything. Such a renunciation is incompatible with the nature of man, and taking away all his freedom of will is taking away all morality from his actions⁵⁰.

For Rousseau, the main argument for an inestimable value of liberty is that it is constitutive of the essence of a person, and it is so essential in human nature that without it a person ceases to be human. Consequently, to deprive of a person of her liberty is equivalent to stripping her of her humanity. If liberty is so distinguished with such an incomparable worth, it deserves priority in the lexical order. Liberty is therefore secured in the first principle of justice because its violation is detrimental to humanity itself.

Another reason for the primacy of the principle of liberty is derived from Kant's argument for the inestimable dignity possessed by autonomous rational agents. I think it is important to discuss this argument because it shows the strength of Rawls' argument for putting more emphasis on the liberty principle. This is also important for the next chapter since it is a reply to Sandel who persistently keeps asking: why the right should be prior to the good? Kant maintains that:

The law making which determines all value must have a dignity - that is, an unconditional and incomparable worth for the appreciation of which, as necessarily given by a rational being, the word

⁵⁰. Rousseau, Jean-Jacques. [1762] 1978. *On The Social Contract*. Trans. Judith Masters. New York: St. Martin's Press, p. 16.

'reference' is the only becoming expression⁵¹.

For Kant, a rational being is necessarily self-legislating since he is an end in himself. A law which a rational agent enacts for himself becomes a universal law which binds every rational nature. Kant's argument for the essence of human dignity seems to be that anything determining the value of everything else must itself be above value. Endowed with rationality, man must be of greater value than any end he creates by his interest. But the value of moral action is incomparably greater than anything in nature. Only the good will which is the source of the moral choice has an unqualified value. It is the autonomous law-making by the rational will, Kant maintains, which is the basis for the incomparable value of moral action. Therefore, the autonomy of the rational will is the basis of man's incomparable dignity.

Influenced by Kant's argument for the essence of human dignity, Rawls maintains that self-respect is the most valuable of social primary goods because it is a central and fundamental characteristic feature in human beings. Thus he holds that "the basis for self-esteem in a just society is... the publicly affirmed distribution of fundamental rights and liberties"⁵². In his discussion of self-respect, Rawls echoes Kant. For Rawls, self-esteem is the most valuable of social primary goods, and if it is dependent on an equitable distribution of liberties, no one will risk being in a position that is disadvantaged with respect to liberties.

The first principle of justice has an impact on the problem of distribution of wealth. According to Rawls, the basic liberties of the citizens of a well-ordered society are entailed in

⁵¹. Kant, Emmanuel. [1785] 1964. *Groundwork of the Metaphysic of Morals*. Trans. H.J. Paton. New York: Harper & Publishers, p. 103.

⁵². Rawls, John. 1971. *A Theory of Justice*. Massachusetts: Harvard University Press, p.544.

political liberty. They have “the right to vote and to be eligible for public office, together with freedom of speech and assembly; liberty of conscience and freedom of thought; freedom of the person along with the right to hold personal property”⁵³. For Rawls, given that citizens of a just society must have the same basic rights, the first principle of justice stresses that they must have them equally. In Rousseauan terms, a violation of any of them would dehumanize citizens of a just society.

In line with this mode of thought, an imaginary situation whereby a citizen freely forgoes certain political rights when the economic returns are significant and their capacity to influence the course of policy by the exercise of these rights is inconceivable. In the same way that Rousseauan citizens cannot renounce their liberty without renouncing their nature, Rawlsian citizens cannot renounce their liberty without renouncing what makes them who they are. The type of exchange in an imaginary situation is ruled out by the lexical order according to which the two principles of justice are arranged. Rawls states explicitly that “the principles of justice are to be ranked in lexical order and therefore liberty can be restricted only [my emphasis] for the sake of liberty”⁵⁴. Inevitably, their serial order is such that an exchange between basic liberties and economic and social gains is not permissible.

1.3 The second principle of justice:

The second principle of justice runs as follows: “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

⁵³. Ibid., p. 61.

⁵⁴. Ibid., p. 302.

to positions and offices open to all”⁵⁵. The second part of the second principle is prior in the lexical order to the first part. It stipulates that in order to achieve a fair distribution, positions of authority and offices of command must be accessible to all. The initial distribution of wealth must be regulated by the arrangements that require a formal equality of opportunity in that all have at least the same legal rights of access to all advantaged social positions.

However, Rawls is not unaware of the fact that the already existing distribution of income and wealth is the cumulative effect of prior distribution of natural talents and abilities. In such a state of affairs, Rawls maintains, “the most obvious injustice of the system of natural liberty is that it permits distributive shares to be improperly influenced by these factors so arbitrary from a moral point of view”⁵⁶. Rawls resolves this problem posed by the system of natural liberty by supplementing it with the requirement of careers open to talent the further condition of the principle of fair equality of opportunity. In this sense, positions will be open such that all shall have a fair chance to attain them. This means that all those endowed with similar talents and abilities, and ready to use them, must be given the same opportunity with regard to the prospect of success irrespective of the income class into which they are born, that is to say, regardless of their initial place in the social system.

Now as to the first part of the second principle of justice: Rawls arrives at a theory of justice for which social and economic inequalities are permitted only if they benefit the least advantaged members of society. He sets up a commitment to reduce social and economic inequalities. The second principle, also called the difference principle, allows for inequalities only if they benefit the

⁵⁵. Ibid., p. 66.

⁵⁶. Ibid., p. 72.

worst off. For Rawls, inequalities that satisfy the difference principle will be of great benefit to those living below the poverty line. He is prepared to countenance privilege only in order to improve the plight of the least advantaged members of society.

For Rawls, “the difference principle is a strongly egalitarian conception in the sense that unless there is a distribution that makes both persons better off..., an equal distribution is to be preferred”⁵⁷. The first part of the second principle is formulated in view of regulating the distribution of social and economic advantages. For Rawls, social values are to be distributed equally unless an unequal distribution of any is to everyone’s advantage, particularly the least advantaged. Ideally, therefore, an equal distribution is to be preferred if it makes both the rich and poor better off.

However, Rawls maintains, since inequalities are unavoidable, the difference principle justifies inequalities only if the difference in expectation is to the advantage of the worst off. Basing himself on the assumed framework of institutions required by equal liberty and fair equality of opportunity, Rawls maintains that the higher expectations of the rich talented members of society are just only if they work as part of a scheme which improves the expectations of the least fortunate members of society.

Now, how does the difference principle apply to the already existing initial inequalities in society? Rawls observes that the entrepreneurial class already have a more privileged prospect than the lower class of unskilled labourers. According to the difference principle, initial inequalities are justifiable only if the difference in expectation is to the advantage of the least fortunate unskilled labourers. This means that entrepreneurs are allowed to gain more on condition that the worst off

⁵⁷. Ibid., p. 76.

becomes better off. The greater expectations granted to entrepreneurs inspire them to make productions which in turn will boost the long-term prospects of the unskilled labourers. According to Rawls, entrepreneurs' "better prospects act as incentives so that the economic process is more efficient, innovation proceeds at a faster pace. Eventually the resulting material benefits spread throughout the system and to the least advantaged"⁵⁸. Rawls allows and justifies only those inequalities that actually benefit the least advantaged members of society, and he defends inequalities that are justified by the incentive consideration since they ultimately make the worst off better off. For Rawls, some members of society are, as a matter of genetic and other luck, capable of producing more than others. It is justifiable and fair that they become more rich if their fortune will eventually benefit the least fortunate members of their society. The difference principle, therefore, endorses only those social and economic inequalities that make the worst off better off.

2. Nielsen's critique of Rawls' egalitarian liberalism:

First, Nielsen argues that Rawls's own interpretation of his second principle is such that it allows inequalities which undermine any 'effective application of the equal liberty principle'. Second, he argues that given Rawls' own interpretation of his difference principle, it is nearly impossible that citizens of Rawls' well-ordered society can obtain a fair equality of opportunity. Nielsen does not only criticise Rawls' principles of justice, he also provide an alternative.

2.1 Nielsen's two principles of justice: Nielsen's first principle runs as follows:

Each person is to have an equal right to the most extensive total system of equal basic liberties and opportunities (including equal opportunities for meaningful work, for self-determination and

⁵⁸. Ibid., p. 78.

political and economic participation) compatible with a similar treatment of all. (This principle gives expression to a commitment to attain and/or sustain equal moral autonomy and equal self-respect)⁵⁹.

In as far as the first principle is concerned, Nielsen holds that his principle and Rawls' are basically the same. Concerning the equal liberty principle, Nielsen maintains, "there is no serious difference between us and I am plainly indebted to Rawls here"⁶⁰. For Nielsen, "the crucial thing about the first principle is its insistence that in a through and through just society we must all... be in a position to control the design of our own lives and we must in our collective decisions have the right to an equal say"⁶¹. In this sense Nielsen and Rawls have the same conception of equal liberty principle since they respectively maintain that citizens of a just society must be in a position to control the designs of their own lives. Their first principles respectively seem to be derived from a Kantian background since they similarly, in their own words, give expression to the value of moral autonomy.

But, there already exists serious differences between the two since Nielsen places the principle fair equality of opportunity on the same footing with equal liberty principle. Perhaps this is because Nielsen holds that although he shares the same conception of equal liberty principle with Rawls, he does not however claim the strict priority for his first principle over the second principle as Rawls does. But if Nielsen is indebted to Rawls in as far as the liberty principle is concerned, he must agree with Rousseau's and Kant's arguments for liberty, arguments on which Rawls relies

⁵⁹. Nielsen, Kai. 1985. *Equality and Liberty*. New Jersey: Rowman & Allandheld Publishers, p. 48.

⁶⁰. Ibid., p. 49.

⁶¹. Ibid., p. 49.

on when saying that liberty is most important. If Nielsen shares these arguments with Rawls, arguments which makes liberty so important, it is hard to see why he cannot claim the strict priority for the principle of liberty.

Nielsen formulates his second principle such that,

After provisions are made for common social (community) values, for capital overhead to preserve the society's productive capacity, allowances made for differing unmanipulated needs and preferences, and due weight is given to the just entitlements of individuals, the income and wealth (the common stock of means) is to be so divided that each person will have a right to an equal share. The necessary burdens requisite to enhance human well-being are also to be equally shared, subject, of course, to limitations by differing abilities and differing situations⁶².

What distinguishes Nielsen's second principle from Rawls's is his emphasis that the distribution of our resources must be such that they are to be divided such that each person will have a right to an equal share. Nielsen puts more emphasis on the common social values. He stresses that the community has a right to an equal share to the common stock of means. On social and economic values, Nielsen maintains that the income and wealth must be shared equally as far as possible. Perhaps it is because of his insistence and emphasis on social communal values that Nielsen maintains there exists sharp differences between his second principle and Rawls' difference principle.

Nielsen's claim that the community has a right to an equal share of resources depicts his second principle of justice as being more egalitarian than Rawls' difference principle in as far as the commitment to equality is concerned. While acknowledging the importance of equal basic liberties in his first principle of justice, Nielsen correctly includes equal opportunities for meaningful work. This inclusion can be instrumental in the pursuit of equality. If the state could

⁶². Ibid., p. 48.

make providing equal opportunities for meaningful work to all one of its priorities, perhaps citizens themselves could play a vital role in our pursuit of equality.

However, when explaining his principles, Nielsen does not tell us why citizens must feel obliged to commit themselves to communal responsibility. Undoubtedly, the pursuit of equality will necessarily oblige some people to sacrifice some of the belongings they are entitled to. But this attitude is vehemently opposed by the right-wing liberals who maintain that individuals are entitled to what they have legitimately acquired, and that no one has a right to claim it without violating their right to personal property. In defence of his liberty principle, Rawls maintains that sacrificing some for others is injustice. But, a serious commitment to equality unavoidably involves sacrifice of some for others. Nielsen seems to be taking his commitment to equality seriously by maintaining that income and wealth must be shared equally as far as possible. However, given that this sharing involves more sacrifice on others, maybe Nielsen should have explained why they must sacrifice what they are rightfully entitled to. He seems to have omitted an explanation that his liberal critics demand.

Nielsen also owes us an explanation as to how he will handle the different types of the worst off people in his pursuit of equality. A more thorough classification of the worst off people is as follows: some people are worst off because they are naturally disadvantaged, least talented, involuntarily unemployed, and others because they chose to be so. The last category is that of those who are unemployed voluntarily, have a sense of expensive taste, and those who voluntarily develop a risk-gambling habit such as smoking cigarette. I assume that Nielsen will deploy a generally acceptable income tax scheme to pursue his commitment to equality. Given that people are worst off for different reasons, maybe Nielsen should have explained to us how he will handle the

situation in his pursuit of equality while bearing in mind the liberty principle that he respects.

2.2 The impact of Rawls' difference principle on the liberty principle:

Nielsen's main argument against Rawls' difference principle is that Rawls' own interpretation of the difference principle is such that it allows and justifies inequalities that undermine any effective application of the liberty principle. According to Nielsen, Rawls subordinates the second principle to the first in order to secure equal basic liberties of all the free and equal citizens of a well-ordered society. But it is this subordination, Nielsen maintains, which in practice undermines an effective application of equal liberty principle. The present inequalities justified by the difference principle beget unintended inequalities of liberty rights between the well off and the worst off.

Presumably, Rawls would respond by restating his main claim for the difference principle, a claim that Nielsen would undoubtedly agree with. For Rawls, inequalities are allowed primarily to alleviate the least fortunate members of society from their unwanted conditions. If entrepreneurs are given their just entitlements, they will advance their skills and so provide more jobs for unskilled labourers. Of course, they will consequently become more wealthy. However, this arrangement which unavoidably leads to the disparity of economic standing is advantageous to the worst off people because in the long run they will become better off. Should inequalities not be allowed, Rawls would argue, either the least advantaged would remain where they are or they will become more worst off. So it is preferable to allow inequalities and make them better off, than not allow them and make them more worst off.

However, Nielsen's main complaint is that it is the very disparities allowed by the difference

principle which beget unintended consequences with regard to the most important liberty principle. Rawls gives priority to the principle of liberty and maintains that each citizen must have an equal right to the most extensive basic liberties compatible with a similar scheme of liberties for all. But the allowed inequalities, Nielsen argues, are such that the worst off cannot effectively exercise some of their basic liberties because of some external constraints. The rich members of society, for example, have more access to exercise their right to the freedom of speech and press through the media than the poor because in a capitalist society one must pay in order to convey one's message through the media. In this case, the least advantaged members of society have in theory a right to the freedom of speech and press, a right which in practice is inoperable. So, Nielsen holds that "a liberty that we cannot effectively exercise, particularly because of some powerful external constraints, is hardly a liberty"⁶³. Opting for the difference principle, Nielsen argues, makes it impossible for people to actually achieve equal liberty. Nielsen seems to be saying that regardless of the claim that the allowed inequalities are likely to make the worst off better off, if they make the equal liberty principle inoperable, even Rawls would not opt for the difference principle.

A similar critique of the inadequacy of Rawls' difference principle is made by Norman Daniels. According to Daniels, "inequalities of wealth and accompanying inequalities in powers tend to produce inequalities of liberty"⁶⁴. Daniels supports his claim by citing instances whereby the allowed inequalities in wealth tend to lead to a disparity in treatment between persons. Both the rich and the poor, Daniels maintains, are equal before the law and are equally entitled to have a fair trial. However, the rich have more access to a better legal counsel, and as a result stand in a better

⁶³. Ibid., p. 52.

⁶⁴. Daniels, Norman, ed. 1975. *Reading Rawls*. Oxford: Basil Blackwell, p. 256.

position to have more influence in the administration of justice in the determination of what crimes will be prosecuted, and they stand a better chance of securing the laws that will suit their own interests. Again, if an unskilled parent is unable to freely choose which school her child will attend, it means she is not free to do so. Her failure to afford to send her child to the school of her choice means she has no freedom of choice. But nothing prohibits an entrepreneur to send his child to the school of his choice because he has the money required by the school. However, some may argue that failing to send her child to some chosen school, say a particular private school, does not mean that she has no freedom of choice, instead, she has freedom among fewer choices. But, my point is that if her economic situation is such that she cannot send her child to a private school, even if she should have preferred, it is hard to see how we can still maintain that she has a choice between sending her child either to a private school or a public school. If by saying that she has fewer choices, we mean choosing between public schools only, then, the wealthy have more choices because they can either send their children to private or public schools. But Rawls' citizens are entitled to have equal basic liberties, and in this case they do not have equal basic liberty of the freedom of choice. It follows, therefore, that inequalities of wealth tend to produce inequalities of liberties. The least fortunate cannot effectively exercise some of their basic liberties due to the disparities allowed by the difference principle.

For Rawls, the representatives in the original position are exposed to a variety of principles of social justice, that is, principles required for making a choice among the various social arrangements which determine the division of advantages and for underwriting an agreement on the proper distributive shares. The parties in the original position, Rawls maintains, will choose the two principles of justice as explained in the first part of this chapter.

In response to the criticism brought against his difference principle, Rawls is not unaware that inequalities in some basic liberties are likely to emerge due to the inequalities in wealth allowed by the difference principle. With regard to education, for instance, Rawls holds that “the difference principle would allocate resources in education, say, so as to improve the long-term expectation of the least favored”⁶⁵. In order to meet the urgent needs of those born in the less favourable social conditions, the difference principle requires that greater resources be spent on their education more than on those born in wealthy families. The differences still exist, of course, however the difference principle is arranged such that everyone, particularly the least fortunate, benefit from economic and social inequalities.

Rawls acknowledges that the worth of liberty is not the same for everyone. Entrepreneurs possess more wealth, and consequently have more opportunities to attain their goals and secure their liberties. However, Rawls claims, “the lesser worth of liberty is compensated for, since the capacity of the less fortunate members of society to achieve their aims would be even less were they not to accept the existing inequalities whenever the difference principle is satisfied”⁶⁶. The difference principle encourages and allows entrepreneurs to acquire more wealth primarily in view of raising the long term prospects of the representative man who is worse off. The entrepreneurs’ better prospects act as incentives to produce a more efficient economic process. As the process runs its course, ultimately the conditions of the less fortunate members of society are improved. Should inequalities not be justified by the difference principle, Rawls argues, either the situation of the least

⁶⁵. Rawls, John. 1971. *A Theory of Justice*. Massachusetts: Harvard University Press, p.101.

⁶⁶. *Ibid.*, p. 204.

fortunate will remain where it is, or it will be worse than it is. So, it is better to opt for half a loaf than for no bread at all.

However, despite the fact that the difference principle is beneficial to the worst off people, it hampers some of their basic liberties. If it is the case, as Nielsen and Daniels have shown, that the allowed inequalities tend to undermine some of their basic liberties, Rawls fails to attain one of his most important goals, namely, liberty. Now, Nielsen holds that with his second principle of justice, a principle which differs sharply with Rawls' second principle, liberty can be attained. For me, the serious difference consists in that Nielsen places more emphasis on common social values. However, there exists a similarity between Rawls' second principle of justice and Nielsen's second egalitarian principle of justice.

A notable similarity consists in that their respective second principles are committed to reducing inequalities and have equality as their goal. For Rawls, unless there is a distribution that makes persons better off, an equal distribution is to be preferred. Since inequalities are unavoidable, the difference principle justifies only those inequalities that will make the worst off better off. If his difference principle is committed to making the worst off better off, it is not implausible to claim that it has equality as its ultimate goal. Similarly, Nielsen states that after just entitlements are made, the distribution must be such that each person has a right to an equal share. He emphasises that resources must be shared equally as far as possible. The notable difference in this regard is that of degree that determines whose theory appears more egalitarian.

Nielsen correctly holds that there exists serious differences between his second principle and Rawls' difference principle. The following apparent similarity between their second principles will lead us to the fundamental difference. Nielsen maintains that the primary aim of his second

principle of justice that is more egalitarian than Rawls' is to reduce inequalities in primary social goods. But, at the same time he specifies that his radical egalitarian principle does not claim that the distribution of wealth should be divided equally like dividing up a pie equally⁶⁷. It seems to me that the main claim of Nielsen's radical egalitarian principle of justice is that it argues for a distribution of income and wealth which is such that its outcome will be compatible with people having different abilities and needs, and that such benefits and burdens be equally shared as far as possible by all citizens of a just society. But, it seems to me also that there is an apparent similarity between Nielsen's second principle of justice and Rawls' difference principle.

First, there seems to be a similarity in that the second principles of both theorists respectively allow inequalities. Rawls' difference principle states that while the distribution of income and wealth need not be equal, they must be to everyone's advantage. For Rawls, the talented members of society are entitled to receive the wages their labour deserves. The advantage of just entitlements of individuals is that while the society's productive capacity is preserved, the talented rich are encouraged to utilize all their abilities, in the long run they improve the long-term expectations of the least talented members of society. As I have shown, these allowed inequalities serve as incentives that render the economic process to become more efficient. In the last analysis, the inequalities justified by the difference principle make the worst off better off.

In a similar fashion, Nielsen's second principle states that "due weight is given to the just entitlements of individuals"⁶⁸. To preserve the society's productive capacity, individuals are first

⁶⁷. Nielsen, Kai. 1985. *Equality and Liberty*. New Jersey: Rowman & Allandheld Publishers, p. 53.

⁶⁸. *Ibid.*, p. 48.

entitled to receive just wages. Presumably, this will serve as an incentive for them. If no due weight is given to the just entitlements of individuals, there will be no motivating factor for them to produce more.

According to Nielsen, it is only after 'due weight is given to the just entitlements of individuals' that 'the income and wealth is to be so divided that each person will have a right to an equal share'. It seems to me that when an equal distribution is made, inequalities still exist because all simply share the remaining pieces of bread while some have already received their full just entitlements. It seems unlikely that the talented individuals will sacrifice their just entitlements so that all may have an equal share. Presumably, the talented individuals will demand their just entitlements which act as incentives for them to produce more so that their production can be arranged so as to meet the needs of the community. Inequalities between the talented individuals who receive their just entitlements and the least talented individuals of Nielsen's just society seems to be unavoidable. If inequalities allowed by Rawls' difference principle fail to secure some basic liberties of the least advantaged members of a well-ordered society, are not unavoidable inequalities in Nielsen's second principle failing to secure some basic liberties of the least talented members of a just society?

2.3 A sharp difference between Nielsen and Rawls:

Taking into account what Nielsen says elsewhere, it becomes clear that he is sharply opposed to the idea of providing incentives. Nielsen maintains that some people wrongly think that those who have delayed gratification and endured long years of struggle in their training deserve provision of special incentives. This, they claim, compensates for the sacrifice of going through long years of the required training. This sacrifice, therefore, requires the inequalities of differential incentives.

In response, Nielsen vehemently opposes the inequalities of differential incentives by saying,

there is no reason why the additional training should be a form of sacrifice or even be regarded as a sacrifice... In an egalitarian society,... everyone would be materially secure and there would be no material loss in remaining in medical school, law school, or graduate school. Once that becomes so and once the pace is slowed down, as it really could be, so that student are not rushed through a great stress and strain, it would be,... far less of a sacrifice to go through medical school than to be a bank-teller, rug salesman... For many people... the work both during their school years and afterwards would be more rewarding and challenging than the routine jobs. There is no need to provide special incentives, given other suitable changes in society, changes which are quite feasible if we do not continue to take a capitalist organization of society as normative. The years of training need not be anything remotely like a sacrifice⁶⁹.

The passage cited above clearly shows that Nielsen's viewpoint is sharply opposed to that of Rawls.

He opposes incentives and Rawls encourages them. While Rawls' difference principle is likely to increase inequalities, Nielsen's abolition of incentives reduces them. Bearing in mind the above passage, it seems to me that Nielsen's claim that due weight must be 'given to the just entitlements of individuals', does not mean that some people deserve to be more rewarded than others. More accurately, no profession should be regarded as being more important than others. Lawyers, Nielsen maintains, are not more important than dental technicians, just as marriage councillors are not more important than airline stewardesses. This mode of thought rules out provision of special incentives.

Nielsen's objection to the idea of providing special incentives can be supported. The most plausible reason for objecting to this idea is the one I believe he shares with his liberal egalitarian rivals. I presume that with Rawls, Nielsen agrees that internal endowments are morally arbitrary because it is simply by mere brute luck that some people happen to be endowed with them. In general, socialist and liberal egalitarians hold that being endowed with a special talent is matter of sheer luck because it was not chosen. Similarly, they maintain that less talent and natural

⁶⁹. Nielsen, Kai. 1981. "Impediments to Radical Egalitarianism". *American Philosophical Quarterly* 18, p. 126.

disadvantage are matters of brute bad luck because they were not chosen. If that is the case, it seems unfair to provide special incentives to talented people since this is likely to be detrimental to those who by sheer bad luck are either less endowed or not favoured by nature. It is likely to be detrimental to them because without special incentives added to their low income they cannot protect most of their basic liberties, a privilege enjoyed only by the more talented people. This mode of thought seems to be compatible with Nielsen's Marxist creed that resources must be distributed according to the needs people have. Undoubtedly, rejecting provision of special incentives is a drastic step toward equality, and a movement toward protecting not only the basic liberties of some but all members of a just society.

However, Nielsen's abolition of special incentives is not without problems. He suggests that the time for remaining in medical school or graduate school could be prolonged so that students are not rushed through stress and strain. In this way, he thinks that training could somehow cease to become a form of sacrifice that needs provision of special incentives. So, people who go to medical school, law school or graduate school in a real egalitarian society do not need to be provided with special incentives. I agree with Nielsen that the prolongation of years in medical school could amount to less stress and strain. But the fact still remains that some trainings are more demanding and burdensome than others. Slowing down the pace does not eliminate the fact that such trainings require more effort and are therefore more of a sacrifice than others. For example, much more is demanded from the people who train to become medical doctors and lawyers than those who train to become barbers and bus drivers. If no incentives are provided, some people who are capable of pursuing law or medicine are likely to go for less demanding types of training, given that material security is guaranteed in whatever jobs they will do.

Abolition of incentives seems to be a high risk for the entire social economy. I have just pointed out that people who are endowed with exceptional talents, talents which, if deployed could bring about a tremendous contribution to their society, could easily change their careers in Nielsen's egalitarian society. If career does not carry any weight in as far as reward is concerned, people are likely to choose the less demanding careers. I presume that Nielsen would respond by saying people who would do that are those who are indoctrinated or brainwashed by the current capitalistic spirit that posits more stress on material values at the detriment of social values. But even in an egalitarian society no one would like to earn a decent life the hard way if there is an easy way out. Under normal circumstances people will opt for less demanding careers, given that they will receive the same reward.

Also, I think that some jobs deserve provision of special incentives because of the weight they carry and the risk people take when occupying them. For instance, people who toil in the risky gold mines of Johannesburg should not in all fairness be equated with those who clean the streets of Johannesburg city, in as far as rewards are concerned. If special incentives are not provided, some jobs are likely to become vacant, and this would mark the decline of the economy. Nielsen holds that the benefits and burdens must be equally shared by all. But it is not quite clear how the people who do not work in the mines will share the burden and risk the miners are faced with.

However, all things considered, given Nielsen's claim that equal basic liberties must include equal opportunities for meaningful work, given that his second principle emphasises that the community has a right to an equal share to the common stock of means, that is, resources must be shared as far as possible, and given that he does not claim the strict priority for his first principle over the second, his principles of justice seem to be more egalitarian than Rawls'. Nielsen

formulates his second principle such that it radically reduces inequalities that enable some people to secure their own basic liberties. He breaks the barrier of class divided society by correctly maintaining that it is simply wrong for some people to think that they are more important than others because of the jobs they occupy in society. But his view of rewards and incentives seems to be detrimental for the stability of the economy. Instead of arguing for the abolition of incentives, perhaps Nielsen should have made a case for a drastic reduction of incentives.

On the one hand, Rawls' difference principle which goes to the extent of allowing inequalities is confronted with unavoidable inequalities which tend to undermine some of the basic liberties of the least fortunate members of society. On the other hand, Nielsen's second principle which attempts to abolish incentives tends towards the decline of the economy. If that is the case, it is possible that members of Nielsen's just society can be unable to secure their basic liberties.

Comparatively, Nielsen's theory appears to be preferable to Rawls' because it is more egalitarian. His second principle is aimed at securing the basic liberties of all the citizens of a just society. However, I have raised doubts about Nielsen's objection to providing people with incentives that makes it less desirable. Similarly, I am discontent with Nielsen's pure socialism which is opposed to any form of a free market enterprise. At the end I will suggest a theory that accommodates a free market enterprise, and so in agreement with Rawls' theory, while insisting that this must be supervised by an external authority, namely, the state, and this seems to be compatible with Nielsen's mode of thought.

2.4 Rawls' difference principle and self-respect:

According to Nielsen, the Rawlsian difference principle "sanctions inequalities that are harmful to the sense of self-respect of people in the worst off strata of any capitalist society, actual

or realistically possible”⁷⁰. For Nielsen, if the least advantaged members of society sanction inequalities allowed by the difference principle, they agree to a deal which is harmful to their self-respect since it undermines their moral autonomy and deprives them of their right to have an effective control over their own lives. Before discussing Nielsen’s criticism, an explanation of the nature of self-respect and its defence by Rawls is necessary.

a) The nature of self-respect:

For Rawls, the primary domain over which justice operates is the distribution of goods, where a ‘good’ is taken broadly to include much of what one might reasonably aspire to have. He talks about the chief social primary goods, and defines them as things that every rational person is presumed to want. They are liberty and opportunity, income and wealth, and the bases of self-respect. According to Rawls, all these social values are to be distributed equally. However, an unequal distribution of some of these values is justifiable by the difference principle only if it is to everyone’s advantage, particularly the least fortunate members of society. Among these social primary goods, Rawls maintains, the primary good of self-respect has a central place. Why Rawls signals out self-respect from other social primary goods, Kant’s teaching on autonomy would seem to give Rawls grounds for asserting that compared to other social primary goods, self-respect’s worth is incomparable.

When determining what autonomy entails, Kant says,

The law making which determines all values must have a dignity - that is, an unconditional and incomparable worth - for the appreciation of which, as necessarily given by a rational being, the word ‘reference’ is the only becoming expression. Autonomy is therefore the ground of the dignity

⁷⁰. Ibid., p. 52.

of human nature and every rational nature⁷¹.

The term ‘reference’ which denotes ‘self-respect’ means that the dignity of man as self-legislating rational agent is unconditional and of incomparable worth. Kant’s argument for the essence of human dignity consists in that which determines the value of everything else must necessarily surpass value. The capability of a rational agent to create ends by his interest is what makes him to be more valuable than the ends he creates. Now, for Kant, the value of moral action is incomparably greater than anything in nature since only the good will, as the source of moral choice, has an unqualified value. The basis for the incomparable value of a moral action is the autonomous law-making by the rational will. Consequently, therefore, the autonomy of the rational will is the basis of man’s incomparable dignity.

Basing himself on Kant’s argumentation on autonomy, Rawls maintains that among other social primary goods, the most important one is a sense of one’s own worth. For Rawls, self-respect “includes a person’s sense of his own value, his secure conviction that his conception of his good, his plan of life, is worth carrying out and it implies a confidence in one’s ability, so far as it is within one’s power, to fulfill one’s intentions”⁷². According to Rawls, a person becomes confident of his value only if his ‘abilities are both fully realized and organized in ways of suitable complexity and refinement’. The representatives in the original position, therefore, would avoid as far as possible the social conditions that undermine self-respect⁷³. Accordingly, Rawls concludes, persons in the

⁷¹. Kant, Emmanuel. [1785] 1964. *Groundwork of the Metaphysic of Morals*. Trans. H.J. Paton. New York: Harper & Publishers, p.103.

⁷². Rawls, John. 1971. *A Theory of Justice*. Massachusetts: Harvard University Press, p.440.

⁷³. *Ibid.*, p. 440.

original position would choose to give the primary good of self-respect priority over other social primary goods since it is of incomparable value.

b) Nielsen's critique:

For Rawls, given that self-respect as one's own worth is the most important primary good, the assumption that the parties in the original position would view it as something the basis of which is to be shared equally, and be considered to be prior to other social primary goods, is a reasonable one to prefer. Nielsen does not question the value of self-respect. Rather he questions Rawls' mode of thought according to which trading off a lesser self-respect for more good seems to be inconceivable even in situations of moderate scarcity⁷⁴. Rawls confirms that an exchange of basic liberties for economic and social gains can not be justified since the two principles of justice are arranged in a serial order which does not allow exchanges between basic liberties and economic and social gains. Rawls maintains that "the serial ordering of principles expresses an underlying preference among primary social goods"⁷⁵. For Rawls, the social primary goods are arranged in a serial order such that an exchange between the basic liberty of self-respect and the other primary goods is not permissible.

Nielsen argues that since wealth is inseparable from power and authority, the disparities sanctioned by the difference principle are detrimental to the self-respect of the least fortunate

⁷⁴. Nielsen, Kai. 1985. *Equality and Liberty*. New Jersey: Rowman & Allandheld Publishers, p. 50.

⁷⁵. Rawls, John. 1971. *A Theory Of Justice*. Massachusetts: Harvard University Press, p.63.

members of society⁷⁶. Elsewhere, Nielsen restates his argument that as long as the difference principle allows extensive income differentials, the well off will gain predominance of power and control in society. In this way, the difference principle is such that the better off people will “will gain control over others or at least will be in a position to exercise control or partial control, and that in turn limits the autonomy of some and works to undermine their self-respect”⁷⁷. The justified disparities endow the well off people with inseparable wealth and power, and these in turn tend to undermine the liberty and self-respect of the worst off.

Nielsen’s argument that inequalities justified by the difference principle are harmful to the sense of the self-respect of the least fortunate members of society runs as follows: Autonomy which entails self-respect as one of its key components is such that rational agents must be self-legislating, be able to carry out their own rational plans of life, and be able to fulfill their own ends. It is only when these conditions are satisfied that a sense of one’s own worth is not hampered. But the situation of the least fortunate members of society is such that they are unable to carry out their own rational plans and fulfill their own ends. Only the well off members of society have access to power and authority since they are intertwined with wealth. Now, by justifying disparities in wealth, the difference principle allows the well off members of society to exercise power and authority over the worst off members of society because in practice wealth is inseparable from power and authority. Hence, by sanctifying inequalities, the difference principle undermines the moral autonomy of the worst off people, and consequently hampers their self-respect.

⁷⁶. Nielsen, Kai. 1985. *Equality and Liberty*. New Jersey: Rowman & Allandheld Publishers, p. 50.

⁷⁷. Nielsen, Kai. 1997. “Radical Welfare Egalitarianism”. In *Equality*, eds. Louis Pojman and Robert Westmoreland. Oxford: Oxford University Press, p. 207.

Similarly, Daniels holds the view that inequalities sanctioned by the difference principle are likely to undermine the self-respect of the worst off. Allowing the rich to become more rich implies bestowing them with more power, and this is likely to cause significant inequalities in the worth of citizenship liberties. For Daniels, it seems most plausible that public acknowledgement of inequalities in the worth of citizenship liberties act to undermine the self-respect of those with less worth of liberty⁷⁸. Daniels' argument runs as follows: If it is true that inequalities in wealth and powers justified by the difference principle are likely to produce significant inequalities in the worth of citizenship liberties, it seems plausible to maintain that public recognition of unequal liberty to exercise the affirmed basic liberty is just as likely to undermine self-respect as public recognition of unequal liberties themselves. Daniels illustrates his claim by citing the example of mass media. The situation of the least fortunate members of society is such that they can not enjoy a higher index of primary goods, and they lack greater worth of citizenship liberties enjoyed by the well off. The well off are situated in a position where they have more access to the mass media which enables them to publicize their views and interests. It also enables them to easily select their own candidates and bestow them with more respectable status in society whereby they have more effective influence on office holders. Being powerless, the self-respect of the least fortunate people is likely to be diminished.

Apart from the above mentioned criticisms, Rawls' response is incoherent. He still maintains that persons must secure their self-respect because it enables them to pursue "their

⁷⁸. Daniels, Norman, ed. 1975. *Reading Rawls*. Oxford: Basil Blackwell, p. 275.

conception of the good with zest and to delight in its fulfilment”⁷⁹. But, he also maintains that “self-respect is not so much a part of any rational plan of life as the sense that one’s plan is worth carrying out. Now our self-respect normally depends upon the respect of others”⁸⁰. This claim is inconsistent with Kant’s notion of autonomy upon which Rawls relies. According to Kant, rational agents are autonomous only if they are self-legislating. And, their dignity that is unconditional and of an incomparable worth is secure only if they themselves can as far as possible carry out their own rational plans of life, and fulfill their own ends. In as far as the self-respect of other rational agents is dependent upon the self-respect of others, these conditions are not met. If it is the case that Rawls cherishes the Kantian notion of autonomy as I have explained earlier, a notion which incidentally he does cherish⁸¹, then he is being inconsistent by claiming that ‘self-respect is not so much a part of any rational plan of life as the sense that one’s plan is worth carrying out’. While Rawls claims that self-respect “implies a confidence in one’s ability, so far as it is within one’s power, to fulfill one’s intentions”⁸², he also maintains the view that “our self-respect normally depends upon the respect of others”⁸³. The term ‘normally’ denotes that under normal circumstances man’s self-respect is dependent upon the respect of others, and not upon his own ability so far as it is within his own power to fulfill his own intentions.

⁷⁹. Rawls, John. 1971. *A Theory of Justice*. Massachusetts: Harvard University Press, p.178.

⁸⁰. Ibid., p. 178.

⁸¹. Ibid., p. 440.

⁸². Ibid. p. 440.

⁸³. Ibid., p. 178.

2.5 Rawls' difference principle and the principle of fair equality of opportunity:

For Rawls, the liberal principle of fair equality of opportunity is a necessary tool that assures all citizens of a well-ordered society that offices and positions are equally open to them. The inequalities allowed by the difference principle are just only if the equal liberty principle and the liberal principle of fair equality of opportunity are not violated, and the existence of such inequalities must always aim at improving the situation of the least fortunate members of society.

Nielsen doubts Rawls' contention that in a capitalist class-divided society the liberal principle of fair equality of opportunity can still be applicable. Rawls thinks, Nielsen maintains, that such class differences which make for the substantial differences in life prospects that are noticeable between the worst off and the well off are unavoidable, and that in such a situation his two principles of justice can still be satisfied. But, Nielsen argues, "it is difficult to see how, in such a circumstance, the constraints of a fair equality of opportunity, on which [Rawls] also insists, could possibly be met"⁸⁴.

For Nielsen, applying the difference principle which sanctions inequalities weakens Rawls' theory since it is precisely these inequalities that violate the principle of fair equality of opportunity. Nielsen refers to the children of entrepreneurs and unskilled labourers to illustrate his point. Poverty deprives the children of unskilled labourers of the opportunity to attend the schools of their choice. More serious, despite their intellectual abilities, their situation deprives them of the opportunity of pursuing their careers and obtaining the training needed for open offices and positions. As a result, when the offices and positions do open, only children of entrepreneurs are privileged to occupy them

⁸⁴. Nielsen, Kai. 1985. *Equality and Liberty*. New Jersey: Rowman & Allandheld Publishers, p. 85.

since the opportunities of acquiring the necessary skills were at their disposal.

In a capitalist class-divided society where the arrangement is such that each one must pay for her education, only the fittest will survive. If it is true, it is definitely incompatible with Rawls' equal opportunity principle. The implication is that the children of unskilled labourers who are deprived of the opportunity to acquire the necessary skills will most likely inherit their parents' position in society. Even if the fair equality of opportunity principle is arranged such that the income class into which both the children of entrepreneurs and unskilled labourers is disregarded, as Rawls would argue, as long as inequalities are allowed, the principle of fair equality of opportunity will still be violated. As long as inequalities persist, enacting a law that all are free to attend the schools of their choice and acquire as much skill as they are capable of, does not guarantee the children of unskilled labourers, at least in practice, that they will have equal opportunities to pursue their careers and acquire the skills they are capable of. To know that in principle one has an opportunity to pursue one's career is one thing, and to see that in practice such an opportunity does exist is another.

For the least fortunate members of society the opportunity to pursue their careers seems to be highly impracticable in a class-divided society that allows inequalities. The weakness of Rawls' theory, therefore, seems to consist in that even if the difference principle can make the worst off better off, it fails to secure their right to the principle of fair equality of opportunity they are entitled to.

In the following passage, Rawls expresses what the liberal principle of fair equality of opportunity does not allow. And Nielsen, as I have shown, argues that these are the unintended consequences we must expect as long as the difference principle stands. According to Rawls, the

liberal principle of fair equality of opportunity,

Expresses the conviction that if some places were not open on a basis fair to all, those kept out would be right in feeling unjustly treated even though they benefited from the greater efforts of those who were allowed to hold them. They would be justified in their complaint not only because they were excluded from certain external rewards of office such as wealth and privilege, but because they were debarred from experiencing the realization of self which comes from a skilful and devoted exercise of social duties. They would be deprived of one of the main forms of human good⁸⁵.

For Rawls, the people who cannot perform some social duties because they were not given the opportunity to cultivate their skills, are justified in feeling unjustly treated. In line with what Rawls is saying, the implication is that: If the children of unskilled labourers discover that some of the places are not open to them because they lack the necessary skills, they are justified in feeling unjustly treated regardless whether they benefit from the greater efforts of the children of entrepreneurs who now enjoy the privilege of holding them. Those 'deprived of one of the main forms of human good' (children of unskilled labourers in our case) are justified to feel unjustly treated: first, because of their exclusion from some external rewards of office such as wealth and privilege; second, because they are debarred from experiencing the realization of self deriving from a skilful and devoted exercise of social duties, duties now performed only by those who had the opportunity to advance their skills; and third, because they cannot attain their main forms of human good.

The situation of the least unfortunate members of society, however, is such that it deprives them of the opportunities of cultivating their skills, an opportunity enjoyed by the fortunate members of society. As a result, the unwanted consequences seem to be inescapable.

⁸⁵. Rawls, John. 1971. *A Theory of Justice*. Massachusetts: Harvard University Press, p.84.

3. *Fair opportunity as preferential treatment: free education:*

In their *Democracy and Disagreement*, Gutman and Thompson suggest policies that can be acceptable to a liberal egalitarian interpretation of fair opportunity. They talk about policies that would satisfy the basic opportunity principle. In their view, such policies would adequately fulfill the goals of fair opportunity. They maintain that,

These include policies that would provide adequate educational opportunities for all children, and basic health care coverage, employment opportunities, and income to the extent necessary to give everyone - regardless of their race, gender, or relative place in the income distribution - the effective opportunity to compete on fair terms for skilled jobs. The strongest case against preferential hiring makes the claim that public policies should concentrate on creating these basic opportunities for all members of society. Both liberals and egalitarians can favour some version of each of these policies, which together would relieve the pressure on preferential hiring⁸⁶.

For Gutman and Thompson, liberal egalitarians such as Rawls can favour their policy of free education, a policy that fulfills the demands of the basic opportunity principle. By basic education, Gutman and Thompson confine themselves to elementary and secondary education. They hold that a policy that entitles all citizens, the least advantaged members of society in particular, to basic opportunity good in education (that is, elementary and secondary education), would be favoured by liberal egalitarians. The implication is that if the least fortunate members of society are not given the effective basic educational opportunities, they are justified to feel unfairly treated.

But, providing a basic education for all, that is, elementary and secondary education, will fall short of realizing fair opportunity in valued jobs for the least fortunate members of society. If the state does not make post-secondary education a funding priority as well, the likely outcome is a crisis for cash-strapped colleges and universities. Post-secondary expenditure leaves the least

⁸⁶. Gutman, Amy and Dennis Thompson. 1997. *Democracy and Disagreement*. Massachusetts: Harvard University Press, p. 319.

fortunate members of society almost totally vulnerable to devastating fee increases. With student debts sky-rocketing, those coming from the least fortunate families find themselves saddled with a life-long financial mill-stone around their necks. As a result, without their own choice, they are forced by their financial situation not to advance.

Basic elementary and secondary education is inadequate because valued jobs in society require one to have obtained success in post-secondary education, and the condition of the least fortunate members of society deprives them of the opportunity to find accommodation in post-secondary education, an opportunity that will make them suitable candidates for valued jobs. Having a fair opportunity to valued jobs is something unspeakable to the least fortunate members of society since a success in post-secondary education, and not just elementary and secondary education is the requirement.

In line with Gutman and Thompson, Amartya Sen maintains that denying educational opportunities for all children is detrimental to their freedom. For Sen, “a child who is denied the opportunity of elementary schooling is not only deprived as a youngster, but also handicapped all through life (as a person unable to do certain basic things that rely on reading, writing and arithmetic)”⁸⁷. In pursuit of Sen’s argumentation, a claim for a free education for all at all levels can be made. Given the fact that we live in a world of technology, children who are denied of adequate educational opportunities, that is, post secondary schooling, are handicapped all through their lives. Such children are denied of the effective opportunity to compete on fair terms for skilled jobs the rest of their lives.

But, an objection may be raised that Rawls would not oppose such a policy, and thus it seems

⁸⁷. Sen, Amartya. 1999. *Development as Freedom*. New York: Alfred A. Knopf, p. 284.

hardly controversial. However, such a possible and apparently plausible objection must take into consideration the fact that a policy of free education that I suggest is not confined to elementary and secondary education, it extends to post-secondary education. In response to the above mentioned objection, I think it is unlikely that Rawls would not oppose my policy, and if it is the case that he would oppose it, it must be controversial.

I have shown that, for Rawls, the liberal principle of fair equality of opportunity is a necessary tool that assures all citizens of a well-ordered society that offices and positions are equally open to them. In the lexical order Rawls states clearly that the principle of fair equality of opportunity is prior to the difference principle. Now, about giving the least fortunate members of society an opportunity to education, Rawls holds that “the difference principle would allocate resources in education, say, so as to improve the long-term expectation of the least favored”⁸⁸. Given that Rawls opts for a radically egalitarian standard of social justice that makes him give strict priority to improving the situation of the least fortunate, he would easily favour a policy of free education for all at the elementary and secondary level, a policy proposed by Gutman and Thompson.

However, it should be remembered that Rawls’ is a theory of right that over-emphasizes the importance of rights. And this means that there is a limit beyond which he cannot go. About the basic liberties, Rawls states that they cannot be sacrificed without violating the rights of individuals. And these are “political rights together with freedom of speech and assembly; liberty of conscience and freedom of thought; freedom of the person along with the **right to hold (personal) property**

⁸⁸. Rawls, John. 1971. *A Theory of Justice*. Massachusetts: Harvard University Press, p.101.

[my emphasis]”⁸⁹. Now, a policy of free education that includes post-secondary education implies that the wealthy members of society will have to contribute more because they have more money. But, in Rawls’ theory they have a right to hold their own personal property. Nobody has a right to force them to fund a costly post-secondary education without violating their rights. From the onset, Rawls states:

Each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override. For this reason justice denies that the loss of freedom for some is made right by a greater good shared by others. It does not allow that the sacrifices imposed on a few are outweighed by the larger sum of advantages enjoyed by many⁹⁰.

If the rich individuals could be taxed such that post-secondary education be free to all, many members of society would seize the opportunity joyfully. But in Rawls’ theory this would be imposing sacrifices on a few individuals, and depriving them of their freedom to use their property the way they themselves would prefer. For Rawls, this is injustice. It seems to me that Rawls’ insistence that the liberty principle may not be infringed upon even for the purpose of promoting social and economic equality would make it hard for him to accept my policy.

Still, objections may be raised to the policy of free education for all at all levels. The following questions may be raised: Does such a policy achieve much? Will not unskilled labourers still be needed? Why include other policies, such as health care coverage and welfare care? Will not Gutman’s and Thompson’s policy of free education suffice? I regard questions such as these to be of vital importance because they require one to show exactly what is distinctive about free education for all at all levels.

⁸⁹. Ibid., p. 61.

⁹⁰. Ibid., pp. 3-4.

If the state could devise a policy of free education for all at all levels, most probably this would provide all capable citizens with the opportunity to become skilled labourers in the long run. The phrase 'capable citizens' implies that there are some who are not capable to pursue their studies at a higher level. And this means that there will always be unskilled labourers needed. My point, however, is that there are many who are intellectually capable, who unfortunately are denied the opportunity to cultivate their potential talents. Also, it is important to be mindful of the fact that as our technology develops, the number of unskilled jobs will gradually decrease.

Presumably, a great number of citizens of a state that favours free education of all at all levels would eventually be self-supporting, and be in a position to secure some of their basic liberties that Daniels and Nielsen talk about, such as having access to a better legal counsel to obtain a fair trial. Such a policy does not discuss the issue of allowing inequalities that makes the worst off better off since whether allowed or not, they will persist given the fact that they are unavoidable. Rather, it talks about eradicating poverty at its roots, namely, lack of adequate education. The more educated even the least advantaged members of society become, the more self-supporting they will likely become. And the more self-supporting they become, the more apt they are to protect their own basic liberties themselves. The skills they will have gained in their pursuit of advanced studies will make them eligible to occupy valued jobs, and this will most probably enable them to secure their own basic liberties.

Gutman and Thompson talk about a policy that would provide adequate educational opportunities for all children regardless of their classes. But their policy is unfortunately restricted to basic opportunity goods, such as elementary and secondary schooling. This is inadequate since post-secondary education is more costly than mere elementary and secondary education. Their

policy would deprive the least fortunate members of society to obtain an adequate education that presumably would make them eligible for valued jobs. Given that a great number of the least advantaged members of society cannot afford to pay for the costly post-education, the state should subsidise such an education so that everyone may have a fair opportunity to education. Other policies, such as primary health care and welfare care could be deployed as well, but equal free education for all at all levels should be considered as a priority since it is preferable to teach a person how to catch a fish than just giving her a fish. Moreover, equal free education at all levels could be instrumental in the long run for funding other policies such as welfare care and health care coverage since having obtained the necessary skills, citizens can occupy valued jobs and thus be in a position to subsidise such policies through income tax schemes.

Presumably, aware that a free education at all levels must be funded more by the rich members of society, Rawls would possibly object that justice 'does not allow that the sacrifices imposed on a few are outweighed by the larger sum of advantages enjoyed by many'. Heavy income tax scheme imposed on the rich to subsidize education that includes post-secondary education would amount to denying their freedom to allocate their own private property the way they themselves would like.

But, given Rawls' commitment to make the worst off better off, he can, as Gutman and Thompson too maintain, accept policies of free education for all at the elementary and secondary levels, primary health care coverage, and welfare care. This means that Rawls is ready to accommodate life-long policies, such as primary health coverage and welfare care. If Rawls is ready to make the rich members of society "sacrificial lambs" for life, why can he not also accommodate a policy of free education that includes post-secondary education, a policy by means of which in the

long run a great number of people can effectively contribute to subsidizing the above mentioned policies intended to make the worst off better off? The more educated people will become, the more eligible they will be to obtain valued jobs. The more the number of people occupying valued jobs increases, the less money each will have to pay for funding education and other policies.

Conclusion: Evaluating Rawls' difference principle

The arguments brought by Nielsen and Daniels show that under the present justified inequalities, it is hard for Rawls to deny the charge that the difference principle fails to secure some of the basic liberties of the least fortunate members of society. Now, having discussed Nielsen's critique of Rawls' difference principle, I further investigate whether it really deserves to be called an egalitarian principle, that is, a principle that is primarily intended to make the worst off better off. I carry out my investigation by attempting to answer two questions.

First, who benefits more from the allowed and justified inequalities, the well off or the worst off members of society? Undoubtedly, Rawls' immediate reply would be that both parties actually do benefit from the allowed disparities, given that the difference principle is Pareto-sensitive in the sense that everyone must gain. For Rawls, "the second principle insists that each person benefits from permissible inequalities in the basic structure"⁹¹. The difference principle allows an inequality, if there is a reason to believe that permitting it will work out for the advantage of every person engaged in it. As he continues to explain his second principle of justice, Rawls does not talk about those who benefit more from the allowed inequalities, rather he tells us that all who opt for it will gain from the allowed inequalities. Thus he maintains that,

⁹¹. Ibid., p. 64.

everyone benefits when the difference principle is satisfied. For the representative man who is better off in any two-way comparison gains by the advantages offered him, and the man who is worse off gains from the contributions which these inequalities make⁹²

But that the well off members of society benefit more from the justified disparities because by becoming more rich, at least most if not all their basic liberties rest secured. If it is the case that the allowed inequalities make the well off more wealthy, they are in a better position to secure most of their basic liberties, and consequently they benefit more from the allowed inequalities.

Kymlicka too holds the view that the difference principle is such that the well off benefit more from the justified inequalities. He maintains that with the difference principle in operation, the well endowed still get the natural good of their endowment, which the handicapped undeservedly lack. The difference principle may ensure that I have the same bundle of social goods as a handicapped person. But the handicapped person faces extra medical and transportation costs. She faces an undeserved burden in her ability to lead a satisfactory life, a burden caused by her circumstances, not her choices. The difference principle allows, rather than removes, that burden⁹³.

The difference principle permits the well endowed to add to what they already have. But the situation of the naturally disadvantaged is such that they are faced with costly Medicare, transportation, and the like. If, Kymlicka correctly asks, the difference principle ensures that the naturally disadvantaged are not deprived of social goods simply because of their undeserved condition, why should they not also be compensated for their disadvantage?⁹⁴ I believe that the disadvantaged can be compensated for their disadvantage by being provided with at least a sufficient sum of money to meet their needs.

⁹². Ibid., p. 80.

⁹³. Kymlicka, Will. 1990. *Contemporary Political Philosophy*. Oxford: Clarendon Press, p. 72.

⁹⁴. Ibid., p. 73.

The second question is related to the first: If it is the case that the well off benefit more from the inequalities justified by the difference principle, what did Rawls first have in mind when formulating his difference principle, the well off or the worst off members of society? Rawls' reply is that,

according to the second principle [inequality in life prospects] is justified only if it is to the advantage of the representative man who is worst off, in this case the representative unskilled laborer. The inequality is permissible because lowering it would, let's suppose, make the working man even worse off than he is⁹⁵.

Bearing in mind that Rawls' liberalism is egalitarian, it is not surprising that Rawls should respond by maintaining that he first had in mind the least fortunate members of society since his aim is to attain equality for all. Rawls restates his position that the least advantaged get what they did not have before, whereas the well off simply add to what they already have. Should both groups choose not to opt for the difference principle, Rawls would conclude, the least fortunate would be the first to suffer the consequences.

However, I am of the view that Rawls' primary aim of the difference principle is to maintain and improve the conditions of the well off members of society. From the onset it becomes obvious that the first group that gets the benefits is that of the well off people. Most important, not only do they become more rich, but nearly all of their basic liberties are secured.

It is true that if both parties decide not to opt for the difference principle, the least fortunate members of society are going to suffer the consequences. But it is the case also that the well off will suffer the consequences, the consequences Rawls most probably would not like to see them experience. On the one hand, becoming less rich, the wealthy member of society may find himself

⁹⁵. Rawls, John. 1971. *A Theory Of Justice*. Massachusetts: Harvard University Press, p.139.

being in a situation whereby he is obliged to use public transport, a blow that he would hardly come to terms with. On the other hand, by becoming more worse off, the least advantaged member of society may find herself being in a situation that obliges her to walk instead of using public transport. Inevitably, this would be a blow, but she is accustomed to suffering since it is her normal way of life. As a result, she would be in a better position to cope with suffering than the wealthy man who might have hardly experienced severe sufferings in his life.

Slavery was once justified and tolerated by some American liberals to maintain and improve the then already flourishing conditions of some people. Now, with the condemnation of slavery that is supported by Rawls' first principle of justice, the economic situation of the well off members of society remains insecure. So, Rawls' difference principle ensures the well off members of society that their position will be maintained and improved. Similarly, the apartheid system enriched some at the detriment of impoverishing others. With Rawls' difference principle in operation, those who benefited from this unwanted system will maintain and improve their conditions.

Although Rawls espouses egalitarian liberalism, his difference principle seems to be arranged such that we shall always have a class-divided society. The more the well off make the worst off better off, the more well off they become. The more rich the well off become, the more privileged they are to obtain their full rights to education, employment, better housing, health care, and the like. The more the situation of the well off is improved, the more privileged they are to occupy and have more influence on offices and positions. Regardless whether the difference principle makes the worst off better off, they still remain poor since they cannot meet some of their basic needs, and consequently some of their basic liberties tend to be undermined.

Consequently, the difference principle which is primarily aimed improving the well off

conditions, fails to alleviate the worst off from their condition, and most important, it fails to secure some of their basic liberties.

Chapter Three

Sandel's Critique Of Rawls' Liberalism:

Introduction:

It is hard to know exactly where to situate Sandel. Both in his *Liberalism and the Limits of Justice* and *Democracy's Discontent*, he seems not to be in favour of liberalism, but its strong opponent. But, in the second edition of his *Liberalism and the Limits of Justice* he vehemently denies the views that tend to associate him with communitarianism, and maintains that he does not find himself on the communitarian side. I shall return to this issue towards the end of this chapter.

However, my main interest in Sandel lies on his critique of Rawls' first principle of justice. Whereas the previous chapter was on the critique of Rawls' second principle of justice, the present chapter discusses a critique of Rawls' principle of liberty. First, Sandel challenges Rawls' claim that the right is prior to the good. Second, he argues that Rawls wrongly identifies and justifies rights in a way that does not presuppose the conception of the good, that is, he challenges the way Rawls relates the right to the good. The enquiry is on whether Rawls successfully defends the position he maintains. Third, Sandel touches upon the question of the principle of distributive justice. How different is his argument from Nielsen's on Rawls' principle of distributive justice?

In his *A Theory of Justice and Political Liberalism*, Rawls defends the claim for the priority of the right over the good. First, Rawls defends a liberalism that supports the priority of right over the good by defending the Kantian conception of the person. Second, the later Rawls' defence is detached from the Kantian conception of the person.

1. *Sandel's critique of Rawls in Liberalism and the Limits of Justice:*

1.1 Political liberalism depends on an overlapping consensus:

Sandel maintains that in *Political Liberalism*, Rawls no longer defends the Kantian conception of the person as a moral ideal. For the later Rawls, “the priority of the right over the good is not the application to politics of Kantian moral philosophy, but a practical response to the familiar fact that people in modern democratic societies typically disagree about the good”⁹⁶. The later Rawls holds the view that “political liberalism looks for a political conception of justice that we hope can gain the support of an overlapping consensus of reasonable religious, philosophical, and moral doctrines in a society regulated by it”⁹⁷. It is by gaining this support of reasonable doctrines, Rawls claims, that citizens holding these somewhat conflicting religious, philosophical, and moral doctrines, can maintain a well-ordered liberal democratic society. For Sandel, the later Rawls’ political liberalism seeks the support of an overlapping consensus, it no longer seeks a philosophical foundation for the principles of justice. Given that political liberalism no longer depends for its justification on Kantian moral conception of the person, Rawls maintains that it now “aims for a political conception of justice as a freestanding view”⁹⁸. In this sense, Sandel maintains, political liberalism “applies the principles of toleration to philosophy itself”⁹⁹.

⁹⁶. Sandel, Michael. 1998. *Liberalism and the Limits of Justice*, 2nd ed. Cambridge: Cambridge University Press, p. 189.

⁹⁷. Rawls, John. 1996. *Political Liberalism*, 2nd ed. New York: Columbia University Press, p. 10.

⁹⁸. *Ibid.*, p. 10.

⁹⁹. Sandel, Michael. 1998. *Liberalism and the Limits of Justice*, 2nd ed. Cambridge: Cambridge University Press, p. 190.

In his critique of Rawls' *Political Liberalism*, Sandel argues that it offers a less convincing defence for the priority of right when detached from the Kantian conception of the person. While political liberalism endeavours to rescue the priority of right from the controversies about the nature of the unencumbered self, Sandel argues, it unfortunately becomes vulnerable on other grounds. According to Sandel, conceived as a political conception of justice, liberalism is open to three objections. Among the three objections, the following seems to offer a more convincing argument. Sandel argues as follows:

For political liberalism, the case for the priority of the right over the good depends on the claim that modern democratic societies are characterized by a 'fact of reasonable pluralism' about the good. While it is certainly true that people in modern democratic societies hold a variety of conflicting moral and religious views, it cannot be said that there is a 'fact of reasonable pluralism' about morality and religion that does not also apply to questions of justice¹⁰⁰.

For Rawls, in modern democratic societies there exists a reasonable pluralism of conflicting and sometimes incommensurable comprehensive doctrines with their conceptions of the good. That far, Sandel agrees with Rawls that it is true that in modern democratic societies people maintain conflicting and incommensurable moral and religious views. Now, given the diversity of reasonable religious, philosophical, and moral doctrines which are prevalent in modern democratic societies, Rawls proposes a solution: "faced with the fact of reasonable pluralism, a liberal view removes from the political agenda the most divisive issues, serious contentions about which must undermine the bases of social cooperation"¹⁰¹. Sandel then argues that just as there is a fact of reasonable pluralism in moral and religious doctrines, so the fact of reasonable pluralism applies to questions about

¹⁰⁰. Ibid., p. 196.

¹⁰¹. Rawls, John. 1996. *Political Liberalism*, 2nd ed. New York: Columbia University Press, p. 157.

justice. If this is so, the case for the priority of the right over the good cannot be based on the claim that modern democratic societies are characterized by a fact of reasonable pluralism about the good.

For Sandel, the disagreements prevailing in modern democratic societies about moral and religious issues can similarly be observed in political conceptions of justice. Sandel cites a few examples of contemporary debates about income distribution and tax fairness, capital punishment, gay rights, and the like. In modern liberal democratic societies, liberal theorists hold a variety of conflicting and sometimes incommensurable views on justice. It is not surprising, therefore, that while in some liberal democratic societies such as the USA capital punishment is allowed, whereas in other liberal democratic societies such as Western European countries, capital punishment is not permissible. Even within the USA itself, liberal theorists hold incommensurable doctrines about capital punishment. Sandel then correctly asks: “Do not these debates display a ‘fact of reasonable pluralism’ about justice? If so, how does the pluralism about justice that prevails in modern democratic societies differ from the pluralism about morality and religion”¹⁰². Given that a fact of reasonable pluralism prevails in political conceptions of justice, it seems hard to prove that there is a difference from a fact of reasonable pluralism similarly prevailing in matters pertaining to morality and religion. Consequently, the basis upon which Rawls defends the priority of right over the good is highly unconvincing.

Rawls conceives citizens as free and equal persons, and he also conceives “the diversity of reasonable religious, philosophical, and moral doctrines found in democratic societies as a

¹⁰². Sandel, Michael. 1998. *Liberalism and the Limits of Justice*, 2nd ed. Cambridge: Cambridge University Press, p. 204.

permanent feature of their public culture”¹⁰³. And he maintains the view that the fact of reasonable pluralism about religious, philosophical, and moral doctrines must not be conceived as an unfortunate condition of human life because it is the outcome of the free exercise of free human reason under the conditions of liberty¹⁰⁴. In a real democratic society, people are free to maintain religious and moral doctrines of their own choices, even when they are incommensurable. Rawls correctly holds that this is reasonable since it is in line with the conditions of liberty.

Now, I say that in a similar fashion, Rawls should have completed his claim by adding that the fact of reasonable pluralism about political conceptions of justice prevailing in modern democratic societies is a permanent feature of citizens’ political culture. It is in accordance with the demands of a liberal democratic society, Rawls should maintain, that its citizens showed a variety of conflicting views on political issues such as justice in particular. And since terms such as conflict and diversity are unavoidable in political issues, Rawls should conclude that a fact of reasonable pluralism about matters pertaining to justice is not an unfortunate condition of life. A fact of reasonable pluralism is the necessary outcome of the free exercise of free human reason under the conditions of liberty.

Rawls discusses extensively a fact of reasonable pluralism about morality and religion, and unfortunately ignores an observable fact of reasonable pluralism applying to matters pertaining to justice. Rawls should have discussed a fact of reasonable pluralism manifested in both comprehensive and political views, and show why despite the fact that the fact of reasonable

¹⁰³. Rawls, John. 1996. *Political Liberalism*, 2nd ed. New York: Columbia University Press, p. 136.

¹⁰⁴. *Ibid.*, p. 145.

pluralism exists in both views, he thinks that the right is prior to the good.

Sandel doubts the plausibility of Rawls' proposal that "given the 'fact of reasonable pluralism', the problem is to find principles of justice that free and equal citizens can affirm despite their moral, philosophical, and religious differences"¹⁰⁵. Sandel correctly argues that this proposal is likely to be inoperable because of the existing disagreements about the choice of the principles of justice. Sandel illustrates his point by citing an example of the debate between Rawls' egalitarian liberalism and Nozick's libertarian liberalism. Their disagreement is on how the correct principle of distributive justice should be. On the one hand, Rawls allows and justifies economic inequalities only if they improve the condition of the least fortunate members of society. On the other hand, Nozick states that the principle of distributive justice is just only if the distribution is such that everyone is entitled to the holdings they possess under the fair distribution¹⁰⁶. Unlike Rawls, Nozick holds the view that improving the condition of the least advantaged members of society should be a matter of charity, not an entitlement. Inevitably, a fact of reasonable pluralism about the choice of principles of justice prevails.

Inevitable disagreements about issues pertaining to the realm of political conceptions of justice that deserves to be called a fact of reasonable pluralism, leads Sandel to conclude his critique of political liberalism's claim for the priority of the right over the good by asking:

If moral arguments or reflections of the kind Rawls deploys enables us to conclude, despite the persistence of conflicting views, that some principles of justice are more reasonable than others, what guarantees that reflection of a similar kind is not possible in the case of moral and religious controversy? If we can reason about controversial principles of distributive justice by seeking a

¹⁰⁵. Sandel, Michael. 1998. *Liberalism and the Limits of Justice*, 2nd ed. Cambridge: Cambridge University Press, p. 203.

¹⁰⁶. Nozick, Robert. 1974. *Anarchy, State, and Utopia*. New Jersey: Basic Books, p. 150.

reflective equilibrium, why can we not reason in the same way about the conceptions of the good¹⁰⁷. Rawls assumes that the representatives in the original position are confronted with a variety of reasonable conceptions of justice. Representatives are expected to agree on one conception that is preferable among those enumerated, and the procedure they deploy for arriving at a decision is that of comparing a series of options. Rawls concludes that the parties would choose the two principles of justice because they would be shown to be preferable. Given that Rawls has deployed a procedure by means of which a reflection on conflicting views about conceptions of justice can lead the parties in the original position to choose the two principles which are shown to be more preferable, why can not the parties follow the same procedure in the case of moral and religious conflicting views? Sandel's argument is convincing in that if our reflection about controversial principles of distributive justice can enable us to attain a reflective equilibrium, the same procedure can be deployed in controversial conceptions of the good. Consequently, the ground upon which the priority of the right over the good is based can not hold.

1.2 Rawls defends liberalism by defending the Kantian conception of the person:

In his *A Theory of Justice*, Rawls defends the idea of the priority of the right over the good by defending Kant's conception of the person. If Sandel does not argue against the very basis upon which Rawls claims that the right is prior to the good, is it not the case that some of the questions he asks are already answered? This is the enquiry I pursue in this section. So, I think it is important to restate some of the arguments for Kant's conception of the person.

For Rawls, Sandel maintains, the characteristic feature of the political conception of the

¹⁰⁷. Sandel, Michael. 1998. *Liberalism and the Limits of Justice*, 2nd ed. Cambridge: Cambridge University Press, p. 207.

person is that we are first and foremost self-determining sources of our own claims¹⁰⁸. Rawls' dualism, as Sandel calls it, consists in distinguishing our personhood from our various claims whatever they are, and regards the former as being prior to the later.

Rawls does rely on Kant's conception of the person in his claim that the idea of right is prior to that of the good. We have to recall Kant's teaching on autonomy discussed in the first chapter of the present work to see the basis of Rawls' claim that the right is prior to the good. In his interpretation of Kant, Rawls maintains that,

Of particular importance is the conception of persons as reasonable and rational, and, therefore, as free and equal, and the basic units of agency and responsibility. Kant's idea of autonomy requires that there exists no moral order prior to and independent of those conceptions that is to determine the form of the procedure that specifies the content of first principles of right and justice among free and equal persons¹⁰⁹.

From Kant's idea of autonomy, Rawls maintains the view that the content of the first principles of right is that we are free and equal persons. Consequently, it is from the conception of persons as reasonable and rational and hence as free and equal that Rawls draws the conclusion that the right is prior to the good.

Kant maintains the view that a rational being is autonomous, that is, self-legislating because he is an end in himself. While making his own law, a rational agent makes a law that universally binds every other rational agent. Kant's claim that the self-legislator binds every other agent, is controversial. However, I am more interested in Kant's other claim that it is the autonomous law-making by the rational will which is the basis for the incomparable value of a moral action. It is in

¹⁰⁸. Sandel, Michael. 1998. *Liberalism and the Limits of Justice*, 2nd ed. Cambridge: Cambridge University Press, p. 192.

¹⁰⁹. Rawls, John. [1989] 1999. "Themes in Kant's Moral Philosophy". In *Collected Papers*, ed. Samuel Freeman. Massachusetts: Harvard University Press, p. 512.

accordance with this mode of thought that the autonomy of the rational will is the basis of man's incomparable dignity. In Kantian ethical theory, the idea of autonomy is not diminished even when the idea of a moral community is introduced. If the autonomy of the rational will is the basis of man's incomparable dignity, the various claims a rational agent espouses, whatever they are, are necessarily subordinate to his worth as a self-determining being since they are incomparable to his worth. In other words, the self is more valuable than its claims, ends, and desires.

In his *A Theory of Justice*, Rawls justifies his claim of the priority of right over the good basing himself upon Kant's notion of autonomy. Moral principles which are the objects of rational choice, Rawls maintains, define the moral law that entitles rational agents to govern their own conduct in an ethical commonwealth. In his interpretation of Kant on autonomy, Rawls maintains that "a person is acting autonomously when the principles of his action are chosen by him as the most adequate possible expression of his nature as a free and equal rational being"¹¹⁰. Accordingly, Rawls identifies Kant's categorical imperatives with his principles of justice because as principles of conduct, they apply to persons in virtue of their nature as free and equal rational beings. According to Rawls, "to act from the principles of justice is to act from categorical imperatives in the sense that they apply to us whatever in particular our aims are"¹¹¹. Given that the value of man's worth is incomparable to his various claims, whether they are aims or desires, we can conclude that a person's rights that protect his dignity as a person are prior to whatever he desires or aims at.

In accordance with Kantian doctrine, Rawls reverses the relation between the idea of right

¹¹⁰. Rawls, John. 1971. *A Theory of Justice*. Massachusetts: Harvard University Press, p.253.

¹¹¹. *Ibid.*, p. 253.

and that of the good misconceived by teleological doctrines. According to Rawls, “the self is prior to the ends which are affirmed by it; even a dominant end must be chosen from among numerous possibilities... We should therefore reverse the relation between the right and the good proposed by teleological doctrines and view the right as prior”¹¹². Given Kant’s autonomous rational agent, the ‘self’ being of incomparable worth to whatever it desires or aims at, must necessarily be prior to its ends. The priority of the self to its ends derived from Kant’s notion of autonomy provides Rawls with a sound argument in his claim that the right is prior to the good.

However, Sandel shows discontent with Rawls’ claim that the right is prior to the good. According to Sandel, “the question is not whether rights should be respected but whether rights can be identified and justified in a way that does not presuppose any particular conception of the good”¹¹³. The main issue at stake about Rawls’ liberalism, Sandel maintains, is not so much the relative weight of individual claims but the terms of relation between the right and the good¹¹⁴. Given Kant’s conception of the person, Sandel does not object to Rawls’ claim that rights must be respected. Rather, his dissatisfaction rests on Rawls’ claim that ‘rights can be identified and justified in a way that does not presuppose any conception of the good’. A perception of an unencumbered self is strictly speaking inconceivable since it does not correspond with our deepest understanding of self-perception. Strictly speaking, Sandel maintains, the self is encumbered to its particular ends and somehow related to other selves.

¹¹². Ibid., p. 560.

¹¹³. Sandel, Michael. 1998. *Liberalism and the Limits of Justice*, 2nd ed. Cambridge: Cambridge University Press, p. 186.

¹¹⁴. Ibid., p. 186.

But while arguing against Rawls' unencumbered self that can both be construed independently of its ends and exclude other selves, Sandel sometimes follows suit. Kymlicka cites the following passage from Sandel and show that basically he shares Rawls' Kantian view of the self.

[Sandel] says that the boundaries of the self, although constituted by its ends, are none the less flexible and can be redrawn, incorporating new ends and excluding others. In his own words, 'the subject is empowered to participate in the constitution of its identity'; on his account 'the bounds of the self [are] open and the identity of the subject [is] the product rather than the premise of its agency' (Sandel 1982: 152). The subject can, after all, make choices about which of the 'possible purposes and ends, all impinging indiscriminately on its identity' it will pursue, and which it will not (Sandel 1982: 152). The self, constituted by its ends, can be 'reconstituted' as it were, so self-discovery is not enough. But at this point it is not clear whether the distinction between the two views [Rawls' and Sandel's] does not collapse¹¹⁵.

For Kymlicka, the above passage depicts Sandel's view as being consistent with the Kantian view of the self, and this means the distinction between Sandel and Rawls falls apart. The apparent differences here, Kymlicka maintains, seem to be that while Sandel talks about the self as constituted by its ends and its boundaries being fluid, Rawls claims that the self is prior to its ends and that it has fixed boundaries. But the two fundamentally agree that the person or the subject, as Sandel prefers to call it, is prior to its ends. Having accused Rawls of separating the self from its desires, claims, and ends, Sandel also talks about the self, that is, the subject as unencumbered and making choices about its ends. It seems hard for him to totally detach himself from the Kantian view of the self adapted by Rawls.

In any event, in as far as the question of the relation between the right and the good is concerned, Rawls seems to overstate his view when maintaining that rights can be identified and

¹¹⁵. Kymlicka, Will. 1990. *Contemporary Political Philosophy: An Introduction*. Oxford: Clarendon Press, p. 214.

justified in a way that does not presuppose any conception of the good. In his interpretation of Kant, Rawls maintains the view that as free and equal persons, “we are able to act independently of our natural desires and needs”¹¹⁶. The term ‘independent’ means not connected with another or with each other, that is, separate. Rawls’ passage that is cited here means that a person can exist even without his natural desires and needs. According to Rawls, a person, because of his inviolable dignity, can exist even without the necessities deriving from his nature, that is, his natural desires and needs. Put in other words, Rawls claims that since the person is more valuable than the food and clothes he needs, he can still exist independently, that is, without any of these goods. But, even if a person as a person is endowed with an inviolable dignity, he cannot exist ‘independently’ of his natural desires and needs. Rawls’ unencumbered self that can exist independently of its natural desires and needs seems to be nothing more than a being that is non-existent in our world. In fact, it is unimaginable in the planet in which we live.

However, in as far as the question of the priority of the right over the good is concerned, Rawls’ argument seems to be irrefutable by Sandel as long as he does not demonstrate to us what is wrong with Kant’s conception of the person itself, a conception Rawls heavily relies upon when developing his theory. Rawls’ main argument seems to be that the person is more valuable than his possessions, and consequently the former must necessarily be prior to the later. Showing his dissatisfaction about Rawls’ claim that the right is prior to the good, Sandel raises the following questions:

Why should we adopt the standpoint of the political conception of the person in the first place?
 Why should our political identities not express the moral and religious and communal convictions

¹¹⁶. Rawls, John. [1989] 1999. “Themes in Kant’s Moral Philosophy”. In *Collected Papers*, ed. Samuel Freeman. Massachusetts: Harvard University Press, p. 525.

we affirm in our personal lives? Why insist on the separation between our identities as citizens and our identity as moral persons more broadly conceived? Why, in deliberating about justice, should we set aside the moral judgements that inform the rest of our lives?¹¹⁷.

We adopt the standpoint of the political conception of the person in the first place, a conception which is Kantian, because from it we discover that we are beings endowed with an inviolable dignity that must be respected, and this inviolable dignity is secured by rights. Sandel agrees with Rawls that rights must be respected. To the first question, Rawls would presumably respond by explicating the standpoint of the conception of the person, a conception according to which human dignity whose value is of incomparable worth deserves to be respected. That is to say, the person as a person deserves respect in the first place. And consequently, the rights that secure personhood deserve respect. Moreover, Rawls would presumably add, it is important that we should adopt the conception of the person in the first place so that in the long run when the idea of the community is introduced, the person may not be absorbed by the notion of the community. If we do not first adopt the conception of the person, Rawls would argue, some of his rights may be violated when the idea of the community is introduced. Given that a person may not be used as a means but as an end in itself, a clear and distinct conception of the person is necessary in the first place.

To the remaining questions, I presume that Rawls would respond by restating the claim he made in his reply to Habermas. Rawls states that his position is not comprehensive but an account of the political and is limited to that. For Rawls, “political philosophy, as understood in political liberalism, consists largely of different political conceptions of right and justice viewed as

¹¹⁷. Sandel, Michael. 1998. *Liberalism and the Limits of Justice*, 2nd ed. Cambridge: Cambridge University Press, p. 193.

freestanding”¹¹⁸. Unlike Habermas’ more broad comprehensive view, Rawls’ is confined only to the political. In reply to Sandel, Rawls would simply maintain that his political liberalism is a doctrine that falls under the category of the political, and as such, it restricts itself to the conceptions of right and justice. Comprehensive doctrines espoused by Habermas and Sandel, doctrines that comprise religious, philosophical, and moral view fall outside the scope of political liberalism, Rawls would respond.

2. Sandel’s critique of Rawls in *Democracy’s Discontent*:

2.1 The priority of right:

In his later work *Democracy’s Discontent*, Sandel persists in raising questions concerning Rawls’ claim that the right is prior to the good. Sandel’s persistence on this issue requires a re-examination of his argumentation. Sandel asks,

Why insist on separating our identity as citizens from our identity as persons more broadly conceived? Why should political deliberation not reflect our best understanding of the highest human ends? Don’t arguments about justice and rights unavoidably draw on particular conceptions of the good life, whether we admit it or not?”¹¹⁹

First, Sandel’s argument runs as follows: The notion of the Kantian conception of the person upon which Rawls relies in his claim excludes other characteristic features of our personhood. Our identity as persons more broadly conceived comprises who we are and what we have, namely, ends, desires and the like. So why should we not insist on our identity as persons more broadly conceived, rather than restrict ourselves on the narrow conception of the person? It would be hard for Rawls

¹¹⁸. Rawls, John. [1995] 1996. “Reply to Habermas”. In *Political Liberalism*, 2nd ed. New York: Columbia University Press, p. 374.

¹¹⁹. Sandel, Michael. 1998. *Democracy’s Discontent*. Massachusetts: Harvard University Press, p. 322.

to dissociate who we are from what we possess. But he would still restate his argument that as autonomous rational agent a person is endowed with an incomparable dignity, a dignity that must not only be respected but revered because of its worth. He would presumably maintain that by separating who the person is from what the person has he does not ignore the later, he is simply drawing this distinction to show why the former is prior to the later.

To come up with a more convincing argument against Rawls, Sandel should have shown specifically the weakness of the Kantian notion of autonomy itself, a notion upon which the conception of the person is derived. Sandel himself maintains that “the question is not whether rights should be respected”¹²⁰, and given that rights secure man’s inviolable dignity, the implication seems to be that Sandel sanctions Kant’s notion of the person. Now, Rawls claims that rights should be respected, and the claim that Sandel is in agreement with is derived from the Kantian conception of the person which states that as autonomous rational beings we are endowed with a dignity which is of incomparable value. The self that is endowed with an inviolable dignity is secured by rights. The value of rights lies in that they protect the self, and this imply that they are equally important. Now, the ends, desires and claims that the self has are not essential constituents of the self, and so they are subordinate to the self. So, for Rawls, the right that protects the self must be prior to the good.

Second, Sandel asks: ‘Why should political deliberation not reflect our best understanding of the highest human ends?’. By the ‘highest human ends’, Sandel seems to be talking in very general and abstract terms. To be more specific, he should have specified the highest human ends

¹²⁰. Sandel, Michael. 1998. *Liberalism and the Limits of Justice*, 2nd ed. Cambridge: Cambridge University Press, p. 186.

he thinks political deliberation should reflect upon. However, if by the highest human end he means a dominant end, Rawls already has an answer. According to Rawls, “the self is prior to the ends which are affirmed by it; even a dominant end must be chosen from among numerous possibilities”¹²¹. The claim that the self is prior to its dominant ends is based on Kant’s conception of the person, a conception which Sandel has not yet refuted. Moreover, Rawls does not say that political deliberation should not reflect on our highest human ends. His claim is simply that the self is prior even to its highest ends.

Again, Rawls would presumably resume the reply he made to Habermas, and apply it to Sandel. Political liberalism, Rawls would maintain, restricts itself to political conceptions of right and justice, and not to moral doctrines. It is important to note that the correction that I made earlier about Rawls’ view of comprehensive doctrines does not imply that Rawls himself has changed his position. Following Rawls’ reply to Habermas, Rawls is saying that accommodating moral doctrines, political liberalism would cease to be political but rather comprehensive. Given that Sandel’s position is a comprehensive view while Rawls’ is an account of the political, the two are running on parallel lines as it was the case with Habermas.

Third, Sandel pursues his question and asks: ‘Don’t arguments about justice and rights unavoidably draw on particular conceptions of the good life, whether we admit it or not?’. Sandel raises this question to challenge Rawls’ claim that “the political conception does not presuppose accepting any particular comprehensive religious, philosophical, or moral doctrine; rather the

¹²¹. Rawls, John. 1971. *A Theory of Justice*. Massachusetts: Harvard University Press, p.560.

political conception presents itself as... a reasonable conception for the basic structure alone”¹²². For Rawls, arguments about justice and rights cannot draw on particular conceptions of the good life because political liberalism restricts itself to the domain of the political. In Rawls’ own words, political liberalism “consists in a conception of politics, not of the whole life”¹²³.

Sandel is saying that in real life questions about conceptions of justice and right are inseparably intertwined with conceptions of the good, and so accordingly they must be discussed and be taken collectively. Sandel’s argument runs as follows: If in practice it is the case that politics and morality are intertwined, why should not political deliberation reflect on moral issues? Sandel’s claim that in practice ‘arguments about justice and rights unavoidably draw on particular conceptions of the good life’ is true. An example of the electoral procedure followed in an American liberal democratic society for the office of the presidency will suffice to prove Sandel’s claim true. In American political culture justice simply demands that a person to hold the office of the presidency be a competent American citizen. However, consciously or unconsciously the question of morality seems to be unavoidable in the process. Questions pertaining to the private life of the candidates are usually raised in the process. So, Sandel is justified in asking: If in practice conceptions of justice and rights unavoidably draw on particular conceptions of the good, why should not conceptions of justice and rights be drawn on particular conceptions of the good in practice? A political theory that does not correspond to its application in practice does not make sense.

¹²². Rawls, John. [1988] 1999. “The Priority of Right and Ideas of the Good”. In *Collected Papers*, ed. Samuel Freeman. Massachusetts: Harvard University Press, p. 450.

¹²³. *Ibid.*, p. 450.

Besides the controversy between Rawls and Sandel about right and good, Rawls is caught up in a number of inconsistencies in his endeavour to explicate the correct relation between the right and the good. First, for Rawls, arguments about justice and rights cannot draw on particular conceptions of the good life because political liberalism is strictly confined to the domain of the political. Unlike comprehensive doctrines, political liberalism “consists in a conception of politics, not of the whole life”¹²⁴. As I have shown, this corresponds to the reply Rawls made to Habermas. But, Rawls also maintains the view that “a conception of political justice must contain within itself sufficient space, as it were, for ways of life that can gain devoted support. In a phrase: justice draws the limit, the good shows the point”¹²⁵. This means that a conception of political justice must incorporate particular conceptions of the good. The implication seems to be that political liberalism no longer restricts itself to the domain of the political.

Second, in his interpretation of Kant, Rawls maintains that “we are free not only in the sense that we are able to act independently of our natural desires and needs, but also free in the sense that we have a principle regulative of both ends and means from which to act, a principle of autonomy appropriate to us as reasonable and rational beings”¹²⁶. According to Rawls, as free and equal persons, we have the ability to act independently of our desires and needs. And the implication is that our existence does not presuppose our natural desires and needs. In as far as the relation between the right and the good is concerned, Rawls maintains that rights can be identified in a way

¹²⁴. Ibid., p. 450.

¹²⁵. Ibid., p. 449.

¹²⁶. Rawls, John. [1989] 1999. “Themes in Kant’s Moral Philosophy”. In *Collected Papers*, ed. Samuel Freeman. Massachusetts: Harvard University Press, p. 525.

that does not presuppose any conception of the good.

But, Rawls also holds the view that “the right and the good are complementary [my emphasis], and the priority of right does not deny this”¹²⁷. The term ‘complementary’ means combining in such a way as to form a complete whole. So, I understand Rawls to mean that the relation between the ideas of the right and that of the good is such that one cannot exist without the other. The relation between the right and the good is inclusive in the sense that they combine in order to form a complete whole. Later Rawls restates this claim and maintains that “the priority of right does not mean that ideas of the good must be avoided; that is impossible”¹²⁸. Despite the fact that the right is prior, Rawls maintains, it cannot exist independently of the good. To clarify this point, Rawls vehemently insists that it is ‘impossible’ to dissociate the right from the good because they are unavoidably complementary. Inevitably, taking into consideration how I have defined ‘independently and complementarity’, it is hard to reconcile Rawls’ claim that it is impossible to avoid an inescapable complementarity existing between the idea of right and that of the good with his other claim that we can act independently of our natural desires and needs, that is to say, arguments about justice and rights do not presuppose any particular comprehensive good.

I believe my presumption that Rawls would restate his reply to Habermas when responding to Sandel’s questions is a plausible one. Basing myself on Rawls’s argumentation both in his theory and his reply to Habermas, I believe that this could be one of the best possible response he would make to Sandel. However, both in his *Liberalism and the Limits of Justice* and *Democracy’s*

¹²⁷. Rawls, John. [1988] 1999. “The Priority of Right and Ideas of the Good”. In *Collected Papers*, ed. Samuel Freeman. Massachusetts: Harvard University Press, p. 450.

¹²⁸. *Ibid.*, p. 467.

Discontent, Sandel persistently asks why Rawls' political liberalism detaches itself from morality, religion, and the like. This persistence indicates that Sandel would still remain discontent if Rawls would restate his reply to Habermas when responding to his (Sandel's) challenge. Undoubtedly, Sandel's discontent is justifiable. In the real world, it is hard if not impossible to detach politics from the different beliefs people have. As a matter of fact, like other humans, politicians necessarily do have certain beliefs: moral, religious, or philosophical. Rawls, for instance, believes in Kant's moral theory.

Rawls distinguishes political liberalism from Sandel's comprehensive doctrines since he believes that such doctrines are characterized by a fact of reasonable pluralism about the good. But Sandel has demonstrated convincingly that a fact of reasonable pluralism applies also to questions about justice and right. Unfortunately, Rawls wrongly construes political liberalism as a superior doctrine that can be deployed to resolve the conflicts existing in comprehensive doctrines. And he mistakenly thinks that liberal principles can be used as guidelines to resolve moral or religious issues. But, having shown that a fact of reasonable pluralism applies also to questions about justice and right, Rawls does not tell us why comprehensive doctrines cannot be deployed to resolve the conflicts existing in political liberalism, given that it is characterized by a reasonable fact of pluralism?

The supposed superiority of the right that Rawls' political liberalism claims can also be seen in Rawls' teaching that questions about justice and right are prior to the questions pertaining to economics. Nielsen has persuasively succeeded in demonstrating that the subordination of the economic good is detrimental to the very rights that Rawls thinks are prior to everything else. The serious inconsistencies I have shown, do not only show Rawls' failure to put his theory intact, they

also indicate that the issue of the priority of right constitutes another problem to the already existing problem under discussion.

2.2 The same conceptions of right and different conceptions of the good:

Sandel maintains that egalitarian liberals together with other forms of Kantian liberalism such as libertarian liberals have one main claim in common: “That we are separate, individual persons, each with our own aims, interests, and conceptions of the good life”¹²⁹. This amounts to saying that as distinct persons, we each have different goals, interests and conceptions of the good. Each must pursue her own good because we cannot have the same common good. This seems to be inferred from the contrast Rawls makes between the idea of right and that of the good. For Rawls,

[it is] a good thing that individual’s conceptions of their good should differ in significant ways, whereas this is not so for the conceptions of right. In a well-ordered society citizens hold the same principles of right and they try to reach the same judgements in particular cases... On the other hand, individuals find their good in different ways, and many things may be good for one person that would not be good for another¹³⁰.

First, I have attempted to show that it is not the case that the persons holding the same principles of right can always reach the same judgements in individual cases whether they be of political, philosophical, religious, or moral character. In justice, for instance, people hold conflicting views about capital punishment. I have also shown that it is not the case that citizens of a well-ordered society can, in the first place agree on the same principles of right. Rawls’ own highly disputed

¹²⁹. Sandel, Michael. 1998. *Democracy’s Discontent*. Massachusetts: Harvard University Press, p. 11.

¹³⁰. Rawls, John. 1971. *A Theory of Justice*. Massachusetts: Harvard University Press, pp.447-448.

principle of distributive justice is a typical example.

Second, Rawls' claim that many things may be good for one person that would not be good for another implies that it is hard to find a common good that citizens of a well-ordered society can agree upon and pursue collectively. As separate individual persons we have different conceptions of the good. Now, it is important to note that the phrase 'conception of the good' is very broad, and as such can be deployed to denote different doctrines. It can be used in the context of religion, morality, and economics.

In as far as religion is concerned, Rawls is right in his claim that 'many things may be good for one person that would not be good for another'. Different individual persons espouse different religious doctrines. For some, Christianity is the only religion through which people can be saved; for others, Hinduism, Judaism, Islam, and so forth. Even within Christianity itself some believe that their dogma is the most plausible to adhere to in order to obtain salvation. In the case of morality, Rawls' claim is equally true because different individual persons maintain different conceptions of the good life.

But, in as far as the economic good which Sandel also calls the economic right is concerned, Rawls' claims can not be applicable. My claim which is based on Rawls' own teaching is that in as far as the economic good is concerned, many things may be good for one person that would be good for all persons. In his defence against the accusation that primary goods may lead people to overemphasize their individualistic bias, Rawls maintains that, "income and wealth are the legal command over the material means in general necessary 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”¹³¹.

It is in this sense that Rawls conceives wealth as a primary good, that is to say, a social primary good without which we cannot carry out our plans and lead a complete life. The representatives in the original position, therefore, will unanimously opt for wealth as a primary good that all members of a well-ordered society desire to possess. Rawls correctly distinguishes ‘wealth’ from its adjective ‘wealthy’, and maintains that “someone who is wealthy, or who aspires to be so, is someone who has or strives to possess, far more wealth than the average person. Relative to others, one’s command over the means necessary to attain human ends is, or is sought to be very great. But assuming that people in the original position desire wealth does not imply that they desire to be wealthy”¹³².

According to Rawls, the representatives in the original position do not opt to be wealthy for by doing so would imply that they aspire to have more than they need to carry out their own plans. They believe that sufficient wealth is enough for them to carry out their life plans and lead a complete life. Therefore, the desire to be wealthy is excluded in the original position, and cannot be regarded as a primary good. I cannot pursue further the distinction that Rawls makes between wealth and wealthy. I am more interested in Rawls’ claim that the people in the original position unanimously desire to have wealth because this is what the citizens of a well-ordered society aspire to have. This proves my claim that in as far as the economic good is concerned, individuals have the same conception of the good. And, if this is the case, Rawls is inconsistent in his claim that

¹³¹. Rawls, John. [1975] 1999. “Fairness to Goodness”. In *Collected Papers*, ed. Samuel Freeman. Massachusetts: Harvard University Press, p. 273.

¹³². *Ibid.*, pp. 272-273.

individuals differ in significant ways in their conceptions of the good. In as far as wealth is concerned, this is not the case.

2.3 Sandel on Rawls' principle of distributive justice:

In a similar fashion to Nielsen and Daniels, Sandel shows dissatisfaction about Rawls' principles of justice, particularly the principle of distributive justice toward the end of his *Democracy's Discontent*. On the one hand, Nielsen argues that Rawls' difference principle tends to undermine some of the basic liberties of the least fortunate members of society. On the other hand, Sandel asks whether Rawls also gives due respect for social and economic rights, or he exclusively focuses on the respect for civil and political rights. Sandel raises doubts about the weight Rawls' principle of distributive justice carries, and asks:

If freedom depends on a framework of rights, neutral among ends, within which people can pursue their own vision of the good life, it remains to ask what rights such a framework requires: Does voluntarist freedom mandate respect for civil and political rights alone, such as freedom of speech, religious liberty, trial by jury, and voting rights? Or does it also require certain social and economic rights, such as rights to education, employment, housing, and health care?¹³³

The first set of rights, namely, civil and political rights, falls under the category of the first principle of justice; whereas the second set of rights, namely, social and economic rights falls under the category of the second principle of justice. For Rawls, "the lexical ordering of the two principles, and the valuations that this ordering implies, suggest priority rules which seem to be reasonable enough in many cases"¹³⁴. Given that the first principle is prior in the serial order to the second

¹³³. Sandel, Michael. 1998. *Democracy's Discontent*. Massachusetts: Harvard University Press, p. 279.

¹³⁴. Rawls, John. 1971. *A Theory of Justice*. Massachusetts: Harvard University Press, p.303.

principle, Rawls as usual would maintain that a voluntarist freedom mandate does respect both civil and political rights, and social and economic rights, but it gives priority to the former. The priority of the principle of liberty does not mean that the principle of distributive justice is abandoned, it simply means that the former carries more weight. The second principle of justice also called the difference principle, Rawls would presumably reply, is arranged such that the citizens' rights to education, employment, housing, and health care are to a certain extent covered.

Following Rawls' own argumentation, the crucial issue in his theory is to endeavour to secure the basic liberties of all the members of a well-ordered society. Now, if a voluntarist freedom could mandate equal respect for both civil and political rights, and social and economic rights, most probably even the basic liberties of the least fortunate members of society could be secured.

Unsurprisingly, Rawls' immediate reaction would be that this amounts to positing the right and the good on the same footing, something that is not permissible in his theory. Such a reaction would be a clear manifestation of my suspicion that Rawls mistakenly tends to undermine the effectiveness of the economic value as the predominant determining factor in securing the basic liberties of all the citizens of a well-ordered society. The people of South Africa whose basic liberties were violated for decades by the former powerful South African apartheid regime gained some of their basic liberties through economic sanctions by the international community. Rawls should become aware that civil and political rights are secured by economic rights, and without more weight bestowed on the latter the former will tend to be undermined. If it is the case that economic rights are crucial in securing civil and political rights, more emphasis must be also placed on the former.

In one of his articles, Nielsen has this to say about the value of wealth: “money is a kind of god in our societies. It gives rise to all sorts of inequalities: inequalities in privilege, political influence, educational opportunity, status and most centrally, power”¹³⁵. Interpreting this passage to our context, I understand it to mean that the wealthy in a capitalist society are fully in charge, that is, they do not only control their own lives but also the lives of the have-nots. Later in his *Equality and Liberty*, Nielsen correctly maintains that wealth is intertwined with power and authority. Given that wealth gives the wealthy the privilege of either occupying positions or choosing their candidates to occupy positions that enable them to control the lives of others, and given that Rawls wants every person to control his or her own life, he should not undermine the weight that economic rights carry if he wants to attain his goal, namely, that every person be in control of his or her own life.

This leads me to the question of free education that I introduced in the previous chapter. It is not a solution to the problem of disparities that leaves the basic liberties of some people insecure. But, as I said in chapter two, it is not only instrumental in securing economic rights of Rawls’ citizens of a well-ordered society, rights that in turn can secure their basic liberties, and instrumental as a useful means in our pursuit of equality, but it is also compatible with Rawls’ equal opportunity principle. Universal education, I maintained, would most probably enable even the least fortunate members of society to obtain necessary skills, the skills they need to occupy valued jobs. Consequently, in the long run they will become self-supportive and able to secure their own basic liberties. Economic rights, such as rights to health care, employment, and housing that Sandel mentions are entailed in the policy that I suggest. My emphasis is on free education for all at all

¹³⁵. Nielsen, Kai. 1980. “Capitalism, socialism, and justice”. *Social Praxis* 7, pp. 260-261.

levels because having received adequate education, citizens of a well-ordered society can easily find a better employment that will enable them to buy their own houses. And if most citizens have better jobs, the tax for health care, particularly for the disabled members will be less heavy on all tax payers. In this sense, the rich members of society that Rawls protects in his difference principle will be relieved from the burden of paying heavy taxes because the least fortunate members of society will have become well off due to the education they have received from this policy.

However, I have shown in the previous chapter that even though Rawls would favour a policy of free education, there is a limit beyond which he cannot go. Rawls' principle of liberty that is grounded on Kant's conception of the person stipulates that individuals have a right to their own property. Nobody has a right to tax them in view of financing a free education at all levels. Such a policy, Rawls would presumably maintain, would be a direct violation of their right to personal property. Rawls' controversial and problematic liberty principle that over-emphasizes the importance of rights is based on Kant's conception of the person. Maybe the principle of liberty which in fact does secure our fundamental rights could be based elsewhere rather than in Kant's theory.

Conclusion:

1) The priority of right over the good:

Sandel asks, 'why should we adopt the standpoint of the political conception of the person in the first place'? He raises this question because he realizes that it is precisely upon this political conception of the person, a conception that is Kantian, that Rawls arrives at the conclusion that the right is prior to the good. If Sandel is in agreement with this Kantian conception of the person, a

conception that stipulates that a person is a being endowed with an inviolable dignity, he has no choice other than accepting that the value of human dignity deserves respect. It is from the Kantian conception of the person Rawls infers that since human dignity is secured by rights, they deserve to be respected, and that since human dignity is more valuable than what a person desires and wants, rights that protect it must be prior to his desires and wants. And Sandel agrees with Rawls that rights must be respected. Rawls' over emphasis on the importance of rights, an over emphasis that has led him to claim that the right is prior to the good, is apparently based upon a very solid ground, a ground that is hard for Sandel to refute. As I have said, to come up with a more convincing argument, Sandel should have attacked specifically the Kantian conception of the person itself. But it seems to me that it would be hard for Sandel to attack the Kantian view of the person since, as I have shown, at times he follows it when he talks about the self being prior to its ends, and making choices about which of the possible ends it will or will not pursue¹³⁶. In any case, with Rawls' principles based on Kant, the problem remains unresolved. The formulation of the two principles and their lexical ordering are such that the value of civil and political rights is emphasised at the cost of undermining the weight that social and economic rights carry.

2) The relation between the right and the good:

Discontent with Rawls' political liberalism, Sandel asks 'whether rights can be identified and justified in a way that does not presuppose any particular conception of the good'. I have attempted to show that Rawls seems to overstate his view in his claim that as free and equal persons 'we are able to act **independently** [my emphasis] of our natural desires and needs'. I have already

¹³⁶. Sandel, Michael. 1998. *Liberalism and the Limits of Justice*, 2nd ed. Cambridge: Cambridge University Press, pp. 152-153.

defined 'independently' as not being connected with another or with each other, that is, separate. I understand the term 'independently' in our context to imply that as beings endowed with an inviolable dignity, we can act without our natural desires and needs. Rawls' identification of the self that stands behind its aims, desires, and the like, led Rorty to correctly infer that this disembodied entity seems to be a kind of a substrate that lies behind its ends¹³⁷. In this sense Rawls disagrees with Sandel that rights should be conceived in a way that presupposes particular conceptions of the good.

However, I believe that recognizing that he has overstated his claim, Rawls, without withdrawing his earlier claim also maintains that 'the right and the good are complementary'. I understand the word 'complementary' here to imply that the right cannot be identified independently of the good. He reinforces this claim by maintaining that 'the priority of right does not mean that ideas of the good must be avoided; that is impossible'. In this sense he is in agreement with Sandel.

Basing his argument on Kant's conception of the person, Rawls draws the conclusion that as free and equal persons we can act independently of our natural desires and needs; in Sandel's terminology, 'rights can be identified and justified in a way that does not presuppose any particular conception of the good'. The problem rests mainly on Kant's conception of the person itself. But it is apparently hard to refute this conception since it is precisely from it that those rights which secure our basic liberties are derived, and almost everybody desires and aspires to have his or her basic liberties secured. Since the interpretation of Kant's conception of the person is apparently irrefutable yet remains problematic in relating the right to the good, we should look for another

¹³⁷. Rorty, Richard. 1985. "Postmodernist Bourgeois Liberalism". In *Hermeneutics and Praxis*, ed. R. Hollinger. Notre Dame: University of Notre Dame Press, p. 217.

theory besides Kant's, a theory upon which basic liberties can be derived, and whereby the relation between right and good can be compatible.

3) Does Sandel provide us with an alternative?

In the previous chapters we have seen that, discontent with Rawls' principles of justice, Nielsen suggests his own principles, principles he thinks are more egalitarian than Rawls'. Similarly, Nozick proposes principles he believes can protect individual rights better than Rawls'. But having criticised Rawls' principles, particularly the first principle of justice, Sandel does not give us a preferable alternative.

However, some people hold the view that besides arguing against the primacy that Rawls accords to deontological conceptions of justice and the priority of the right over the good, Sandel accords primacy to teleological conceptions of justice and to the priority of the good over the right¹³⁸. Despite Sandel's own claim that he does not find himself on the communitarian side¹³⁹, Leon Trackman and Sean Gatién maintain that he is not only a communitarian but a strong communitarian critic of Rawls' liberal conception of right¹⁴⁰. The claim that Sandel is a strong communitarian critic of Rawls, and that he accords primacy to teleological conceptions of justice and the primacy of the good over the right, implies that it is not true that besides criticising Rawls he does not provide us with what he believes to be a preferable alternative.

¹³⁸. Trackman, Leon and Sean Gatién. 1999. *Rights and Responsibilities*. Toronto: University of Toronto Press, pp. 22-32.

¹³⁹. Sandel, Michael. 1998. *Liberalism and the Limits of Justice*, 2nd ed. Cambridge: Cambridge University Press, p. ix.

¹⁴⁰. Trackman, Leon and Sean Gatién. 1999. *Rights and Responsibilities*. Toronto: University of Toronto Press, p. 20.

Trackman and Gatién's belief that Sandel is both a strong communitarian critic of Rawls, and that he accords primacy to teleological conceptions of justice and the priority of the good over the right is presumably based on Sandel's claim that,

The communitarian critics, ... make the case for a politics of the common good. Recalling the arguments of Hegel against Kant, they question the liberal claim for the priority of the right over the good, and the picture of the freely choosing individual it embodies. Following Aristotle, they argue that we cannot justify political arrangements without reference to common purposes and ends, and that we cannot conceive of ourselves without reference to our role as citizens, as participants in a common life¹⁴¹.

First, the communitarian critics that Sandel talks about misinterpret Hegel if they claim that Hegel, contrary to Kant, makes a claim for the priority of the good over the right. The correct interpretation of Hegel is that neither does he make a claim for the priority of the right over the good nor the good over the right. (I shall discuss this point at length later in chapter six). Briefly, it suffices here to clarify that in his theory, while acknowledging that rights must be respected, Hegel also maintains that individuals recognize that they must be committed to the common good. Hegel vehemently opposes the communitarian Platonic view that tends to undermine individual rights in favour of the common good. If this is the case, it is ridiculous that Sandel's communitarian critics can cite the authority of Hegel when making their case for a politics of the common good. They recall part of Hegel's theory that appears to be compatible with their doctrine and ignore the rest, just as Nozick has done with Kant's teaching when making a case for the inviolability of individual rights, as I am going to show in the next chapter¹⁴².

¹⁴¹. Sandel, Michael. 1991. "Morality and the Liberal Ideal". In *Justice and Economic Distribution*, 2nd ed. Edited by John Arthur and William Shaw. New Jersey: Prentice Hall, p.247.

¹⁴². When making a case for the inviolability of individual rights, Nozick cites the authority of Kant's teaching on autonomy, a teaching that claims that persons are endowed with

Second, if Sandel favours Aristotelian teleological conceptions of justice that accord priority of the good over the right as Trackman and Gatién seem to claim, then Sandel is a strong communitarian critic of Rawls, and he provides an alternative that is sharply opposed to that of Rawls. But Trackman and Gatién ignores the fact that Sandel himself denies the charge that he is a communitarian in the first place. In the article cited above, Sandel specifies that the view that recalls Hegel's arguments and follows Aristotle is not his own view, but the view of communitarian critics. Sandel maintains that, "the term 'communitarianism' is misleading, however, insofar as it implies that rights should rest on the values or preferences that prevail in any given community at any given time. Few, if any, of those who have challenged the priority of the right are communitarian in this sense"¹⁴³. Sandel acknowledges that he challenges the priority of the right over the good, and denies that he makes a case for the priority of the good over the right.

For Sandel, "the question is not whether rights should be respected, but whether rights can be identified and justified in a way that does not presuppose any particular conception of the good"¹⁴⁴. He repeatedly raises this argument in his two major works. Sandel agrees that rights must be respected. But he is opposed to the view that construes rights independently of the good, a view that ends up according priority of the right over the good. From this mode of thought, there is no convincing reason to claim that Sandel is a strong communitarian.

In his two major works, namely, *Liberalism and the Limits of Justice* and *Democracy's*

an inviolable dignity. A human dignity that is inviolable, Nozick infers, must be protected by rights that are also inviolable. But Nozick ignores Kant's teaching that individuals must also commit themselves to communal responsibilities because it is inconsistent with his view.

¹⁴³. Sandel, Michael. 1994. "Political Liberalism". Harvard Law Review 107, p. 1767.

¹⁴⁴. Ibid., p. 1767.

Discontent, Sandel's main objective is to demonstrate that Rawls' Kantian conception of the person that begets an unencumbered self, fails to provide a proper account of the person. For Sandel, the fact that the self is inseparable from its desires, interests, and the like, implies that the right cannot be detached from the good. Since right and good are inseparable, meaning that one cannot exist without the other, Sandel concludes, there is no reason to claim that the right is prior to the good. He does not make a case for the priority of the good over the right, rather, he argues that Rawls is not justified to maintain that the right is prior over the good.

At the end, having attempted to show that Rawls wrongly accords the priority of the right over the good, Sandel does not tell us exactly how the two should be related, that is, whether the good must be considered to be prior to the right. Therefore, Trackman's and Gatién's suggestion is unacceptable.

Kymlicka's interpretation of Sandel seems to support my claim that it is not true that Sandel accords priority of the good over the right. According to Kymlicka, Sandel's argument "is that if the state is committed to neutrality amongst conceptions of the good, then it must also be neutral amongst conceptions of communal identity and civic virtue, since these are inextricably tied to particular conceptions of the good life"¹⁴⁵. I have shown earlier that Sandel correctly maintains that the pluralism about justice that prevails in modern democratic societies do not differ from the pluralism about morality and religion. So, the case for the priority of the right over the good cannot be based on the claim that modern societies are characterized by a fact of reasonable pluralism about the good. Sandel, as Kymlicka's interpretation suggests, holds a neutral position. He neither argues

¹⁴⁵. Kymlicka, Will. 1998. "Liberal Egalitarianism and Civic Republicanism: Friends or Enemies?". In *Debating Democracy's Discontent*, ed. Anita L. Allen and Milton C. Regan. Oxford: Oxford University Press, p. 135.

for the priority of the right nor the priority of the good. Sandel never explicitly addresses the question whether the good is prior to the right. It is not surprising, therefore, that he has provided no real argument why we should regard the good as being prior to the right.

Trackman and Gatién unfairly identify Sandel as a strong communitarian. Suppose that a person is confronted with making a choice between two predominant parties that are sharply opposed, and let us call them Red Party and Black Party. She cannot choose either of them because she is opposed to their respective tenets. However, she decides to write an article in which she attempts to show the serious shortcomings of the Red Party. We cannot justifiably maintain that she is a member of the Black Party simply because she has decided not to talk about its shortcomings in her article. This person leaves us with three possible and plausible assumptions or conclusions: First, we can correctly ask why she has decided to exclude the Black Party in her criticism, given that she is opposed to both parties. Second, we can assume that, perhaps she is more sympathetic to the Red Party whose situation seems not to be beyond redemption. If it could overcome the shortcomings she has addressed, it could be worth joining it. Third, a possible conclusion could be that her criticism seems to be incomplete, not only because she has set out to exclude the Black Party, but also because at the end she does not tell us what can be done in the case where we are confronted with two sharply opposed views with serious weaknesses.

More or less, Sandel is in a similar position. He is discontent with egalitarian liberalism not to mention libertarian liberalism because of the emphasis these views accord to individual rights. I presume that he is discontent with a strong communitarian view that regards community rights as being prior to individual rights, given his claim that individual rights must be respected. In his critique of Rawls, he maintains that he is opposed to the idea of the priority of right, and not to the

claim that rights must be respected. We are not justified to infer that Sandel is a strong communitarian simply because he does not overemphasize the importance of rights. Now, Sandel attempts to show only the weaknesses of egalitarian liberalism and decides not to talk about the shortcomings of communitarianism. It does not follow that Sandel should be labelled as a strong communitarian simply because he has not shown its weaknesses. Sandel's exclusive criticism of liberalism perhaps indicates that he sympathizes more with it than a strong communitarian view he is associated with. It is possible to suspect that he thinks that liberalism, a view which he regards not to be beyond redemption, can be preferable if it can avoid according priority of the right to the good. So, it is reasonable to suspect that Sandel has set out to criticise liberalism, and has decided to exclude communitarianism from his criticism because he thinks it is beyond redemption, given that it undermines the value that individual rights carry.

Trackman and Gatién have labelled Sandel as a strong communitarian without proving their claim. Let us terminate this debate with another comparison. Kymlicka, as we will see in chapter five, challenges Rawls' principle of distributive justice with persuasive arguments. It is important to note that Kymlicka does not argue against Rawls' claim that people must be assisted. Rather, he argues that Rawls' difference principle does not address the case of the people who by their own choices and effort have succeeded to secure a larger income than others. Yet, we still classify Kymlicka as an egalitarian liberal despite the fact that he has shown some defects in Rawls' principle of distributive justice. In a similar pattern, Sandel challenges Rawls' liberty principle with persuasive arguments. It is also important to note that Sandel does not argue against Rawls' claim that rights must be respected. Rather, he argues against the idea of according priority to rights. Therefore, Sandel should not be classified as a strong communitarian critic of Rawls simply because

he argues against the idea of the priority of right. Instead, he should be classified as a critic of Rawls who thinks that it is wrong to accord the priority of the right over the good. Given that Sandel has not made a case for the priority of the good over the right, it is unfair to classify him as a strong communitarian critic of Rawls' liberal conception of right.

What conclusion can we arrive at concerning Sandel? Given that Sandel is opposed to a strong communitarian view that tends to undermine the value of individual rights, rights that must be respected, we can correctly ask why he has chosen not discuss its weaknesses. Also, we can correctly conclude that Sandel's critique seems to be incomplete since having attempted to show the weaknesses of egalitarian liberalism, he does not provide us with a preferable alternative.

Chapter Four

A libertarian Critique Of Rawls' Egalitarian Liberalism:

Introduction:

Rawls' insistence in his first principle of justice on equal basic liberties that may not be infringed upon even for the purpose of promoting socio-economic equality marks him clearly as belonging to the liberal tradition. Although Rawls casts his liberalism in a social democratic form, socialists such as Daniels and Nielsen are still at odds with his theory. On the other hand, Rawls' commitment to improve the situation of the least fortunate members of society marks his theory as opting for a radical egalitarian standard of social justice. This view is sharply criticized by libertarian liberals such as Robert Nozick. Libertarian liberalism maintains that the role of the state is confined to protecting individual rights and private property of individuals.

First, I briefly give the nature of libertarianism in general. Second, I discuss Nozick's libertarianism more in detail because he specifically attempts to criticise "theories of distributive justice which do envisage a more extensive state, focussing especially on the recent powerful theory of John Rawls"¹⁴⁶. Third, I discuss Van Parijs' moderate libertarianism, and his critique of Rawls' difference principle. Lastly, I investigate whether Rawls' egalitarian liberalism and libertarian liberalism cherish the ideal of a sharing political community.

1. *The nature of libertarianism:*

David Boaz, one prominent contemporary proponent of libertarianism, holds the view that "for libertarians, the basic unit of social unit of social analysis is the individual. It's hard to imagine

¹⁴⁶. Nozick, Robert. 1974. *Anarchy, State, and Utopia*. New Jersey: Basic Books, p. xi.

how it could be anything else”¹⁴⁷. While acknowledging the value of society to individuals, Boaz holds that at the conceptual level society all by itself does not have an independent existence, it is composed of individuals. According to Boaz, since society as a ‘whole’ has no separate existence, only individuals have rights, not society. Summing up his discussion on ‘individualism’, Boaz maintains that “libertarianism is the kind of individualism that is appropriate to a free society: treating adults as adults, letting them make their own decisions even when they make mistakes, trusting them to find the best solutions for their own lives”¹⁴⁸. Rawls agrees with Boaz that individuals as free and equal persons have a right to make decisions for their own lives. But he goes further and insist that individuals as members of a political community have a duty to assist others.

More in line with Boaz, Robert Nozick opts for a minimal state that is confined to protecting the rights of individuals. For Nozick, “the night-watchman state of classical liberal theory, limited to the functions of protecting all its citizens against violence, theft, and fraud, and to the enforcement of contracts, and so on, appears to be redistributive”¹⁴⁹. According to Nozick, the night-watchman state is apparently redistributive because it forces some people to pay for the protection of others. The state in Nozick’s view cannot compel some people to be accountable for the protection of other people without violating the rights of the former. The minimal state, therefore, must be confined to the functions of protecting individual rights and private property.

¹⁴⁷. Boaz, David. 1997. *Libertarianism*. New York: The Free Press, p. 95.

¹⁴⁸. *Ibid.*, p. 104.

¹⁴⁹. Nozick, Robert. 1974. *Anarchy, State, and Utopia*. New Jersey: Basic Books, p. 26.

2. *Nozick's libertarianism:*

Under this heading, I discuss Nozick's critique of Rawls' difference principle, Nozick's own principles of justice, and his view on Rawls' idea of social cooperation.

2.1 Nozick's critique of Rawls' difference principle:

I assume that Rawls' first principle of justice is acceptable to Nozick because it specifically protects the rights of individuals, particularly their personal property. Nozick does not say whether Rawls' first principle of justice is acceptable to him presumably because it exclusively talks about individual rights, and that is what Nozick wants. The problem arises with Rawls' second principle of justice which according to Nozick does interfere with the holdings individuals are entitled to. Nozick challenges the choice the representatives in the hypothetical situation make. The first principles of justice are chosen to regulate all basic institutions. Nozick's critique rests solely on the second principle of justice, also called the difference principle.

For Rawls, representatives in the original position choose the first principle that requires equality in the assignment of basic rights. Again, they choose the second principle that "holds that social and economic inequalities, for example, inequalities of wealth and authority, are just only if they result in compensating benefits for everyone, and in particular for the least advantaged members of society"¹⁵⁰. According to Rawls, the difference principle allows the well off members of society to maintain their wealth and enjoy the privilege of exercising authority on condition that their wealth and position of power improve the situation of the worst off members of society.

Nozick's reaction is that Rawls' representatives in the hypothetical situation talk about

¹⁵⁰. Rawls, John. 1971. *A Theory of Justice*. Massachusetts: Harvard University Press, pp.14-15.

groups instead of individuals. Nozick asks: “we should question why individuals in the original position would choose a principle that focuses upon groups, rather than individuals”¹⁵¹. If my interpretation of Nozick is correct, his argument runs as follows: The acceptability of the first principle of justice consist in that it fulfills the fundamental requirement of libertarianism, namely, a focus on the rights of individuals, and in particular the right to what they are entitled to. Now, the second principle’s focus on groups rather than individuals is likely to undermine the rights individuals are entitled to, particularly their holdings. A principle that focuses on groups may tend to absorb individuals into a group, and consequently strip them of the holdings they are rightfully entitled to. Nozick’s other complaint is that Rawls’ idea of the worst off group seems to be rather ambiguous. In his discussion of the worst off it is not clear why Rawls does not include “the group of depressive or alcoholics or the representative paraplegic”¹⁵². For Nozick, individuals in possession of holdings will not opt for the difference principle because it focuses on groups that may deprive them of the holdings they are entitled to. So, as an alternative, Nozick proposes an entitlement theory, a theory that focuses exclusively on protecting individuals’ entitlements.

First, I think Nozick is correct to complain that Rawls does not specify who exactly comprises the worst off group. As I am going to show in the next chapter, a similar complaint is made by Kymlicka to Dworkin. Kymlicka’s dissatisfaction consists in that Dworkin does not spell out the naturally disadvantaged for which the rich should be taxed. Maybe Rawls could have gone into more detail and specified the worst off he is talking about. However, in his difference principle, Rawls talks about two groups, that of the well off and that of the worst off people. By the first

¹⁵¹. Nozick, Robert. 1974. *Anarchy, State, and Utopia*. New Jersey: Basic Books, p. 190.

¹⁵². *Ibid.*, p. 190.

group, Rawls refers to the talented individuals whereas by the later he means the less talented individuals. If this is the case, it seems unfair to maintain that Rawls does not talk about individuals. The weakness of Rawls in this particular case, as I see it, consists in that he does not tell us who the least advantaged individuals are, not that he does not talk about individuals.

Second, Nozick's real point is that Rawls' difference principle focuses on society rather than individuals. Society comprises the worst off and the well off people. Since Rawls seems to be more concerned about the worst off in society, Nozick's complaint consists in that the well off individuals are going to be exploited to improve the situation of the worst off members of society. The main issue surrounding the difference principle seems to revolve around the problem of how individuals should relate to society. Nozick seems to be satisfied with Rawls' first principle which talks solely about individuals. But he is dissatisfied with the second principle presumably because its mention of society or groups may be detrimental to the entitlements individuals have a right to.

A self-declared libertarian, who to a great extent cherishes Nozick's individualistic viewpoint, describes the relation between individuals and society. For Boaz, "at the conceptual level, we must understand that society is composed of individuals. It has no independent existence"¹⁵³. This amounts to saying that we cannot talk about society independently of individuals because it is an entity composed of individuals. Just as a whole cannot exist without its parts, so society cannot exist without individuals.

Boaz makes an important observation about the formation of the community, and why individuals combine to form a community. He specifically maintains that by a community he only means a 'community of free individuals in voluntarily chosen associations'. According to Boaz,

¹⁵³. Boaz, David. 1997. *Libertarianism*. New York: The Free Press, p. 95.

“individuals do not emerge from community; community emerges from individuals... To fulfill their needs and desires, individuals must combine with others”¹⁵⁴.

In his overall writings, Rawls appears to be in full agreement with Boaz so far. The question Rawls attempts to answer is the following: Once the community has emerged from individuals, who is responsible for the maintenance of the community? Given that society has no independent existence, Rawls in his difference principle claims that individuals themselves must be accountable for its sustenance. The individuals' aim to form a community is to fulfil their needs and desires. Aware that some individuals cannot attain their goal on their own because of the natural disadvantages that accompany them, Rawls arranges his difference principle such that in their pursuit of fulfilling their needs and desires, the talented individuals work together with the less talented individuals so that all may ultimately attain their common goal, that is, fulfil their needs and desires.

In view of satisfying Nozick's worry about groups, I do not think Rawls would find it inconvenient to re-formulate his second principle. Instead of saying that 'social and economic inequalities are to be arranged so that they are reasonably expected to be to everyone's advantage', he could say: social and economic inequalities are to be arranged so that they are reasonably expected to be to every individual's advantage. In fact there is no difference.

Showing his discontent about theories of distributive justice, Nozick exclaims: "I lack a good explanation of why the usual theories of distributive justice are so recipient oriented; ignoring givers and transferrers and their rights is of a piece with ignoring producers and their entitlements. But

¹⁵⁴. Ibid., p. 131.

why is it all ignored?"¹⁵⁵. Nozick cannot apply this critique to Rawls' theory of distributive justice without misconceiving Rawls' difference principle, a principle that does not ignore Nozick's 'givers', 'transferrers', and 'producers'.

If Nozick includes Rawls in his critique, he overstates his claim by thinking that Rawls' difference principle is recipient oriented. According to Rawls, the least advantaged earn their living not by being mere recipients. They participate actively in the production of goods beneficial to themselves as well as the fortunate members of society. Rawls does not ignore the talented members of society. His difference principle is arranged such that they continue to increase their production and retain their entitlements as rightfully theirs on condition that their production contribute to the welfare of the least talented. The talented individuals need the least talented individuals to maintain their position. It is hard to see how the talented people can maintain and improve their situation without the help of the least talented people. A talented professor needs the least talented housewife to take care of her baby. As far as Rawls is concerned, it is not the case that his difference principle is recipient oriented.

2.2 Nozick's principles of justice:

Dissatisfied with Rawls' theory of justice, Nozick proposes an entitlement theory as a preferable theory to Rawls'. According to Nozick, individuals are robbed of the holdings they are entitled to. Justice, Nozick maintains, simply demands that a person must get from others who give to her in exchange for something, or as a gift. An endeavour to improve the situation of the worst off people does not fall within the domain of justice. In short, the well off group may freely decide

¹⁵⁵. Nozick, Robert. 1974. *Anarchy, State, and Utopia*. New Jersey: Basic Books, p. 168.

to improve the situation of the worst off people, not as something demanded by justice, but just by showing an act of charity. It is for this reason that Nozick sets out to substitute Rawls' principles of justice with his principles of justice in holdings. His principles run as follows:

1. A person who acquires a holding in accordance with the principle of justice in acquisition is entitled to that holding. 2. A person who acquires a holding in accordance with the principle of justice in transfer, from someone else entitled to the holding, is entitled to the holding. 3. No one is entitled to a holding except by (repeated) applications of 1 and 2¹⁵⁶.

Nozick outlines his entitlement theory of justice in holdings as follows: the holdings of a person are just only if such a person possesses them legitimately by the principles of justice in acquisition and transfer. Should the principles of acquisition and transfer be violated, Nozick maintains, the principle of rectification must be implemented as a compensation to those upon which injustice might have been done. Now how does Nozick explain his principles of justice in holdings?

First, Nozick calls his first principle the principle of justice in acquisition. Individuals have a right to acquire unheld things, and once they have rightfully acquired them, they are entitled to hold or possess them as rightfully theirs. Farmers, for instance, labouriously produce crops to earn their living. At harvest they are entitled to acquire crops as the fruit of their labour. Once a farmer has rightfully acquired the crop, she can exchange it for money. In this sense, Nozick maintains, there is no question of redistribution. The point that Nozick stresses is that nobody has a right to interfere with the individuals' acquisitions of holdings except the individuals themselves who are the rightful owners of these holdings.

Second, Nozick calls his second principle the principle of justice in transfer. This principle deals with a just transfer of holdings from one person to another, and devices a procedure by means

¹⁵⁶. Ibid., p. 151.

of which a person can acquire a holding from another who holds it. According to Nozick, if a distribution arises from another just distribution by legitimate means, such a distribution is just. The principle of justice in transfer is the legitimate means of exchanging or donating holdings. Nozick mentions three ways by means of which holdings can be legitimately transferred: first, the rightful owner may exchange her holding in exchange for something; second, she may transfer her holding to her child to inherit it; and third, she may freely pass her holding to another person as a gift. In all these three cases, the persons who receive the holdings are legitimately entitled to possess them as their own.

According to Nozick, individuals are in no way obliged to acquire and transfer their own holdings such that they may improve the situation of the worst off members of society. In as far as justice is concerned, individuals must legitimately acquire and transfer their holdings as explained above, and that is enough. This view differs drastically from Rawls' who maintains that individuals are entitled to acquire holdings to maintain and improve their positions on condition that the situation of the worst off members of society is improved. However, Rawls is careful to point out that the well off people also must gain in the arrangement.

Third, Nozick calls his third principle the principle of justice in rectification. This principle stipulates that individuals are not entitled to holdings on two conditions: first, if they have not been legitimately acquired; and second, if they have not been legitimately transferred to them. Should there be any discovery that holdings have not been justly acquired or transferred, Nozick maintains, a rectification must be made for these injustices. This amounts to saying that those upon whom injustices have been made when holdings were acquired or transferred, must somehow be compensated. Unfortunately, Nozick does not tell us exactly how this rectification should be carried

out for the victims of injustice.

However, having laid his principles in holdings, Nozick raises important questions, questions that already show the problems involved in his principles of justice in holdings. Nozick notes that the existence of past injustices violates the first two principles of justice in holdings. If the existence of past injustices is notable, what remains is how the rectification of injustices in holdings is to be made. Unfortunately, as I have indicated, Nozick does not tell us specifically how the rectification is to be made to the victims of injustice. However, the questions he raises are important since they help us to fairly assess his principles and see how they fare with Rawls' principles of justice. Nozick asks,

If past injustice has shaped present holdings in various ways, some identifiable and some not, what now, if anything, ought to be done to rectify these injustices? What obligations do the performers of injustice have toward those whose position is worse than it would have been had the injustice not been done?... How, if at all, do things change if the beneficiaries and those made worse off are not the direct parties in the act of injustice, but, for example, their descendants? ... How far back must one go in wiping clean the historical slate of injustices? What may victims of injustice permissibly do in order to rectify the injustices being done to them, including the many injustices done by persons acting through their government?¹⁵⁷.

The existence of past injustices, injustices that Nozick holds that violate the first two principles of justice in holdings, can be proven by facts based on historical evidence. First, the American society with its long standing practices of slavery and racism has led to the unjust acquisition of holdings. Given that such holdings were illegitimately acquired, their transference, whether by way of exchange, inheritance or as a gift, were equally unjust. Second, the same injustices of holdings that were illegitimately acquired, and consequently illegitimately transferred, can be observed also in the so-called Third World countries. Dictators in these totalitarian countries unjustly enriched

¹⁵⁷. Ibid., p. 152.

themselves, that is, illegitimately acquired holdings entrusted to their care. In line with Nozick's theory, the transference of such holdings is equally illegitimate, and therefore unjust. Third, the present writer is a witness to the fact that present inequalities existing in South Africa are to a great extent caused by injustices that prevailed under the evil apartheid system. Some South Africans have inherited holdings that were illegitimately acquired, and some have been the victims of this system, and as a result they remain worst off. According to Nozick, all the people who have illegitimately acquired the holdings, and all those to whom the holdings have been transferred, that is, their descendants, do not deserve to possess such holdings because the procedure they have followed violated his first two principle of justice in holdings.

However, the problem seems to be much more complex because it is not the case that all the people presently in possession of holdings have acquired them illegitimately. Some have not violated Nozick's first two principles of justice in holdings, and so they are rightfully entitled to possess them. But it is hard if not impossible to differentiate those who have violated the first two principles of justice in holdings from those who have not violated them. With the abolition of slavery, racism, and apartheid, it may be easy to trace some victims of past injustices. But it is hard to distinguish those to whom holdings were illegitimately transferred because they were unjustly acquired from those to whom holdings were legitimately transferred. In countries such as Botswana and South Africa, countries that have advanced in their endeavour to abolish totalitarianism, it may be easy to trace some victims of past injustices. But it is hard to distinguish those who have illegitimately acquired holdings and consequently transferred them illegitimately from those who have acquired them legitimately and transferred them justly because they followed the procedure stipulated by Nozick's first two principles of justice in holdings.

Given that some people have violated the first two principles of justice in holdings whereas some have not, and given that it is hard to distinguish the two groups, Nozick seems to be confronted with a problem of reinforcing his principle of justice in rectification. On the one hand, if he does not endorse this principle because he cannot identify those who have violated the first two principles of justice in holdings, he does injustice to the victims of past injustice that has made them worst off. On the other hand, if he endorses this principle as a compensation to the victims of past injustices because he knows that some have violated the first two principles though he cannot identify them, he does injustice to those who have not violated the first two principles of justice in holdings. In this case, he robs them of the entitlement which is rightfully theirs, a right he is committed to protect. Consequently, it is hard for Nozick's principle of justice in rectification to be operable.

To the problem posed by Nozick, my interpretation of Rawls' principle of distributive justice seems to be far preferable. It seems to me that Rawls is not unaware of the existence of past injustices, injustices which to a certain extent have shaped present holdings in various ways. Since it is now hard to identify those who have violated the first two principles of justice in holdings, and the descendants to whom illegitimate holdings have been transferred, Rawls proposes a solution that may be deployed to rectify the injustices done to the victims: All individuals presently in possession of holdings must work in collaboration with the have-nots in view of improving the conditions of the later. A question may be asked as to what will happen if those who do not hold unjustly do not agree to cooperate with rectificatory distribution. Rawls' response would be that all must work together in social cooperations if they want to lead a complete life. The arrangement must be such that everybody must gain from the deal. Inevitably, this cannot be considered to be the most just

solution because some people have not violated the first two principles of justice in holdings. However, given that the terms of arrangement is such that they will maintain and improve their situation, they can agree to collaborate. Similarly, the solution cannot be regarded as being perfectly just to the victims of injustices who might have not been in the poor situation in which they now find themselves had these injustices not occurred. However, given that it is hard to identify the people who have violated the principles of justice in holdings, the people, if known, could be forced to rectify, and given that they will gain, they too can agree to an arrangement which at least will make them better off.

2.3 Nozick on Rawls' idea of social cooperation:

In his endeavour to protect the well off people in their right to their own entitlements, Nozick thinks that Rawls' idea of social cooperation is untenable since it is problematic in distributive justice. For Rawls, "The intuitive idea is that since everyone's well-being depends upon a scheme of cooperation without which no one could have a satisfactory life, the division of advantages should be such as to draw forth the willing cooperation of everyone taking part in it, including those less well situated"¹⁵⁸.

According to Rawls, the idea of social cooperation is not a matter of choice. Life is such that individuals find themselves engaged in a scheme of cooperation, a scheme that enables them to meet their needs. For Rawls, people can lead a complete life only if they work in cooperations. Given that they know that they cannot achieve this by themselves alone, they have no choice but to join social cooperations. However, it is important to note that as to which social cooperation one may

¹⁵⁸. Rawls, John. 1971. *A Theory of Justice*. Massachusetts: Harvard University Press, p.15.

join, it is a matter of individual choice. Now, the problem Rawls is confronted with is that of distributing the benefits of social cooperation. Rawls, then, proposes the principles of social justice since “they provide a way of assigning rights and duties in the basic institutions of society and they define the appropriate distribution of the benefits and burdens of social cooperation”¹⁵⁹. Rawls supposes that by implementing his principles of social justice, people will have a fair share in the benefits of social cooperation.

However, Nozick is dissatisfied with the idea of social cooperation because it is accompanied by the unwanted problem of distributive justice. He asks, “Would there be no problem of justice and no need for a theory of justice, if there was no social cooperation at all, if each person got his share solely by his own efforts”¹⁶⁰. To avoid the question of distributive justice that comes into being because of the idea of social cooperation, Nozick suggests that individuals should work separately so that no one may interfere with one another’s shares and efforts. For Nozick, in the social noncooperation situation ... each individual deserves what he gets unaided by his own efforts; or rather, no one else can make a claim of justice against this holding. It is pellucidly clear in this situation who is entitled to what, so no theory of justice is needed. On this view social cooperation introduces a muddying of the waters that makes it unclear or indeterminate who is entitled to what¹⁶¹.

Nozick’s main worry seems to be that the claim of justice interferes with individuals’ own efforts and holdings they are entitled to. Thus, he finds it more preferable to opt for a social non-cooperation situation that provides individuals the opportunity of enjoying being fully in possession of their own entitlements. Rather than indulging in a theory of justice, a theory that makes it

¹⁵⁹. Ibid., p. 4.

¹⁶⁰. Nozick, Robert. 1974. *Anarchy, State, and Utopia*. New Jersey: Basic Books, p. 185.

¹⁶¹. Ibid., pp. 185-186.

indeterminate who is entitled to what, Nozick suggests, as a better alternative, the entitlement theory as the correct theory, a theory that gives individuals their entitlements without unfairly distributing them to non-rightful owners.

Rather than opting for Nozick's idea of a social non-cooperation situation, Boaz holds the view that "individuals benefit greatly from their interactions with other individuals, a point usually summed up by traditional philosophers as 'cooperation' ... Life would indeed be nasty, brutish, and short if it were solitary"¹⁶². In their pursuit of success in life, Boaz maintains that human beings can achieve very little if they do not cooperate in various ways. It is the duty of the government, Boaz maintains, to create an environment in which individuals can cooperate fairly when pursuing their goals, and to secure their rights and properties¹⁶³.

In Rawls' view, the idea of social cooperation seems to be derived from what he calls 'the sociability of human beings', that is, the social nature of mankind. For Rawls,

human beings have in fact shared final ends and they value their common institutions and activities as good in themselves. We need one another as partners in ways of life that are engaged in for their own sake, and the success and enjoyments of others are necessary for and complementary to our own good¹⁶⁴.

According to Rawls, our nature is such that we need one another as co-workers to strive for our common goal which is for our mutual advantage. It is through social union that individuals participate cooperatively for the realization of their common goal, that is, the satisfaction of their needs and desires. Rawls maintains that individuals with their similar or complementary capacities

¹⁶². Boaz, David. 1997. *Libertarianism*. New York: The Free Press, p. 96.

¹⁶³. *Ibid.*, 132.

¹⁶⁴. Rawls, John. 1971. *A Theory of Justice*. Massachusetts: Harvard University Press, pp.522-523.

cooperate in pursuit of their successes and enjoyments.

It is hard to see how in Nozick's 'non-cooperation situation' individuals can, on their own attain any success and enjoyment. Factory owners need labourers to attain their goal, that is, satisfaction of their needs and desires, just as labourers need factory owners to attain their goal. In other words, entrepreneurs need unskilled labourers, and likewise the latter need the former. A non-cooperative situation may have occurred in Hobbes' and Locke's hypothetical state of nature, but in contemporary highly industrial and contractarian society, in Rawls' conception, such a situation is unimaginable.

Presumably, Nozick is aware that it is nearly impracticable to imagine a situation whereby individuals can work solely so that they may get their fair share without any intervention. That is why instead of talking about 'individual non-cooperation situation', he talks about 'social non-cooperation situation'. If this non-cooperation situation has a social dimension, an element of partnership that is unavoidably contractual, seems to be inescapable. In this situation, the issue of distributive justice seems not to be a problem but a solution to who gets what, in particular, how much each gets. Given that justice stands for fairness, rather than interfering with individuals' own efforts and holdings, it ensures that each gets what her labour deserves.

The exact dissatisfaction of Nozick about the idea of social cooperation consists in that it is likely to hamper the seemingly secured and well protected situation of the well off individuals. He specifically points out that, "entering into such social cooperation, beneficial to those less well off, would seriously worsen the position of the well off group by creating relations of presumptive equality between themselves and the worst off group"¹⁶⁵. Nozick's argument can be summed up as

¹⁶⁵. Nozick, Robert. 1974. *Anarchy, State, and Utopia*. New Jersey: Basic Books, p. 223.

follows: Rawls' egalitarian liberalism aims at obtaining equality for all members of a well-ordered society. However, Rawls himself admits that the desire to attain equality, say, in social primary goods, is an impracticable presumption. So, Rawls enforces the idea of social cooperation as a compensation for the existing and unwanted inequalities among the members of well-ordered society. For Nozick, the idea of social cooperation is solely introduced in view of enriching the less well off group. If the aim of social cooperation is to improve the situation of the badly off people, Nozick argues, the position of the well off group is likely to be worsened. If one group loses, the other gains. Then, if social cooperation is beneficial to the badly off group, it is detrimental to the well off group. So, the well off group will not opt for social cooperation since it endangers their situation.

Nozick's exclusive concern about the well off group seems to make him mistakenly think that Rawls is exclusively concerned about the badly off people. I have shown that Rawls claims that his difference principle is arranged such that everyone, meaning the well off and the worst off, gain from the social cooperation. Rawls goes to the extent of allowing inequalities that maintain and improve the position of the well off group only on condition that such inequalities improve the situation of the least fortunate. In short, the difference principle is arranged such that the well off are ensured of not losing. The people who could plausibly complain about the difference could be the worst off because by becoming better off most of their needs and desires are still wanting. On the other hand, the well off group are enabled to satisfy most of their needs and desires by maintaining and improving their situation. If the difference principle is arranged so as to ensure the well off group that they will definitely gain, it is hard to see how their situation can be 'seriously' worsened.

I assume that Nozick's dissatisfaction about the idea of social cooperation is that this idea is introduced as a compensation to the worst off people because Rawls claims that, "the greater advantages of some are in return for compensating benefits for the less favored; and no one supposes that those who have a larger share are more deserving from a moral point of view"¹⁶⁶. However, Rawls speaks here about the naturally advantaged and the naturally disadvantaged people. His point is that the rich naturally talented people do not deserve to be where they are, just as the naturally disadvantaged people, such as the naturally handicapped, who do not deserve to have been born in the situation they find themselves in. This being the case, the former must assist the latter since the latter's natural disability deprives them of the opportunity to work for themselves. According to Rawls, it is by mere brute luck that some people are born with special talents, talents that enable them to produce more. It is unfortunate that some people are born handicapped; they do not deserve to have been born that way. So, the naturally talented well off people are morally obliged to assist the naturally disadvantaged group.

In as far as the idea of social cooperation is concerned, contrary to Nozick's viewpoint, Rawls' concluding remarks show that the well off members of a well-ordered society benefit more than the worst off. For Rawls, "although in theory the difference principle permits indefinitely large inequalities in return for small gains to the less favoured, the spread of income and wealth should not be excessive in practice, given the requisite background institutions"¹⁶⁷. The first part of the present passage implies that as long as inequalities are allowed, the worst off people gain less than

¹⁶⁶. Rawls, John. 1971. *A Theory of Justice*. Massachusetts: Harvard University Press, p.536.

¹⁶⁷. *Ibid.*, p. 536.

the well off group. If large inequalities are allowed, the more favoured people gain more. Therefore, as long as the difference principle allows inequalities, it is hard to see how the position of the more favoured people can be seriously worsened.

In his later work, Rawls specifically talks about the idea of social cooperation. According to Rawls, the idea of social cooperation carries with it fair terms of working together. That is to say, participants find such terms reasonably acceptable, only if everyone else would accept them. For Rawls, “fair terms of cooperation specify an idea of reciprocity: all who are engaged in cooperation and who do their part as the rules and procedure require, are to benefit in an appropriate way as assessed by a suitable benchmark of comparison”¹⁶⁸.

It is important to note that, for Rawls, the arrangement in social cooperation is considered to be fair only if all the participants engaged in such a cooperation will benefit appropriately, that is, each will get her fair share. To ensure that these fair terms of social cooperation are in accordance with the demands of a conception of political justice, Rawls suggests principles of right as useful tools to be deployed in regulating the arrangement of background justice. With the principles of right specifying fundamental rights and duties, Rawls maintains that, “the benefits produced by everyone’s efforts are fairly distributed and shared from one generation to the next”¹⁶⁹. In as far as the idea of social cooperation is concerned, Rawls does not talk in favour of the badly off group at the detriment of worsening the situation of the well off people. Rather, he maintains that the terms of social cooperation are fair on condition that everyone, that is, the well off and the

¹⁶⁸. Rawls, John. 1996. *Political Liberalism*, 2nd ed. New York: Columbia University Press, p. 16.

¹⁶⁹. *Ibid.*, p. 16.

worst off, benefit from the cooperation they have opted for.

Rawls, in his further explication of the idea of social cooperation, states that it inclusively implies reciprocity and mutuality. He maintains that,

Social cooperation is always for mutual benefit and this implies that it involves two elements: the first is a shared notion of fair terms of cooperation, which each participant may reasonably be expected to accept, provided that everyone else likewise accepts them. Fair terms of cooperation articulate an idea of reciprocity and mutuality: all who cooperate must benefit, or share in common burdens, in some appropriate fashion judged by a suitable benchmark of comparison¹⁷⁰.

This being the case, it seems unfair to Rawls to maintain that his idea of social cooperation entails favouritism. The terms of reciprocity and mutuality imply that all the participants join hands to improve their respective situations. It is not the case that 'social cooperation introduces a muddying of the waters that makes it unclear or indeterminate who is entitled to what'. On the contrary, the claim of justice seems to make clear that everyone must have a fair share. The terms of social cooperation are such that the participants share fairly the benefits and burdens of their labours. If each participant gets her fair share, it is not the case that the idea of social cooperation makes it unclear who is entitled to what. In fact, Nozick's well off individuals cannot maintain and improve their situation without somehow being engaged in a social cooperation.

Nozick discussion on the idea of social cooperation is confusing. Earlier he opted for non-cooperation, and later he talks about individuals cooperating while working separately. Now, Nozick maintains that, "people cooperate in making things but they work separately; each person is a miniature firm"¹⁷¹. In this case, it will be easy to identify the products of each participant. As a result, there is no need to apply Rawls' theory of justice. So, an application of an entitlement

¹⁷⁰. Ibid., p. 300.

¹⁷¹. Nozick, Robert. 1974. *Anarchy, State, and Utopia*. New Jersey: Basic Books, p. 186.

theory suffices to give each participant what she deserves.

First, it is not clear how individuals can work cooperatively and separately at the same time. Of course, Nozick's insistence that individuals should work separately, derives from his fear that they are likely to be cheated if they enter into a social cooperation. But, it is inconceivable that 'working cooperatively' and 'working separately' can be compatible. Either individuals can work cooperatively or separately, the two are clearly incompatible. The notion of 'society' is such that individuals cannot be identified with Leibnizian monads that exist separately and independently. Nozick's entitlement theory seems to be influenced by a monadological conception of the person, a conception according to which individuals can work separately, independently, and become self-sufficient with their holdings as the products of their own labour.

Second, I have already shown that according to Rawls, it is not a case that social cooperation is solely beneficial to the less favoured group. The condition he lays for the terms of social cooperation is that everyone, including Nozick's well off group, gain from the cooperation. Third, given that the fair terms of cooperation involve and articulate the ideas of reciprocity and mutuality, it is hard to imagine individuals working separately, each becoming a miniature firm. The ideas of reciprocity and mutuality imply that while working together to obtain their goals, individuals also show mutual concern for the well being of their partners.

Fourth, I assume that Nozick misinterprets the idea of mutuality to imply that *only* the well off people should work together with the badly off group so as to improve the latter's' unwanted situation. In this case, social cooperation becomes beneficial only to the least favoured group, and the well off situation is likely to be worsened. But, I have shown that the terms of social cooperation does not sanction such an arrangement, both groups must gain from the cooperation.

Nozick seems to be unaware that the worst off need the well off just as the well off need the worst off. The fortunate rich talented professional needs the least fortunate member of society to babysit her children. The two must agree to work together, and the terms of agreement must be reciprocal and mutual such that each must gain from the deal. The least fortunate individual gains by earning enough money to meet her needs, and the professional gains by having an opportunity to concentrate on her work, and consequently she becomes more productive.

3. *Van Parijs and Rawls:*

Let us now have a look at another liberal libertarian who also criticises Rawls, but whose point of view seems to be closer to Rawls' than Nozick's. The ideal view espoused by Van Parijs is real libertarianism which he also refers to as real-freedom-for-all. For a libertarian, Van Parijs maintains, society is free only if it permits its citizens to run their own lives as they wish. However, he notes that as it stands, this notion of a free society is incomplete. A more satisfactory formulation must include: first, that the wishes of individuals may not prevent other individuals from obtaining their wishes as they too wish; second, that individuals be fully in charge of what they legitimately own. For libertarians, according to Van Parijs, "there can be no liberty without property"¹⁷². The implication seems to be that private property is an essential characteristic feature of liberty. In this sense, a society that deprives its citizens of the right to own property and do what they wish with what they legitimately own is not a free society.

In his *Real Freedom For All*, the main claim of Van Parijs seems to be that only capitalism is compatible with the libertarian ideal. He undertakes his project by comparing capitalism with

¹⁷². Van Parijs, Philippe. 1995. *Real Freedom For All*. Oxford: Clarendon Press, p. 12.

socialism. For Van Parijs, real libertarianism “claims to accommodate ... both a belief in the paramount importance of freedom and the conviction that capitalism ... is replete with unacceptable inequalities”¹⁷³. He, then concludes his project by maintaining that “only success along this uncertain path can justify capitalism - if anything can”¹⁷⁴. It is only under a capitalist system that all means of production must be and remain unrestricted private property, and it is this free access to unrestricted private property that denotes that a society is truly a free society. This being the case, Van Parijs’ view is apparently different from Rawls’. Unlike Van Parijs, Rawls thinks that his principles can be applicable either in a capitalist or socialist system. But recalling our discussion on Rawls’ principles of justice in chapter two, it is unimaginable that Rawls’ inegalitarian principles can be operable in an egalitarian socialist order. However, the purpose of bringing Van Parijs to our debate is to evaluate his criticism of Rawls’ difference principle.

In his discussion on ‘jobs as assets’, Van Parijs talks about Rawls’ difference principle. The issue he discusses is the justification of sustainable basic income. He exposes the problem by citing an example of two identically talented but differently disposed characters. ‘Gracy’, Van Parijs maintains, is ambitious and desires to obtain a high income, and so, she works very hard. ‘Lazy’ cares less about obtaining a high income, and so takes it easy. Given that both persons are identically talented, why opt for a maximum basic income at all?, Van Parijs asks. In his interpretation of Rawls, he maintains that in this case,

Rawls’s position and in particular his Difference Principle appears to recommend - subject to the respect of fundamental liberties and of fair equality of opportunity - that one should introduce a wealth - distributing, power - conferring, self-respect - preserving unconditional basic income,

¹⁷³. Ibid., p. 232.

¹⁷⁴. Ibid., p. 233.

indeed that one should introduce such an income at the highest sustainable level. The Difference Principle is a maximin criterion, and the level of the basic income determines the bundle of socio-economic advantages available to the worst off, to those who have nothing but the basic income. Thus, it seems that Rawls should fully endorse, in the Lazy - Gracy case, the scheme that maximizes the level of basic income, and hence favours as much as possible Lazy's interests¹⁷⁵.

According to me that Van Parijs misinterprets Rawls' difference principle. The misinterpretation is due to the fact that Van Parijs talks about two equally talented people and Rawls does not. First, For Rawls, 'Gracy and Lazy', to use Van Parijs' terminology, do not have identical talents. Rawls maintains that the 'Lazies' are less talented than the 'Gracies', and hence in as far as internal endowments are concerned, the two do not stand on the same footing. Rawls' own terminology indicates that the two groups have different internal endowments. Thus, he refers to the 'Gracies' as the talented and to the 'Lazies' as the least talented. Second, unlike Van Parijs, Rawls holds that both 'Gracy and Lazy' are equally ambitious and desire to earn a high income, and as a result, they equally work hard to attain their goals. The only difference in Rawls' case, therefore, is that one is highly talented and the other less talented.

Van Parijs holds that Rawls' difference principle appears to recommend basic income at the highest sustainable level to secure basic liberties, fair equality of opportunities, and the self-respect of all the members of a well-ordered society or members of a free society, as Van Parijs prefers to say. First, given that Rawls is primarily committed to secure fundamental liberties of all the members of a well-ordered society, this interpretation seems to be in line with his commitment, if basic income would really suffice to protect fundamental liberties of all the members of a well-ordered society. However, recalling our discussion on Nielsen's critique of Rawls' difference principle, it is hard to see how basic income can suffice to secure fundamental liberties of all the

¹⁷⁵. Ibid., pp. 95-96.

members of a well-ordered society, in particular, the least talented people. Second, it remains questionable whether it is the case that Rawls himself does in fact introduce such an income at the highest sustainable level. However, taking into account Rawls' other commitment to the least talented people, I assume he can accommodate this. But, as I have shown earlier, the issue becomes complex and problematic for Rawls. He cannot introduce maximum basic income at the highest level without somehow violating the talented people's right to their own entitlements, and he cannot avoid doing so without disrespecting his commitment to the least advantaged people.

Van Parijs concludes his interpretation of Rawls' difference principle by maintaining that 'Rawls should fully endorse, in the Lazy - Gracy case, the scheme that maximizes the level of basic income, and hence favours as much as possible Lazy's interests'. But, as I have shown in the second chapter of the present work, Rawls does not interpret his difference principle this way. According to Rawls, the difference principle is arranged such that both the Lazy, that is, the least talented, and the Gracy, that is, the talented, benefit from the social cooperation they have opted for. It is a mistake to think that Rawls favours or privileges Lazy's interests. From the onset, Rawls specifies that justice does not allow the Gracies to suffer for the sake of the Lazies. For Rawls, "justice denies that the loss of freedom for some, *i.e., the Gracies* [my addition] is made right by a greater good shared by others, *namely, the Lazies* [my addition]. It does not allow that the sacrifices imposed on a view, *i.e., the Gracies* [my addition] are outweighed by the larger sum of advantages enjoyed by many, *i.e., the Lazies* [my addition]"¹⁷⁶. According to Rawls the difference principle functions fairly and properly when the talented and the least talented alike gain from the social cooperation. If this

¹⁷⁶. Rawls, John. 1971. *A Theory of Justice*. Massachusetts: Harvard University Press, pp.3-4.

is the case, there is no question of favouritism.

As a matter of fact, it is hard to see why Rawls should be interpreted as maximizing the level of basic income more in favour of Lazy's interests. As I have shown, in Rawls' theory Gracy and Lazy are equally keen to earn more income, and for that reason they both work hard. But although they receive the same basic income, Gracy still gets a higher income because of her exceptional talents that enables her to produce more. So, confining myself to Rawls' own interpretation of the difference principle, I do not see why he should be thought to favour more Lazy's interests. In fact, if we were to talk in terms of favouritism, maybe we could say that Rawls appears to favour more the Gracies because their situation is not only maintained but increasingly improved because they gain more. The difference principle is arranged such that the Gracies will always be more well off than the Lazies, and they will be always be in a better position to secure their basic liberties.

Nevertheless, Van Parijs' real libertarianism seems to be more inclined toward Rawls' egalitarian liberalism than Nozick's exclusive individualistic view. Van Parijs talks about items which a real libertarian must provide, or at least subsidise "because of the positive externalities on everyone's opportunities that can be expected from making them freely or more easily available to all. Some of the funding of education or of infrastructure, for example, can conceivably be justified in this way"¹⁷⁷. Like Rawls, Van Parijs seems to be concerned not only with securing the existing personal property of individuals; he is also concerned with the worst off members of a free society. In order to extend an opportunity to education for all the members of a free society, he proposes a free or subsidized provision. Showing his concern to all members of a free society, Van Parijs maintains that the income guarantee must take into account all the situations he characterizes as

¹⁷⁷. Van Parijs, Philippe. 1995. *Real Freedom For All*. Oxford: Clarendon Press, p. 43.

follows,

Define an affluent society as a society which can sustainably guarantee all its members, without violating their self ownership, access to an income at least sufficient to cover what they unanimously regard as the bare necessities. Define an opulent society as a society which can sustainably grant all its members, without violating their self-ownership, a basic income at least sufficient to cover what they unanimously regard as the bare necessities¹⁷⁸.

This passage depicts Van Parijs' real freedom for all as a view committed to an equal respect toward various moral outlooks co-existing in a free society. Similar to Rawls, Van Parijs' real libertarianism seeks to reach beyond merely exclusive monadological views that are confined and caught up in solely protecting the rights of individuals to their private property. For Van Parijs, the endowment-equalizing level of the basic income must be given by the 'per capita' competitive value of the jobs that are available. "If involuntary unemployment is high, the corresponding basic income will be high"¹⁷⁹. Like Rawls, Van Parijs is committed to assist the worst off members of a free society, that is, he wants to rescue them from their unwanted situation. Contrary to Nozick's exclusive concern about the welfare of the well off group, Van Parijs adopts a policy that focuses on the involuntary unemployment and entitles all members of a free society to obtain basic income.

Now, what remains to be seen is Van Parijs' source to maintain sustainable basic income, and how he will subsidize provision for education. In reply, he holds that,

those who are better paid because their talents give them access to more highly skilled jobs will pay higher taxes than those restricted by their lack of talents to poorly paid jobs ... [This] is definitely consistent with undominated diversity, since the very fact that the incumbents of highly skilled jobs choose them and hold on to them shows that despite the (expected) higher taxation, they would not like to swap positions with the net beneficiaries of this taxation¹⁸⁰.

¹⁷⁸. Ibid., p. 86.

¹⁷⁹. Ibid., p. 108.

¹⁸⁰. Ibid., p. 124.

Van Parijs' income taxation scheme, as we shall see in the next chapter, seems to be Dworkinian. Given that some people are unemployed either voluntarily or involuntarily, and some cannot work at all because of mental or physical disabilities, it follows that more money must come from the working talented individuals to subsidise Van Parijs' project. Inevitably, this view is abruptly opposed to Nozick's entitlement theory. According to Nozick, an individual is entitled to the wage she has worked for, and nobody can claim it without violating her right to her own entitlement. Against Nozick's entitlement theory, Van Parijs depicts it as being one-sided since it confines itself exclusively to the working talented people. It unfortunately ignores the talented individuals who are involuntarily unemployed, the least talented people who despite their endeavour to work hard earn low income. And last but not least, it ignores the naturally disadvantaged people, either physically or mentally. So, Van Parijs opts for a more inclusive theory, and suggests an income tax scheme as the best means to be deployed.

However, Van Parijs' acceptable proposal seems to be incompatible with his own real libertarian creed. One essential characteristic feature of Van Parijs' real libertarianism is its conception of a free society "as a society whose members can all do what they wish to do with themselves and with whatever external object they own by virtue of an uninterrupted chain of voluntary transactions starting from some initial unrestricted private appropriation of objects previously unowned"¹⁸¹. He insists that a free society is a society characterized by an 'unrestricted private property, and its members are free to do whatever they wish with their own entitlements they earned appropriately.

At the same time, Van Parijs proposes an income tax scheme. He specifies that the working

¹⁸¹. Ibid., p. 12.

talented individuals holding highly valued jobs will pay higher taxes because those who hold unskilled jobs receive low income. This proposal seems to be irreconcilable with Van Parijs' other claim that a society is really free only if its members have an unrestricted right to their private property, and when they are free to do whatever they wish with their own personal property. This high income tax scheme restricts them to do whatever they wish with their own money. With the high income tax scheme, the working talented individuals do not have full control over their own property. Van Parijs seems to be caught up in a similar dilemma Rawls faces in his principles of justice. While being committed to the worst off people, Rawls is also committed to protect the rights of individuals to their own personal property. The problem of reconciling the two commitments remains unresolved.

4. *Does Rawls abandon the ideal of a sharing political community?*

One common criticism labelled against liberalism is that it is too individualistic in that it is exclusively concerned with securing and protecting the rights of individuals and tends to shun the duty of such individuals to their community. This criticism correctly seems to be fittingly applicable in the case of liberal libertarians such as Nozick whose main aim is to protect the rights of individuals to their own holdings. In Nozick's entitlement theory, the main issue is to ensure that the right of individuals to their entitlements is well protected, and the ideal of a sharing political community is obviously wanting. Does Rawls also abandon the ideal of a sharing political community?

I have shown earlier in chapter two that Rawls' first principle of justice is based on Kant's notion of autonomy. As autonomous rational agents, we are endowed with an inviolable dignity,

and this dignity is protected by rights. In his theory, however, Rawls is also influenced by Kant's doctrine of 'rational beings as ends'. It seems to me that it is precisely this other influence which sets Rawls apart from Nozick.

The following passage from Kant's *Groundwork of the Metaphysic of Morals* clarifies what he means by treating rational beings as ends. It reads as follows:

Humanity could no doubt subsist if everybody contributed nothing to the happiness of others but at the same time refrained from deliberately impairing their happiness. This is, however, merely to agree negatively and not positively with humanity as an end in itself unless everyone endeavours also, so far as in him lies, to further the ends of others. For the ends of a subject who is an end in himself must, if this conception is to have its full effect in me, be also, as far as possible, my ends ¹⁸².

While pursuing my ends, Kant maintains, duty requires me to further the ends of others. According to Kant, humanity as end in itself requires positively contributing to others' ends because humanity cannot subsist or maintain itself, it needs the assistance of individuals. Kant's dictum that 'seek the perfection of self and the happiness of others' can correctly be interpreted to mean that it is my duty to pursue the end of others, and since the end of rational beings is happiness, my duty to them is to promote their happiness. In short, Kant brings attention in his doctrine of the 'ideal kingdom of ends' that a rational agent is naturally called to assist other rational agents in times of need.

To a great extent, Rawls has been influenced by Kant's doctrine on our duty toward other persons. This influence can be manifested already in the early Rawls. On 'The Arguments for Natural Duty', Rawls talks about the duty of mutual aid¹⁸³. He refers to Kant and maintains that there are situations whereby duty will require us to come to the aid of others. In times of need,

¹⁸². Kant, Emmanuel. [1785] 1964. *Groundwork of the Metaphysic of Morals*. Trans. H.J. Paton. New York: Harper & Publishers, p. 98.

¹⁸³. Rawls, John. 1971. *A Theory of Justice*. Massachusetts: Harvard University Press, p.338.

Rawls continues, we may even have to sacrifice our own interests so as to assist others. According to Rawls, “the public knowledge that we are living in a society in which we can depend upon others to come to our assistance in difficult circumstances is itself of great value”¹⁸⁴. For Rawls, mutual aid is a duty, and he apparently does not necessarily abandon the ideal of a sharing political community.

However, Rawls is aware of the objection that his “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, or associational, advantages without having any final ends in common”¹⁸⁵. I assume that this discontent is caused by Rawls’ emphasis on the rights of individuals entailed in his first principle of justice. The fear seems to be that this emphasis does not leave enough place for the duty of individuals to their own political community.

Rawls defends his theory by maintaining that, “a well-ordered political society is a good ... for whenever there is a shared final end, an end that requires the cooperation of many to achieve, the good realized is social: it is realized through citizens’ joint activity in mutual dependence on the appropriate actions taken by others”¹⁸⁶. In Rawls’ idea of social cooperation, individuals have one final goal in common, namely, to improve one another’s situation. Despite the fact that Rawls’ theory seems to be unsuccessful, his difference principle seems to be arranged such that individuals assist one another so as to lead a better life.

¹⁸⁴. Ibid., p. 339.

¹⁸⁵. Rawls, John. 1996. *Political Liberalism*, 2nd ed. New York: Columbia University Press, p. 201.

¹⁸⁶. Ibid., p. 204.

A contrast between Nozick's entitlement theory that radically defends individual rights and Rawls' theory of justice may suffice to show that Rawls is not indifferent to the ideal of a political community. For Nozick, "There is no moral outweighing of one of our lives by others so as to lead to a greater overall social good. There is no justified sacrifice of some of us by others"¹⁸⁷. According to Nozick, as distinct individuals, we are not resources for others. As long as individuals do not violate the rights of others, they are free to do what they wish with their own fortune, and they are not bound by justice to assist others. Thus, Nozick accepts only a minimal night watchman state that "treats us as inviolable individuals who may not be used in certain ways by others as means or tools or instruments or resources"¹⁸⁸. Inevitably, therefore, the ideal of a sharing political community is abandoned in Nozick's theory. In Nozick's theory, the idea of social duties is alien, all that matters is the rights of individuals

In his entitlement theory, Nozick's commitment to liberty is clearly incompatible with Rawls' justice as fairness which is committed to the ideal of a sharing political community in pursuit of the final end. Rawls' theory is committed to a duty of mutual aid and an obligation to relieve suffering. Contrary to Nozick's exclusive one-sided individualism, Rawls talks about the 'good of the community' in his discussion on the 'idea of social union'. His own view of community is that in which the participants have certain 'shared final ends' and regards the scheme of cooperation as a good in itself. But it is inconceivable that Rawls' individualistic principles of justice can be reconciled with his claim to our obligation to commit ourselves to communal responsibility.

¹⁸⁷. Nozick, Robert. 1974. *Anarchy, State, and Utopia*. New Jersey: Basic Books, p. 33.

¹⁸⁸. *Ibid.*, pp. 333-334.

Conclusion:

1) Nozick:

On the one hand, Nozick's commitment to defend individuals' rights to their entitlements seems to be justifiable for indeed a labourer deserves to get her just wage. Rawls is in full agreement with this commitment, and he adds that this will serve as an incentive for individuals to produce more. If people were deprived of their just entitlements, this could encourage sloth since people would know that they would still survive without work, and ultimately this would lead to the decline of the economy.

On the other hand, unfortunately, Nozick, in his entitlement theory does not talk about the naturally disadvantaged people, people who necessarily must depend on his well off individuals for survival. In the coming chapter, we shall see that such people do not deserve to have been born in the situation in which they find themselves, and neither do their children deserve to have been born of them. In his entitlement theory, Nozick does not tell us exactly how the naturally handicapped, either physically or mentally, are going to earn their living, not to mention how their children, who do not deserve to have been born of such people, are going to be educated.

Nozick's entitlement theory seems to be one-sided. He exclusively sets out to protect the entitlements of the talented well off people. He ignores the least talented people, who despite of their endeavour to work hard, remain worst off. But, as Rawls, Dworkin, and Kymlicka unanimously agree, Nozick's talented well off people do not deserve to be where they are, they are there by mere brute luck. Likewise, the least talented people do not deserve to have been born devoid of the talents Nozick's people have. So, Rawls seems to be justified in maintaining that the

talented must assist the least talented. He arranges his theory such that while improving the situation of the least talented people, the talented people's situation is maintained and improved. But in Nozick's theory it seems only the fittest will survive.

Just as Rawls' theory is based on Kant, so is Nozick's. As persons, individuals are endowed with an inviolable dignity, and this dignity is protected by rights. In his entitlement theory, Nozick sets out to defend such rights. He strengthens his defence by referring to Kant's formula which says that a person as a person cannot be used as a means but as an end in itself. But, Nozick ignores another Kantian formula of humanity which places on us the positive duty of furthering the purposes of other rational beings, presumably because it is not in accordance with his theory. It seems to me that Kant's overall theory can easily be manipulated, that is, a portion of it can be developed into an independent theory.

2) Van Parijs:

Another liberal libertarian who attacks Rawls' difference principle is Van Parijs. His dissatisfaction consists in that Rawls' difference principle is arranged such that it favours more the worst off people. I have shown that Van Parijs seems to misinterpret Rawls' difference principle. The example of two equally talented people that he cites is incompatible with Rawls' own explication of his difference principle. In his difference principle Rawls does not talk about two equally talented people, on the contrary, he talks about the people who are well off because they are more talented and those who are worst off because they are less talented. In short, he talks about the more talented and the least talented.

However, unlike Nozick, Van Parijs' libertarianism seems to be more moderate. To a great

extent, he shares a similar view with Rawls concerning the ideal of a sharing political community. He maintains that the employed talented individuals who enjoy the privilege of occupying valued jobs must assist those who unfortunately do not enjoy this opportunity. To accomplish his proposal, Van Parijs suggests Dworkin's income tax scheme as the best means that can be deployed. Incidentally, he seems to be following Dworkin's tax scheme even though he unfortunately does not talk about his indebtedness to Dworkin.

But, as I have attempted to show, Van Parijs' high income tax scheme seems to be inconsistent with his claim that in a real free society individuals are free to do what they wish with their own private property. On the one hand, if Van Parijs imposes high income tax, he restricts individuals' freedom to do what they wish with their own money. On the other hand, if he does not impose it, there will be no resource for basic income.

3) Rawls:

Unlike Nozick, Rawls endeavours to encompass Kant's overall teaching in his theory of justice. However, Rawls seems to be caught up in a dilemma of reconciling the rights of individuals to their own private property and their duty toward society as such. On the one hand, he talks about justice as fairness being committed to the ideal of a sharing political community, and his well-ordered society as a society of individuals working together in pursuit of their common final goal. On the other hand, he still retains his main argument that individuals are entitled to possess private property. While retaining one of the basic tenets of liberalism, namely, that individuals have a right to their own personal property, he also talks about the idea of a sharing political community. It seems hard for Rawls to show how the two parallel claims can be reconciled.

Compared to the far right liberals, however, Rawls' view is preferable.

Chapter Five

A Liberal Egalitarian Critique Of Rawls' Difference Principle:

Introduction:

Rawls is criticised not only by the right-wing liberals, but he also faces a strong opposition from the left-wing liberals. Although they have one goal they share with Rawls, namely, commitment to liberty and equality, they strongly oppose his difference principle. I will confine myself to the most prominent contemporary critics of Rawls, namely, Will Kymlicka and Ronald Dworkin. I have singled them out among many because they give an elaborate critique of Rawls' difference principle that is relevant to my work.

1. *Will Kymlicka:*

Kymlicka discusses Rawls' difference principle extensively and focuses on Rawls' arguments for this principle. The two arguments for the difference principle, Kymlicka maintains, are the intuitive equality of opportunity argument and the social contract argument. Of the two, Kymlicka holds that the intuitive equality of opportunity is the most plausible. I will confine myself to this argument.

1.1 The intuitive equality of opportunity argument:

a) The difference principle unfairly applies to all inequalities:

According to Rawls, internal endowments, such as natural talents and social circumstances are morally arbitrary since it is by mere brute luck that some people happen to be endowed with natural talents and born into privileged social environments. Other people by brute bad luck just happen to be born with less natural talents and born in unfavourable social circumstances. It is not

a matter of choice, some just happen to be naturally talented while others find themselves being naturally disadvantaged. Since natural talents and social circumstances are simply 'matters of brute luck', to use Kymlicka's phrasing, it is unfair that people's moral claims should be based on pure brute luck.

For Rawls, the talented people do not deserve to benefit from their morally arbitrary talents. In fact, egalitarians in general claim that talented people and those born in privileged social conditions do not deserve to benefit from their morally arbitrary endowments and social circumstances, just as the naturally disadvantaged people do not deserve to suffer from their morally arbitrary disabilities. Moral arbitrariness, they maintain, is a matter of luck, either sheer luck or brute bad luck, and not choice. Now, for the sake of fairness, Rawls maintains that the difference principle allows the talented people to benefit from their natural talents on condition that their fortune will also improve the condition of the less talented. Fairness in social cooperations requires that the well off people be given what they are entitled to so as to maintain and improve their conditions. Similarly, it requires the worst off to be given what their labour deserves so as to become better off. One is justified to doubt whether with this type of fairness, Rawls will ever attain at least a rough equality.

Kymlicka sanctions the basic premise of Rawls' argument. He agrees with Rawls that people's place in the distribution of natural talents is morally arbitrary and that 'the prevailing view of equality of opportunity is unstable'. However, Kymlicka thinks that the conclusion does not necessarily follow from Rawls' basic premise. Kymlicka's discontent consists in that the difference principle unfairly applies to 'all' inequalities. According to Kymlicka, The difference principle says that all inequalities must work to the benefit of the least well off.

What if I was not born into a privileged social group, and was not born with any special talents, and yet by my own choices and effort have managed to secure a larger income than others? Nothing in this argument explains why the difference principle applies to all inequalities, rather than just to those inequalities which stem from morally arbitrary factors¹⁸⁹.

Kymlicka is in full agreement with Rawls that because of their moral arbitrariness, the talented people and those born into privileged social conditions do not deserve any greater income. According to Kymlicka, the correct conclusion that must follow from Rawls' basic premise should be such that the difference principle should apply and be strictly confined only to those inequalities that stem from morally arbitrary factors. Some persons, Kymlicka argues, are neither born into any privileged social circumstances nor endowed with special talents, yet through their own choice and hard labour they have succeeded to earn more income. Since this group is excluded in Rawls' basic premise, Kymlicka seems to be justified in maintaining that the difference principle cannot be applied to them without doing them injustice.

The passages that Kymlicka cites from Rawls¹⁹⁰ justify his claim that the conclusion that the difference principle applies to all inequalities is not quite right because some inequalities do not stem from morally arbitrary factors. I agree with Kymlicka so far because it seems to be true that the inequalities deriving from people's own choices and efforts, and not from morally arbitrary factors, are excluded in Rawls' basic premise.

But, viewing Rawls' overall theory, the difference principle may fairly apply to all inequalities. By the 'worst off', Rawls sometimes refers to those not born into privileged social

¹⁸⁹. Kymlicka, Will. 1990. *Contemporary Political Philosophy: An Introduction*. Oxford: Clarendon Press, p. 58.

¹⁹⁰. Rawls, John. 1971. *A Theory of Justice*. Massachusetts: Harvard University Press, pp. 75, 102.

conditions and those born with less talents. But at other times he refers to those born with natural disadvantages, that is, the handicapped either physically or mentally. With regard to the handicapped whose social circumstances do not allow to compete on a fair basis in the same race, Rawls holds that “the difference principle would allocate resources in education, say, so as to improve the long-term expectation of the least favoured”¹⁹¹. For Rawls, those born into the less favourable social conditions must be compensated, and the compensation he proposes is that of providing the handicapped with special training and education.

Now, a comparison between Kymlicka’s rich people who are neither born into a privileged social condition nor born with any special talents and Rawls’ latter group of handicaps, gives enough ground to accept that the conclusion Rawls has made necessarily follows from his basic premise. In this case, the social circumstances under which Kymlicka’s rich people are born, that is, physically healthy, is morally arbitrary. Given that Kymlicka accepts Rawls’ basic premise, he should accept that his rich people do not deserve to benefit from their efforts. Applying Rawls’ difference principle to Kymlicka’s rich people we can correctly say that the difference principle states that no one deserves to benefit from morally arbitrary factors such as talent. Confining myself to the naturally disadvantaged people and Kymlicka’s rich people, effort can be added as another morally arbitrary factor. Neither did Kymlicka’s rich people chose to be healthy nor the disadvantaged people to be handicapped. Kymlicka’s rich people are allowed to secure a larger income only if their fortune will benefit the naturally disadvantaged. In this sense, the difference principle can be said to be applicable to all inequalities.

However, unlike Kymlicka, I am reluctant to accept Rawls’ basic premise. For Rawls, no

¹⁹¹. Ibid., p. 101.

one deserves to benefit from their natural talents. Now, the difference principle states that it is not unfair to allow such benefits if they work to improve the situation of the least advantaged. But, despite the fact that their fortune improves the conditions of the least advantaged, the naturally advantaged still benefit more. Given that they do not deserve to benefit from morally arbitrary factors, why cannot the distribution be such that it is equal to those who do not deserve to have been born with less talents and those who are not favoured by nature, that is, the handicapped? However, I do not allude to complete equality since resources cannot be divided equally like a pie can be divided equally. The point I want to make is that the naturally disabled and the least talented could receive a reasonable income that would allow them to meet their needs. If internal endowments and favourable social circumstances are morally arbitrary, the naturally advantaged have no reason to complain if we can distribute resources equally so that those who do not deserve to be born with less talents and those born under unfavourable social conditions can equally enjoy the benefits. Allowing the more talented people to benefit more than the less talented working people and the naturally disadvantaged seems to be incompatible with Rawls' basic premise that the more talented people do not deserve to benefit from their morally arbitrary talents.

b) The difference principle cannot be applicable to all cases:

In as far as the inequalities in income are the result of choices, not circumstances, Kymlicka maintains that the difference principle cannot be applied without being unfair to some people. He explains himself by citing an example of two people endowed with equal talents, but having different tastes and lifestyles. He maintains that if the differences in lifestyles are freely chosen, the difference principle unfairly forces one person to subsidize the other's expensive desire for leisure. If a naturally advantaged person chooses to cultivate her land, she cannot be forced to improve the

situation of another naturally advantaged person who chooses to turn her land into a tennis court. In this case, I agree with Kymlicka that the difference principle cannot be applicable.

Kymlicka's case seems to be similar to Van Parijs's 'Gracy's and Lazy's case. On the whole, Rawls talks about his difference principle mainly with reference to the people with special talents and those with less talents. His main claim is that the two groups must cooperate in order to improve each other's situation. Rawls does not have in mind the situation whereby two people are endowed with equal natural advantages. In this sense, Rawls' difference principle can be seen as being inadequate since it leaves aside other cases, such as the one whereby two people are endowed with equal natural advantages.

1.2 Evaluation of Kymlicka:

a) Strengths and weaknesses:

First, Kymlicka offers a valuable critique of Rawls' difference principle. The most plausible and strong argument he raises against Rawls' difference principle is the one I cited in chapter in chapter two of the present work. There I maintained with Kymlicka that Rawls' difference principle seems to be more beneficial to the well endowed than the naturally disadvantaged. Kymlicka correctly points out that while the well endowed enjoy the fortune of their natural endowments, the naturally disadvantaged is accompanied by an undeserved burden, a burden caused by circumstances not choice. Rather than removing such a burden, the difference principle unfortunately allows it. But, why does Rawls' difference principle fail to remedy the situation of the naturally disadvantaged? The most plausible reason is that this principle is primarily intended to operate in social cooperations. And there is no room for the handicapped people.

However, having shown the deficiency of the difference principle, Kymlicka unfortunately does not give us a better alternative. I have shown in chapter two that Rawls' difference principle seems to be deficient in many ways, and I even cited Kymlicka in this regard. My expectation was that at the end of his critique of Rawls' difference principle Kymlicka would provide us with a preferable alternative. Unfortunately this is wanting. Hence, I think Kymlicka has offered an incomplete critique of Rawls' difference principle.

Second, in his critique of Rawls' difference principle, Kymlicka sets out to exclude the liberty principle, and postpones it for his later discussion on communitarianism. There he talks mainly about the right to freedom of choice without any mention of the right to personal property. I believe he is justified in so doing, given the point he intends to pursue. However, given that Rawls' difference principle affects people's right to their personal property, Kymlicka should have included this right in his discussion of this principle and tell us whether a conflict between Rawls' difference principle and the right to personal property exists or not. In any case, basing myself on what Kymlicka stands for, in as far as liberalism is concerned, I hope my judgment about him will be correct.

My main discomfort about Rawls' two principles of justice is that there is an inconsistency between the liberty principle and the difference principle. In liberalism civil and political rights are revered and economic rights respected. On the one hand, Kymlicka agrees with Rawls that basic liberties should have priority. On the other hand, he agrees with Rawls that the well endowed must use their fortune to improve the situation of the naturally disadvantaged, with the exception of some cases where the difference principle cannot apply to all inequalities, and in cases where it cannot be applied. If this is the case, there seems to be a conflict between Kymlicka's commitment to

protect the basic liberties of individuals and his other commitment to equality. Kymlicka should have discussed the apparent existing conflict between liberty and equality, a problem that is not yet resolved in liberalism.

b) On free education at all levels:

Would Kymlicka opt for a policy of a free education for all at all levels? It is obvious that he highly cherishes the importance of civil and political rights. He maintains that Rawls gives, special protection to what he calls the 'basic liberties', by which he means the standard civil and political rights recognized in liberal democracies - the right to vote, to run office, due process, free speech, mobility, etc... These rights are very important to liberalism - indeed, one way of differentiating liberalism is just that it gives priority to the basic liberties¹⁹².

I assume that the 'et cetera' above includes the right to private property. Kymlicka maintains that what distinguishes liberalism is that it gives priority to the basic liberties, and he thinks that his view is widely shared in modern society. That Kymlicka's view is widely shared in modern society is an issue worth pursuing. But I am not particularly interested in pursuing that issue here. My question is, since Kymlicka backs Rawls' claim that the right to private property, as one of the basic liberties, is prior to economic rights, will he opt for a proposal of a free education for all at all levels? Taking into consideration the fact that a free education for all at all levels is costly, and given that it must to a great extent be subsidised by Kymlicka's rich people if he opts for it, it is doubtful that he would accept such a proposal since it would interfere with the rich people's right to their own private property. Like Rawls, Kymlicka would not accept that the few rich people be sacrificed for many. On the one hand, Kymlicka maintains that since natural talents and social circumstances are matters of brute luck, the well endowed must strive to remove the burden of the naturally

¹⁹². Kymlicka, Will. 1990. *Contemporary Political Philosophy: An Introduction*. Oxford: Clarendon Press, p. 54.

disadvantaged. He argues that the difference principle does not go far enough because rather than removing the burden of the naturally disadvantaged, it allows it¹⁹³. Although Kymlicka does not tell us exactly what should be done, it is clear that he opts for a more radical egalitarian liberalism.

On the other hand, Kymlicka is unshakeably committed to protect individuals of their right to their private property since he maintains that this right is very important to liberalism, and even assumes that this right is widely shared in modern society. Inevitably, there exists a conflict between Kymlicka's commitment to have people's basic liberties, the right to private property in our case, protected, and his other commitment to equality. But, since he gives priority to the basic liberties, most probably he will find it hard to opt for a free education for all at levels because to a great extent it is likely to violate the liberty principle, that is, it will affect individuals' own personal properties.

The best and simplest way to subsidize free education for all at all levels is through income tax. But Kymlicka is discontent with Dworkin's income tax scheme. His discomfort is caused by the fact that "we tax the rich, even though some got there purely by effort with no natural advantage, and support the poor, even though some like the tennis-player, are there by choice, without any natural disadvantage"¹⁹⁴.

Kymlicka would reject a proposal of a free education for all at all levels, not only because it makes him break his commitment to protect individuals' rights to their own private property, but also because the income tax suggested to subsidize education would do injustice to the people who are rich purely by effort with no natural advantage. According to Kymlicka, some people are worst

¹⁹³. Ibid., p. 72.

¹⁹⁴. Ibid., p. 82.

off, and consequently unable to educate their children. But, they are there not because of circumstances but by choice. Other people are rich, and are therefore able to educate their children, but they are rich simply by their strenuous effort. Against the policy of a free education for all at all levels, Kymlicka would presumably argue that it is unfair that someone with no natural talent, who has become rich purely by her strenuous effort, be heavily taxed so that even the child of the naturally talented tennis-player may receive free education at all levels.

Undoubtedly, this could be a plausible argument against a proposal of a free education for all at all levels. This argument is strong on two grounds. First, this would be a discouragement to the naturally advantaged who has made sacrifices to save money for the education of her child if in the long run she is obliged to educate the child of the equally naturally advantaged person who has chosen to play tennis. It would also be unfair for the person with no natural advantage who has worked hard presumably in view of securing the education of her child, if she must now contribute to the education of the child of the naturally advantaged tennis-player.

Second, this would encourage the naturally advantaged tennis-player to relax and pursue her luxurious chosen life-plan to the full, knowing that her child's education will be taken care of up to the post-secondary level even without her contribution. Now, education is of paramount importance to the future of children. It serves as a very strong incentive for parents to work hard so as to ensure that their children get adequate education. With free education at all levels in operation, some people, in particular those with expensive tastes, less ambitious, luxury oriented, and the like, are likely to seize the opportunity and leave the burden of education on others. Moreover, there would be no incentive left for the naturally advantaged and those with no natural advantages to persist to secure larger incomes. So, it seems to me that Kymlicka would be justified

if he would regard my proposal as disappointing and unfair to the rich people with no natural advantages.

However, all things considered, I still maintain that subsidizing a free education for all at all levels can be defended. First, the naturally disadvantaged people happen to be in their circumstances by brute bad luck. Here I have in mind the handicaps, either physical or mental. Given that the rich naturally advantaged and the rich people with no natural advantages do not deserve to be in the situation in which they find themselves, they have the duty to ensure that the children of the handicaps receive an adequate education, an education that will ultimately give them the opportunity to occupy valued jobs. Moreover, the children of the handicapped people do not deserve to have been born of them, just as the children of the rich people with no natural advantages do not deserve to have been born of them. So the children of the former group cannot be denied of the opportunity to get an adequate education without being treated unfairly.

Second, in the real world some naturally advantaged people and those with no natural advantages are unemployed, not by choice, but presumably because of the scarcity of jobs. Unfortunately, the bad luck which they do not deserve makes them worst off, and consequently their situation blurs the education of their children. The social circumstances under which their children are born are morally arbitrary. It would be unfair, therefore, to deprive their children the opportunity to advance in their studies because they do not deserve to have been born under the circumstances in which they find themselves. So, will it be unfair to tax the rich naturally advantaged and those who are rich with no natural advantages such that their income tax may subsidize the education of all the children?

Third, it is true that some people are worst off because of the life-plans they have chosen.

The life the tennis-player has chosen makes it difficult for her to provide her child with adequate education. As I pointed out earlier, the existence of a free education for all at all levels may encourage the tennis-player to relax and unload the whole burden of the education of her child on others. It is true that the parental entitlement keeps the parent working. Unfortunately, there are parents who choose not to perform their parental duty of working for their children. Such children do not deserve to have been born of uncaring parents, just as the children of the working parents with no natural advantage do not deserve to have been born of such caring parents. Maybe some people will think that it is mistake to offer a free education for all at all levels because some people may be tempted to imitate the tennis-player.

But, in the last analysis, it is the child who will pay the price, that is, an innocent child's future is likely to be blurred because of the carelessness of her parent. Why should the child be punished for being deprived of the opportunity to advance in her studies because of the fault of her parent? If we do not give such a child the opportunity to acquire the necessary skills that will enable her to occupy valued jobs, we are actually saying to the child: society punishes you accordingly because of the fault of your inconsiderate parent.

I agree with Kymlicka that it is unfair to tax the rich who are there purely by their strenuous effort so as to maintain the lives of tennis-players. But, when it comes to taxing them in view of educating their children, it is a different case altogether, a case that must be considered separately. Given that the children of the rich people with no natural advantages are born under favourable circumstances by brute luck, there is no reason that they alone should enjoy the privilege of acquiring adequate education. However, it is important to bear in mind that Kymlicka follows Rawls by giving priority to basic liberties. Given that for him the right to private property is very

important to liberalism, it is most probable that he will also follow Rawls' claim that it is unfair that the few should be sacrificed for the many. Therefore, Kymlicka would have a different opinion from mine.

Unsurprisingly, some people may still be discontent with a free education for all at all levels. Given the fact that post-secondary education is costly, they may argue, too much will be demanded from the rich people to subsidize education. So, they may conclude, why should we not be content with providing all children with basic education, that is, elementary and secondary education? This could serve as a better compromise because the rich people will not be heavily taxed, and the children of the worst off will at least get something they could not have if nothing at all was done.

But, given the complexity of our modern world of technology, the acquisition of the necessary skills for occupying valued jobs is absolutely necessary. If the really worst off people cannot afford to provide their children with a mere elementary education, why should we expect them to cover the costly expenses of post-secondary education? Maybe an analogy will suffice to clarify my argument. Suppose a rich person volunteers to assist a very poor person who is seriously sick. Now the rich person says to the poor person: I will give you the money you need to consult a physician, but as for the operation that you will have to undergo and the medication the physician will prescribe, you will have to pay for yourself. Will this type of assistance really improve the situation of the poor person who is really in need? The same thing applies to a policy that provides only basic education. The rich person says to the child who is really poor: I will provide you with money for elementary and secondary education, but as for the costly post-secondary education that is absolutely necessary for you to acquire skills that will enable you to occupy valued jobs, you will have to take care of yourself. This is ridiculous because a person who is unable to cover the mere

expenses of elementary education undoubtedly cannot afford to cover the costly expenses of post-secondary education?

In pursuit of their option for free basic education only, some people may maintain that after graduating from high school, the poor pupils can use their summer vacations working for their own education. But, we have seen that the children of the worst off do not deserve to have been born under the circumstances they find themselves in. Why should the children of the rich people, who do not deserve to have been born under favourable circumstances be the only ones to enjoy the privilege of taking a rest during summer vacations? After all, regardless of status, every person who works hard deserves to have a rest. It is unfair that some people be should be deprived of such a rest because of their unwanted financial situation.

2. *Ronald Dworkin:*

2.1 Dworkin on Rawls' difference principle:

Kymlicka is right in maintaining that Dworkin's theory is a complicated one. However, I am interested in his critique of Rawls' difference principle and the alternative he offers. In his 'Equality of Resources', Dworkin is discontent with Rawls' difference principle. For Dworkin, Rawls does not give us a sufficient classification of the members falling under the worst off category. Above all, Dworkin maintains, Rawls' difference principle does not specifically address those born with physical or mental disabilities, that is, the natural handicaps. For Dworkin, it is unfortunate that the difference principle should be insensitive to the natural handicaps. Dworkin maintains that,

the difference principle is not sufficiently fined-tuned in a variety of ways. There is a conceded degree of arbitrariness in the choice of any description of the worst off group, and this is, in any

case, a group whose fortunes can be charted only through some mythical average or representative member of that group. In particular, the structure seems insufficiently sensitive to the position of those with natural handicaps, physical or mental, who do not themselves constitute a worst off group, because this is defined economically, and would not count as the representative or average member of any such group¹⁹⁵.

First, Dworkin complains that the difference principle is insensitive to the natural handicaps, whether physical or mental. However, he is not unaware that Rawls does talk about making compensation to the natural handicaps in his principle of redress. Nevertheless, Dworkin maintains that Rawls himself specifies that the difference principle does not include the principle of redress. Rawls does not only hold that the difference principle is not the principle of redress, but he also maintain that the principle of redress has not been proposed as the criterion of justice. So, I will confine myself to the difference principle. Rawls holds maintains that “the difference principle would allocate resources in education, say, so as to improve the long-term expectation of the least favoured”¹⁹⁶. Still, Dworkin maintains that “there is no reason to think that would, at least in normal circumstances”¹⁹⁷. For Dworkin, special training of natural handicaps will not suffice to make them better off. But, how does Rawls himself relate his difference principle to the natural handicaps?

Rawls endeavours to show that the difference principle is not insensitive to the natural handicaps. For Rawls, those born with natural endowments are allowed to gain on condition that they also use their fortune to improve the situation of those who are not favoured by nature. Thus,

¹⁹⁵. Dworkin, Ronald. 1981. “What is Equality? Part II: Equality of Resources”. *Philosophy and Public Affairs* 10, p. 339.

¹⁹⁶. Rawls, John. 1971. *A Theory of Justice*. Massachusetts: Harvard University Press, p.101.

¹⁹⁷. Dworkin, Ronald. 1981. “What is Equality? Part II: Equality of Resources”. *Philosophy and Public Affairs* 10, p. 339.

he maintains that “the naturally advantaged are not to gain merely because they are more gifted, but only to cover the cost of training and education and for using their endowments in ways that help the less fortunate as well”¹⁹⁸.

For Rawls, undeserved inequalities call for redress; and since inequalities resulting from natural handicaps, physical or mental are undeserved, they must be compensated. Now, the compensation provided by the difference principle is that of offering the naturally handicapped a special training and education. Rawls thinks that this offer would improve their long-term expectation. But, the practicability of Rawls’ view here is highly questionable. The situation of some natural handicaps is so lamentable that they must entirely depend on others without their active cooperation for survival. The condition of the natural handicaps with mental disabilities, for instance, is such that they are unable to receive any special training, a training that Rawls thinks will improve their long-term expectation. In this sense, they are passive recipients who can neither be trained nor educated. In any case, it may be argued that this is one special sort of case of the worst off and Rawls surely wants to allow full provision for it. If it is one special sort of case of the worst off, it must be treated separately because such people cannot be assisted by being offered special training and education. But Rawls does not tell us exactly how he will allow full provision for it. If he bypasses such a case, is he not taking the risk of later tending to neglect such a group?

However, the last part of the passage above may be interpreted to refer to the naturally handicapped whose situation is such that they are unable to receive any training and education. Rawls maintains that the naturally advantaged must also use (besides providing training and

¹⁹⁸. Rawls, John. 1971. *A Theory of Justice*. Massachusetts: Harvard University Press, pp.101-102.

education) their endowments in ways that help the less fortunate as well. In this sense, the structure of the difference principle seems to be sufficiently sensitive to the position of those with serious disabilities. But, the notable deficiency of the difference principle in this regard seems to be that it does not specify exactly *how* the people with serious disabilities are to be helped. At least we know that the situation of some will be improved because they will be provided with special training and education, but it is not quite clear how those whose situation is really lamentable, that is, the passive recipients, are going to be helped. Rawls' reluctance to be more specific in this regard is likely to beget the unwanted consequences of seeing paralysed people crying for assistance in the streets. In as far as the least fortunate people who work in social cooperations are concerned, Rawls' difference principle specifies how they will improve their conditions. But, concerning the naturally handicapped people, this principle is less specific.

Second, Dworkin maintains that the difference principle does not sufficiently classify the worst off people. He thinks that the inadequacy of this principle consists in that 'there is a conceded degree of arbitrariness in the choice of any description of the worst off group'. In his discussion about the least advantaged people, Rawls talks only about two groups: the natural handicaps whose situation can be improved if they are provided with special training and if they are helped in a variety of ways, and the less talented whose condition can be improved if they enter into a social cooperation with those who are naturally endowed. On the whole, Rawls, usually uses the term 'worst-off' to refer to the people who are less talented. So, Dworkin sets out to get rid of this arbitrariness in the choice of any description of the worst off group. This sounds like a good starting point that is likely to lead to a fair distribution of resources.

2.2. Dworkin's view on distribution of resources:

The first step that Dworkin undertakes is to make a thorough classification of the worst off group itself. First, he talks about people with natural handicaps, physical or mental. They are worst off because their circumstances are such that they are not favoured by nature. Second, he talks about the people who are worst off due to option bad luck and those who are worst off simply by brute bad luck. He explains himself by citing an example of people who incur a serious illness. One person may develop cancer in the course of her normal life because she was a heavy cigarette smoker. Such a person suffers an option bad luck because she was aware of the high risk of incurring the disease. Another person may develop cancer in the course of her normal life despite the fact that she avoided any known gamble risking the disease. She suffers a brute bad luck. Third, some people become worst off because of the life-plans they have chosen. One person may choose to turn her land into a tennis court instead of cultivating it. The other may have a sense of expensive tastes that may ultimately make her bankrupt. Fourth, some people are naturally less talented, and so, despite their enormous effort, they may still remain worst off.

Having classified the worst off people, Dworkin comes to the next step, that is, the actual distribution of resources. Then, Dworkin introduces,

the periodic distribution of resources through some form of income tax. We want to develop a scheme of redistribution, so far as we are able, that will neutralize the effects of differential talents, yet preserve the consequences of one person choosing an occupation, in response to his sense of what he wants to do with his life, that is more expensive for the community than the choice another makes. An income tax is a plausible device for this purpose because it leaves intact the possibility of choosing a life in which sacrifices are constantly made and discipline steadily imposed for the sake of financial success and the further resources it brings, though of course it neither endorses nor condemns that choice¹⁹⁹.

¹⁹⁹. Dworkin, Ronald. 1981. "What is Equality? Part II: Equality of Resources". *Philosophy and Public Affairs* 10, pp. 312-313.

Dworkin's income tax scheme seems to work fairly well in some cases. First, with regard to the person born with natural handicap, physical or mental, Dworkin's claim is acceptable that, "someone who is born with a serious handicap faces his life with what we concede to be fewer resources just on that account, than others do. This justifies compensation, under a scheme devoted to equality of resources"²⁰⁰. Dworkin's income tax scheme devoted to equality of resources is justifiable because it aims at improving the situation of the worst off in this case. Given that the naturally handicapped do not deserve to be in the circumstances in which they find themselves, they deserve to be compensated. Second, Dworkin's income tax scheme is also justifiable when it aims at making the less talented better off. If it is the case that no one deserves to be born with less natural talents, it is not unfair to tax those who are born with more natural talents so as to improve the situation of the least talented.

Now, Dworkin's income tax scheme is problematic in the remaining cases. First, the problem arises in the case of those who suffer an option bad luck and those who suffer a brute bad luck. Dworkin succinctly distinguishes the two. He maintains that, if someone develops cancer in the course of a normal life, and there is no particular decision to which we can point as a gamble risking the disease, then we will say that he has suffered brute bad luck. But if he smoked cigarettes heavily then we may prefer to say that he took an unsuccessful gamble²⁰¹.

Undoubtedly, Dworkin presents a practical case that exists in the real world. Unfortunately, he does not tell us whether the persons who incur cancer, one from option bad luck and the other from a brute bad luck, should be compensated equally. However, elsewhere he holds that the government

²⁰⁰. Ibid., p. 302.

²⁰¹. Ibid., p. 293.

may victimize some people by taxing them in view of providing a compensation to the disadvantaged²⁰². Evidently, the people who have incurred cancer by option bad luck are as equally disadvantaged as those who have incurred it by brute bad luck, and this implies that they equally need help. Now, given Dworkin's commitment to equality, he will enforce his principle of victimization so that the two persons may receive the same compensation to fight their common disease. But, it may be argued that it is not the case that Dworkin would not grant the same compensation if one person incurs cancer by option bad luck. If that is the case, how then does he solve the problem of the people who incur diseases by option bad luck? If Dworkin would grant compensation to those who incur cancer by brute bad luck and option bad luck, this is likely to encourage cigarette smokers to continue with their gamble risk knowing that they will be taken care of. It is not fair also to tax payers to cover the expenses of people who choose to take a risk they know is likely to end with an unsuccessful gamble. In this case, fairness seems to be wanting in Dworkin's income tax scheme because some people are victimized to compensate for people who happen to be sick by choice, namely, cigarette smokers who gamble risking the disease. So, it seems to me that Dworkin has raised an interesting and very important issue, but has not discussed it in depth.

Second, the problem arises in the case of the naturally advantaged people who become worst off because of the life-plans they have chosen. In accordance with Dworkin's income tax scheme, the person who is naturally advantaged, who choose to cultivate her land rather than turning it into a tennis court, must be taxed so as to improve the condition of the equally naturally advantaged

²⁰². Dworkin, Ronald. 1987. "What is Equality? Part III: The Place of Liberty". *Iowa Law Review* 73, p. 51.

tennis-player. However, Dworkin does not seem ready to make the people who choose to invest rather than consume sacrificial lambs. And so he maintains that,

we must, on pain of violating equality, allow the distribution of resources at any particular moment to be (as we must say) ambition-sensitive. It must, that is, reflect the cost or benefit to others of the choices people make so that, for example, those who choose to invest rather than consume, or to consume less expensively rather than more, or to work in more rather than less profitable ways, we must be permitted to retain the gains that flow from these decisions in an equal auction followed by free trade²⁰³.

Dworkin maintains that the people who choose to work must be allowed to reap the fruits of their labour. The people whose choice is to invest rather than to consume must retain their fortune. But this seems to be incompatible with Dworkin's other claim that, as a plausible device, income tax "leaves intact the possibility of choosing a life in which sacrifices are constantly made and discipline steadily imposed for the sake of financial success and the further resources it brings"²⁰⁴. Unfortunately, the 'sacrifices' and the 'discipline' that Dworkin talks about are imposed only on the people who choose to work more and the tennis-players who choose to work less are immune to such burdens. The income tax scheme does injustice to the people who choose to invest because they alone become victims of this device.

Kymlicka is indeed correct in his remark that Dworkin's income tax scheme is disappointing because "we tax the rich even though some got there purely by effort with no natural advantage, and support the poor, even though some, like the tennis-player are there by choice without any natural

²⁰³. Dworkin, Ronald. 1981. "What is Equality? Part II: Equality of Resources". *Philosophy and Public Affairs* 10, pp. 312-313.

²⁰⁴. *Ibid.* P. 313.

disadvantage"²⁰⁵. Given that some people have chosen to invest rather than to consume, it is unfair to tax them so as to support those who have chosen to consume rather than to invest. In this case, therefore, Dworkin's income tax scheme cannot be implemented without doing injustice to 'those who choose to invest rather than consuming, or consuming less expensively rather than more, or to work in more rather than less profitable ways'.

Third, Kymlicka talks about people who are worst off because they are unemployed. Some people are unemployed voluntarily because they choose not to work. Others are unemployed involuntarily because circumstances, such as scarcity of jobs, are such that they cannot find jobs. The state of being unemployed itself makes both groups equally worst off. Now, Dworkin's income tax scheme is arranged such that the employed people be taxed in order to support the unemployed. Since the people who are unemployed involuntarily do not deserve to be jobless, they deserve to be compensated because it is by brute bad luck that they are unemployed. Concerning the people who are unemployed involuntarily and the disabled, it is not just a good public policy that they are compensated because they did not choose to be in the state in which they find themselves. But, the people who voluntarily choose not to work do not deserve any compensation. Compensation in this case is likely to encourage many to follow suit, that is, to choose not to work, and ultimately this may lead to the decline of the economy because there will be few workers and many tennis-players. Consequently, the few tax payers left may find it hard to support the people who desperately need assistance, that is, the natural handicaps whose survival depends entirely on others. So, it is not only unfair to tax some people to support those who choose not to work, but Dworkin's income tax

²⁰⁵. Kymlicka, Will. 1990. *Contemporary Political Philosophy: An Introduction*. Oxford: Clarendon Press, p. 82.

scheme is likely to pave a way for a decline of the economy, a disaster that is likely to prevent the people who are really poor to get the support they need.

Fourth, another group worth mentioning is the offspring of the least advantaged people. In this case, I refer to the children of the naturally handicapped, less talented, unemployed, less ambitious, and so on. Given that natural talents and social circumstances are morally arbitrary, those who are born under favourable social circumstances are there by brute luck. If they are there by brute luck, they do not deserve to get a better education than others. But, the circumstances of the offspring of the least advantaged people are such that they cannot obtain an adequate education, education that will enable them to occupy valued jobs. So, maybe Dworkin's income tax scheme could be endorsed to subsidize free education for all at all levels. However, it is good to bear in mind that Dworkin has not discussed the issue of free education for all at all levels. But, given his commitment to equality (to be discussed shortly), a commitment that has led him to devise an income tax scheme, he cannot raise an objection to this proposal without contradicting himself. But, does not Dworkin's unshakeable commitment to equality conflict with the liberty principle he also cherishes?

2.3 Dworkin on equality and liberty:

In his 'Equality of Resources', where he talks about Rawls' difference principle and presents his own theory, it would be more interesting to hear what Dworkin has to say about the liberty principle, the principle I have argued that Rawls has formulated such that it seems to conflict with his commitment to equality. But, Dworkin simply tells us that "Rawls' first principle, which establishes what he calls the priority of liberty, has more to do with the topics I have set aside as

belonging to political equality”²⁰⁶.

In my discussion of Rawls, I have attempted to show that the liberty principle seems to be inconsistent with his principle of distributive justice. In his ‘Equality of Resources’, where the focus is on the principle of distributive justice, it would have been more appropriate for Dworkin to talk about the liberty principle and show in what way it does not conflict with the principle of distributive justice, if ever it does not. Kymlicka maintains that social and political rights are very important to liberalism, and that what distinguishes liberalism from other political systems is that it gives priority to the basic liberties²⁰⁷. Now, in his ‘Equality of Resources’, Dworkin shows his unshakeable commitment to equality by devising an income tax scheme, a device that unavoidably affects individuals’ rights to their own private property. Perhaps it is precisely here that Dworkin could have discussed individuals’ rights to their private property and showed that this does not conflict with his commitment to equality.

On the whole, unlike Rawls, Dworkin is more committed to equality than liberty. In his ‘Liberalism’, he defines a liberal as someone who maintains a theory that favours a promotion of equality. For Dworkin, in economic policy, “liberals demand that inequalities of wealth be reduced through welfare and other forms of redistribution financed by progressive taxes”²⁰⁸. Such liberals, Dworkin maintains, entitle the government to intervene in economic enterprise so as to promote

²⁰⁶. Dworkin, Ronald. 1981. “What is Equality? Part II: Equality of Resources”. *Philosophy and Public Affairs* 10, p. 339.

²⁰⁷. Kymlicka, Will. 1990. *Contemporary Political Philosophy: An Introduction*. Oxford: Clarendon Press, p. 54.

²⁰⁸. Dworkin, Ronald. 1978. “Liberalism”. In *Public and Private Morality*, ed. Stuart Hampshire. Cambridge: Cambridge University Press, p. 122.

economic stability, to reduce unemployment, and to render communal services that individuals would not provide by themselves alone. As to how resources and opportunities should be assigned, Dworkin holds that “resources and opportunities should be distributed, so far as possible, equally, so that roughly the same share of whatever is available is devoted to satisfying the ambitions of each other”²⁰⁹.

Inevitably, Dworkin opts for a radical form of egalitarian liberalism. His commitment to equality seems to be similar to Rawls’ who holds that “the difference principle is a strong egalitarian conception in the sense that unless there is a distribution that makes both persons better off ..., an equal distribution is to be preferred”²¹⁰. Dworkin’s egalitarian liberalism, however, seems to be more egalitarian than Rawls’ because unlike Rawls, he does not accept any condition that allows an unequal distribution. While committed to promote equality, Rawls’ theory is such that inequalities cannot be reduced because the more the well endowed improve the situation of the least advantaged, the more rich they become. On the contrary, Dworkin’s theory is committed to reduce inequalities of wealth as far as possible, and this he does through welfare and progressive taxes. In defence of his liberal conception of equality, he maintains that, “it is obnoxious to the liberal conception, for example, that someone should have more of what the community as a whole has to distribute because he or his father had superior skill or luck”²¹¹. But, the welfare and progressive taxes that Dworkin endorses to reduce inequalities of wealth are subsidized by few members of

²⁰⁹. Ibid., p. 129.

²¹⁰. Rawls, John. 1971. *A Theory of Justice*. Massachusetts: Harvard University Press, p.76.

²¹¹. Dworkin, Ronald. 1978. “Liberalism”. In *Public and Private Morality*, ed. Stuart Hampshire. Cambridge: Cambridge University Press, p. 132.

society, while the rest just enjoy the benefits of Dworkin's devices. Of course, Dworkin does well to introduce income tax scheme if it will benefit the naturally disadvantaged and those who are involuntarily unemployed. But, in the name of equality, those who choose to work must now support even those who are unemployed voluntarily and the naturally endowed tennis-players. Are the working people's right to their own property protected in Dworkin's theory? What does he say about basic liberties, in particular, the right to private property?

Like Rawls, Kymlicka holds that since civil and political rights are very important to liberalism, basic liberties that protect these rights should have priority. On the contrary, Dworkin rejects the postulate that "liberty is a constitutive ideal of both the liberal and conservative political structures"²¹². For Dworkin, it is inconceivable that liberty can be measured because we do not have a concept of liberty that is quantifiable. Rather, he sets out to argue that "liberalism takes, as its constitutive political morality, the first conception of equality"²¹³. Undoubtedly, unlike other egalitarian liberals, Dworkin's focus is more on equality than liberty.

However, on individual rights, Dworkin maintains that,

The ultimate justification for... rights is that they are necessary to protect equal concern and respect; but they are not to be understood as representing equality in contrast to some other goal or principle served by democracy or the economic market. The familiar idea, for example, that rights of distribution are justified by an ideal of equality that overrides the efficiency ideals of the market in certain cases, has no place in liberal theory. For the liberal, rights are justified... in order to make more perfect the only justification on which other institutions may themselves rely. If the liberal arguments for a particular right are sound, then the right is an unqualified improvement in political morality, not a necessary but regrettable compromise of some other independent goal, like economic efficiency²¹⁴.

²¹². Ibid., p. 124.

²¹³. Ibid., p. 127.

²¹⁴. Ibid., p. 136.

When he talks about rights, Dworkin unmistakably talks simultaneously about equality. Presumably, he does this to ensure that his commitment to promote equality is not in any way hampered by rights. But, in his 'Equality of Resources', he talks exclusively about his commitment to reduce inequalities without any mention of rights. If it is the case that he is equally committed to protect rights, as he claims, why does he not also talk about rights in his 'Equality of Resources' to ensure that his commitment to equality does not violate the rights of individuals, particularly their right to personal property? On the whole, Dworkin does not take the pains to demonstrate that equality is justifiable only if it accords with rights.

The passage above shows that rights are justifiable only if they are in accordance with Dworkin's commitment to equality. Rights are defined only in the context of equality, and they cannot be defined independently of economic efficiency. They are justified by an ideal of equality if they do not override the efficiency ideals of the market. It seems to me, therefore, that whether Dworkin admits it or not, his commitment to equality dominates in his theory. This seems to be in accordance with Dworkin's mode of thought, because he defines "a liberal as someone who holds the first, or liberal, theory of what equality requires"²¹⁵. But, if it is the case that liberty and equality are aspects of the same human ideal, as Dworkin claims, liberty should have been included in the definition of a liberal. If Dworkin regards liberty and equality as being identical, the definition of a liberal would automatically imply both. I do not think that he views them that way; instead, by considering them to be aspects of the same human ideal, he seems to be saying that they are like head and tail as being two aspects of the same coin. So, to be complete, a definition of a liberal must include both aspects.

²¹⁵. Ibid., p. 128.

In his endeavour to protect individuals' rights to their own private property, Dworkin maintains that, "the liberal will, for his own purposes, accept some right to property, because he will count some sovereignty over a range of personal possessions essential to dignity"²¹⁶. This implies that there are some possessions a person cannot be forced to disown without violating her human dignity. But, Dworkin does not stipulate such possessions. Perhaps, he should have specified possessions that a person must share with others in order to reduce inequalities, and possessions she must retain to conserve her human dignity. Moreover, this seems to be problematic, in particular, in connection with the question of income tax. In most cases, people disagree with the government as to how much they should be taxed. It seems to be difficult to set the limit beyond which a liberal cannot be taxed without sacrificing personal possessions essential to her dignity. So far, what is clear to us is Dworkin's claim that the well endowed must support the least advantaged if promotion of equality is to be attained. As to the liberal's right to private property, Dworkin's view seems to be somewhat illusory.

It is questionable whether liberals themselves can sanction Dworkin's view that allows sacrificing some rights to private property for social and economic gains the way he does. With the exception of Dworkin, liberals maintain that the right to personal property, as one of the basic liberties, is very important to liberalism, and so, it should have priority. Given the priority of this right, it will not be easy for liberals to sacrifice the right to property for economic rights, rights that Rawls stipulates are subordinate in the lexical order.

²¹⁶. Ibid., p. 139.

2.4 Dworkin's principle of victimization:

In as far as the relation between the liberty principle and the principle of distributive justice is concerned, Dworkin holds the view that there is no conflict between them. For Dworkin, "According to equality of resources, the rights to liberty we regard as fundamental are a part or aspect of distributional equality, and so are automatically protected whenever equality is achieved. The priority of equality is secured, not at the expense of equality, but in its name"²¹⁷. Dworkin, while not subordinating liberty to equality, maintains that it is wrong to conceive the liberty principle and the principle of distributive justice as two separate entities. Rather, they must be conceived as two aspects that mutually reflect one single humanist ideal. In this sense, there cannot be a conflict between liberty and equality, if they are two aspects of a single humanist ideal. It seems to be something like conceiving head and tail as two aspects of one single coin.

On Rawls and Kymlicka, I have shown that it is hard for egalitarian liberals to reconcile liberty and equality. Dworkin thinks he can with ease reconcile liberty and equality in the real world of practical and imperfect politics. According to this principle, "liberty... demands nothing but the freedom of genuine equality, and equality cannot be served by any outrage to liberty"²¹⁸. Dworkin insists that no one's position can be worsened with respect to any aspect of her liberty without violating her liberty. But, he also stresses that the government may victimize some people to subsidize the naturally disadvantaged, and this can be done by enforcing income tax scheme. Thus, Dworkin maintains that,

²¹⁷. Dworkin, Ronald. 1987. "What is Equality? Part III: The Place of Liberty". *Iowa Law Review* 73, p. 12.

²¹⁸. *Ibid.*, p. 48.

the victimization principle is valuable beyond its role in forbidding certain constraints on liberty in the real world: it helps point toward a more inclusive program of reform by identifying a package of measures, in which constraints might figure, that a government might legitimately adopt in pursuit of a defensible distribution of the community's resources²¹⁹.

According to Dworkin, the importance of the principle of victimization consists in that it restricts liberty so as to maintain a fair distribution of the community's resources. Recalling Dworkin's discussion on equality of resources, it is easy to follow his argument for his victimization principle. In his 'Equality of Resources', Dworkin maintains that the wealthy naturally advantaged people happen to be where they are by mere brute luck. I have shown also that Kymlicka's rich people who are devoid of natural advantages are there by brute luck when compared to the naturally handicapped. So, it is not unfair to victimize the well endowed by taxing them in view of improving the conditions of the least advantaged whose social circumstances have made them worst off. In this case, therefore, the principle of victimization is not unfair to the well endowed because they do not deserve what they have, just as those who are not favoured by nature do not deserve to be in the circumstances in which they find themselves.

But, with regard to the people who are unemployed voluntarily and those who are worst off not because of circumstances, but the choices they have made, the principle of victimization cannot be applied to the well endowed without violating their right to their personal property. Their possessions, some of which are essential to their dignity, cannot be victimized in the name of equality, to support the people who have chosen the life they know will make them worst off in the long run. The people who are unemployed voluntarily and the tennis-players deserve to be worst off because they have freely chosen to be so. They know that they cannot be better off by choosing

²¹⁹. Ibid., p. 51.

not to work. To victimize some people to support such people so as to promote equality is clearly unfair and detrimental to their private property. In this case, Dworkin's principle of victimization is deficient.

However, Dworkin holds that, "When the law is uncertain, in the sense that a plausible case can be made on both sides, then a citizen who follows his own judgment is not behaving unfairly. Our practices permit and encourages him to follow his own judgment in such cases"²²⁰. With regard to the principle of victimization, I have shown that a plausible case can be made on both sides. On the one hand, this principle is justifiable when applied in view of supporting those who are worst off because of circumstances. On the other hand, it is unfair when some people are victimized so as to support those who are worst off because of the choices they have made. A liberal is surely justified to follow her own judgment and reject Dworkin's principle of victimization. Dworkin even assures us that in such cases, "our government has a special responsibility to try to protect him, (that is, a liberal who rejects the principle of victimization), [my addition in brackets]"²²¹. But, this sounds somehow peculiar since Dworkin holds that it is the government that devises a scheme of income tax, a scheme that victimizes the well endowed. The peculiarity consists in that it is the very government that a liberal must appeal to for protection. In this case, the government cannot reverse its decision without contradicting itself.

²²⁰. Dworkin, Ronald. 1978. *Taking Rights Seriously*. Massachusetts: Harvard University Press, p. 215.

²²¹. *Ibid.*, p. 215.

2.5 Is Dworkin a liberal or a socialist?:

G. A. Cohen defines liberalism as a thesis that maintains that each person has full private property and this in herself and in what she possesses. Consequently, she has a right to do what she likes with herself and what she possesses. However, Cohen notes that the left-wing liberals accommodate the idea of sharing with regard to external resources. He doubts whether some left-wing liberals can be accounted as real liberals, and so he says,

Rawls and Dworkin are commonly accounted liberals, but ... they must be called something else, such as social democrats, for they are not liberals in the traditional sense just defined, since they deny self-ownership in one important way. They say that, because it is a matter of brute luck that people have the talents they do, their talents do not, morally speaking, belong to them, but are, properly regarded, resources over which society as a whole may legitimately dispose²²².

In all fairness, I doubt whether Dworkin should be equated with Rawls. In my view, there seem to be more differences than similarities between the two theorists. On the one hand, they are the same since they both claim that they are committed to reducing inequalities, and they do this in their respective ways which are different. On the other hand, they are different in that while Rawls posits more emphasis on the liberty principle, Dworkin posits more stress on the principle of distributive justice.

Rawls stresses that citizens of a well-ordered society have a right to choose their own lives, that is to say, as free and equal persons they are entitled to make their own rational life-plans. In this sense, Rawls cannot be said to deny self-ownership. Moreover, he claims that the basic liberties that protects individuals' rights, must be conceived as being prior to social and economic rights. For Rawls, citizens of a well-ordered society do not only own themselves but also own their own

²²². Cohen, G.A. 1986. "Self-Ownership, World Ownership, and Equality". *Social Philosophy and Policy* 3, p. 79.

private property. Thus, for example, the right to private property is one of the basic liberties that must be protected. Even his difference principle is arranged such that Dworkin's principle of victimization cannot be accommodated. So, Rawls does not deserve to be labelled as a social democrat.

But Dworkin's overall writings depict him as being more of a socialist than a liberal. His main interest seems to be more on equality than liberty. In his 'Equality of Resources', where he elaborately discussed his principle of distributive justice, he should also have talked about the liberty principle that is in one way or the other affected by his commitment to promote equality. Unfortunately, he said nothing about the liberty principle. Elsewhere Dworkin maintains that, "the right to distinct liberties does not conflict with any supposed competing right to equality, but on the contrary follows from a conception of equality conceded to be more fundamental"²²³. Repeatedly in his writings, Dworkin claims that there is no conflict between liberty and equality. He should have demonstrated this in his discussions on the principle of victimization and income tax where his commitment to promote equality seems to conflict with individuals' rights to their own private property. On the whole, Dworkin's theory is dominated by his commitment to reduce inequalities. Not only does he say very little about liberty, but liberty seems not to have at least a sufficient place in his 'Equality of Resources', whether he admits it or not. In his 'Liberalism' and *Taking Rights Seriously*, one would expect Dworkin to talk more about rights that protect basic liberties, but the predominant topic is still on equality.

While Rawls holds that basic individual rights are prior to the particular needs of the

²²³. Dworkin, Ronald. 1978. *Taking Rights Seriously*. Massachusetts: Harvard University Press, p. 274.

political community, Dworkin seems to maintain a different view. For Dworkin, “the political force of claims of right... depends upon the general structure of the political community in which they are made”²²⁴. In this sense, it seems that it is the political community that determines individual rights. If I understand Dworkin well, it seems that the political community is prior to the individual persons that make it. It is not surprising that people must be victimized to improve the conditions of all members of society. It seems to me, therefore, that Dworkin strives to promote socialism rather than liberalism.

Conclusion: The merits and shortcomings of liberalism

Before discussing the negative aspects of liberalism that seems to be prevailing today, we should talk about its merits as well. Liberals, with their determination and commitment to protect the basic liberties, liberties that were violated merely for economic gains, deserve to be credited. The practice of slavery, for example, led not only to the violation of human dignity and loss of identity, but also to the dehumanization of some people, and this regrettable practice was pursued primarily for social and economic gains. In this case, the merit of liberalism consists in that with its recognition and claim that everyone is entitled to retain her basic liberties, the practice of slavery has come to a gentle stop. With regard to society’s changing attitude towards child labour and women’s rights, we are indebted to the liberals’ insistence on the right to fundamental basic rights for everyone.

But, the deficiency of modern liberals, in particular, those I have discussed so far, consists in that their theories seem to be imbalanced. Starting with Rawls, modern liberals seem to ground

²²⁴. Ibid., p. 364.

their theories in Kant's theory. Does this imply that Kantian theory is imbalanced? I did not attempt to answer this question, rather, I chose to confine myself to Rawls as far as possible. But Kant's theory seems to be constructed such that a part of it can be construed in a way that it can be developed into an independent theory. For instance, some libertarians confine themselves to Kant's end-in-itself, and some communitarians restrict themselves to Kant's kingdom-of-ends.

First, in the previous chapter, I have shown that Nozick confines himself to Kant's teaching that rational beings are endowed with an inviolable dignity, a dignity that is protected by rights. Nozick, then, maintains that a person has full private property in himself and in what she possesses, and as such, she cannot be used as a means but only as an end in itself. But, while developing his theory, Nozick ignores Kant's teaching on the kingdom of ends, a teaching that claims that it is our duty to assist members of our society who are in need.

Secondly, Rawls and Kymlicka endeavour to conceptualize the whole Kantian theory. While committed to protect the basic liberties of individuals, their egalitarianism is such that they cherish the ideal that raw external resources must be shared, and they are also committed to the promotion of equality. But, I have shown that Rawls' theory, in particular, is such that there seems to be an unavoidable inconsistency between his commitment to protecting the basic liberties and his other commitment to equality.

Third, I have attempted to show that contrary to Rawls and Kymlicka, Dworkin's primary concern seems to be centred around promoting equality, that is, he seems to be more committed to reducing inequalities as far as possible than protecting the basic liberties of individuals. I do not think I have exaggerated my view by claiming that Dworkin's theory is dominated by his commitment to equality. Although he repeatedly maintains that there is no conflict between liberty

and equality, he does not show satisfactorily how a conflict does not exist. To provide a complete teaching, he should have elaborated more on the issue of the right to personal property that seems to be linked to his commitment to reducing inequalities. Nozick confined himself to one aspect of Kant's theory. Presumably, Dworkin puts stress on the other aspect of Kant's theory, namely, Kant's teaching on the 'kingdom of ends' that obliges us to assist the needy members. Although Dworkin does not mention Kant as Rawls does, Kant's influence appears to be behind his theory.

Recapitulation:

I have already summarized the content of this chapter. In short, it seems to me that Kant's theory on which liberals depend, is such that part of it can be construed and developed into an independent theory. So, I propose that we look for a theory other than Kant's, a theory whereby our commitments to protecting rights and communal responsibility can be reconcilable.

However, Rawls in his later work seems to be aware that perhaps his emphasis on the liberty principle has somehow blurred his other commitment to equality. So, he attempts to talk more elaborately on communal responsibility. The following chapter investigates whether by so doing he succeeds in overcoming the problem of reconciling his commitment to protect individual rights and his other commitment to equality. In other words, can the later Rawls pursue his commitment to equality and protect individuals' rights to private property at the same time?

We need to have a theory where the individual's sense of freedom is necessarily inseparable from her external, objective social circumstances. In such a theory, while strongly and necessarily committed to the well being of members of her society, the good of the individual must simultaneously not be swallowed up in, or sacrificed to the end of the political community. The

rationality of the political state in such a theory must be characterized by a thoroughgoing harmonious unity of universality and individuality. This is the Hegelian view which I think was mistakenly ignored by Rawls and his critics. So, the second part investigates whether Hegel can contribute in anyway to the problem that seems to be a puzzle for Rawls and his critics.

Throughout our discussions I kept raising and defending free education for all at all levels. But, Rawls, his critics, and Hegel never mention this issue in their debates. So, how is this issue relevant to the problem at stake? I therefore intend to conclude by responding to this question and the remaining possible objections against the type of free education that I defend.

Chapter Six

Can Political Liberalism Suffice To Solve The Unresolved Problem?

Introduction:

The problem of the distribution of wealth consists in reconciling liberty and equality. Put in other words: we want to find a way in which individuals can retain their liberty and simultaneously be committed to communal responsibility. While the early Rawls gives primacy to individual rights, the later Rawls recognizes more the proper account of man's relatedness to others. Does the later Rawls solve the problem that remains unsolved in his initial work, or should we look for a solution elsewhere?

With regard to the apparent problem of the conflict between the liberty principle and communal responsibility, perhaps Rawls has mistakenly left aside Hegel's contribution on the issue in his overall discussion. The later Rawls briefly talks about Hegel²²⁵, but his discussion is solely on Hegel's criticism of the social contract theory.

Rawls's critics too, at least those I have discussed so far, have put aside Hegel in their respective criticisms of Rawls. But some of their main arguments seem to be Hegelian. For instance, in his critique of the Kantian tradition as exemplified by Rawls, Sandel unfortunately ignores Hegel in his writings, particularly in his *Liberalism and the Limits of Justice* where he elaborately attempts to show the shortcomings of Rawls' theory. Sandel's main objection consists in that Rawls fails to rescue the Kantian doctrine from the charge of relying on an illusory image

²²⁵ Rawls, John. 1996. *Political Liberalism*, 2nd ed. New York: Columbia University Press, pp. 285-288. I shall have an occasion to discuss Hegel's criticism of the social contract theory. Towards the end of this chapter I shall also talk about Rawls' latest work on Hegel.

of the self as a disembodied entity separate from its desires and interests, from other selves, and from the community as a whole. For me, such a criticism is undoubtedly Hegelian, but Sandel never cites Hegel. Since I have no reason that Sandel has not read Hegel, I have no reason to believe that it is by coincidence that he happens to share the same idea with Hegel.

I therefore think it is appropriate to talk about the possible contribution Hegel can make to the problem Rawls is trying to solve. If Rawls does not succeed, can Hegel's teaching embody individual rights and at the same time be fully committed to communal responsibility?

First, I discuss Rawls' political liberalism. Does the later Rawls still accord primacy to individual rights? Does his recognition of the proper account of man's relatedness to others help him solve the problem? Second, I talk about Hegel's contribution to the problem Rawls is struggling with. Lastly, I conclude this chapter by discussing the issue of free education which I introduced from the second chapter. How is it relevant to the overall debate on the distribution of wealth? Can it really be at least part of the solution to the problem?

1. The later Rawls' attempt to solve the problem:

1.1 Political liberalism and the two principles of justice:

In his later work, Rawls commences with the following remark: "I presuppose throughout these lectures the same egalitarian conception of justice as before; and though I mention revisions from time to time, none of them affect this feature of it"²²⁶. From the onset Rawls restates his conception of justice as fairness and maintains that its basic tenants remain unchanged. Without changing the basics of his initial position, the later Rawls tells us that he simply clarifies what seems

²²⁶. Ibid., p. 7.

not to have been presented clearly in his earlier work, and responds to some misunderstandings of his initial major work. He then sets out to talk about the conception of justice as fairness as articulated in the two fundamental principles of justice. He restates his initial position on these two principles.

Rawls still emphasizes the priority of right over the good and maintains that “the priority of right gives the principles of justice a strict precedence in citizens’ deliberations and limits their freedom to advance certain ways of life”²²⁷. He emphatically states that “the statement of the two principles of justice is unchanged and so is the priority of the first principle over the second”²²⁸. Given that Rawls’ conception of justice as fairness is articulated in the two fundamental principles of justice, and given that he still maintains his initial position on these principles, it is clear that basically his theory remains unchanged as he himself confesses.

When making a distinction between the principle of justice that specifies equal basic rights and liberties and the principle that regulates basic matters of distributive justice, Rawls posits more weight on the former. He holds that,

A principle specifying the basic rights and liberties covers the second kind of constitutional essentials. But while some principle of opportunity is such an essential, for example, a principle requiring... fair equality of opportunity goes beyond that and is not such an essential. Similarly, though a social minimum providing for the basic needs of all citizens is also an essential, what I have called the ‘difference principle’ is more demanding and is not²²⁹.

In other words, a principle that specifies the basic rights and liberties, that is, the first principle of justice, counts as constitutionally essential, and the principle of distributive justice does not count

²²⁷. Ibid., p. 189.

²²⁸. Ibid., p. 291.

²²⁹. Ibid., pp. 228-229.

as a constitutional essential. As in his earlier work, the later Rawls still acknowledges the importance of the second principle of justice and still maintains that the first principle is more important than the first.

Given that the later Rawls' position on the two principles of justice remains the same, Nielsen's critique holds even more due to Rawls' placing equality lower. One of the roles of the principle of distributive justice is to secure equal basic liberties of all free and equal citizens of a well-ordered society. Now, Rawls still tends to undermine its role by not counting it as a constitutional essential. So, the likely outcome is that the security of basic liberties of some people will be at risk.

Following Nielsen, with regard to the later Rawls' unchanged position concerning the priority of the first principle over the second, I remain discontent. The lexical order of Rawls' principles of justice is such that the first principle cannot be compromised whatever the circumstances because it entails an inestimable value. This means that even in moderate scarcity the liberty principle cannot be sacrificed for economic gains. But, a poverty that is 'below the line' is devastating and detrimental to the liberty principle cherished by Rawls. Although Rawls might be aware that utter poverty is detrimental to his liberty principle, he is not aware that it is his lexical ordering that makes it impossible that in moderate scarcity the liberty principle can be sacrificed for economic gains. So, the result is that some people cannot exercise some of their basic liberties. For example, citizens who are really poor cannot exercise some of their basic liberties, such as the freedom of the press and freedom of speech through the media. Rawls' underestimation of economic rights is not only an obstacle to his commitment to equality but is also detrimental to the liberty principle.

Concerning the inequalities allowed by the difference principle, Rawls holds that they “are inevitable, or else necessary or highly advantageous in maintaining effective social cooperation. Presumably there are various reasons for this, among which the need for incentives is but one”²³⁰. Indeed, such inevitable inequalities are highly advantageous to the well off people because they enable them to better secure most of their basic liberties. They are less advantageous to the worst off who are struggling with securing their basic liberties. Thus, while it is relatively easy for the well off to find a better legal counsel and freely choose the best schools, it is not so with the worst off.

Among the various reasons for allowing inequalities to prevail, Rawls singles out the need for incentives. When deploying the incentive argument in his defence of the difference principle, Rawls seems to be inconsistent. He maintains that the parties in the original position will choose the difference principle since it is egalitarian in that it makes the worst off better off. I believe the phrase ‘better off’ denotes that they are still not on the same footing with the well off, and this is understandable because strict equality is unattainable. However, Rawls believes that the difference principle can still be regarded as being egalitarian since it attempts to bridge the gap between the worst off and the well off. But Rawls also introduces incentives needed by the rich people to maintain effective social cooperation. Inevitably, incentives widens the gap that the difference principle is supposed to bridge, and it becomes unclear whether we should consider the difference principle to be egalitarian or inegalitarian.

²³⁰. *Ibid.*, p. 270.

1.2 The later Rawls' commitment to equality:

One main criticism faced by the early Rawls is that his theory seems to be individualistic in the sense that it is hard for him to pursue his commitment to equality. The later Rawls restates his initial emphasis on individual rights by maintaining that the right is prior to the good. However, he supplements his theory by discussing at length man's relatedness to others. His recognition of the proper account of man's relatedness to others is presumably an attempt to show that he is still committed to communal responsibility.

a) The idea of society as a social union of social unions:

Perhaps we can better grasp what Rawls means by a social union of social unions if we first understand his conception of society. For Rawls,

We have no prior identity before being in society: it is not as if we came from somewhere but rather we find ourselves growing up in this society in this social position... Thus, we are not seen as joining society at the age of reason, as we might join an association, but as being born into society where we will lead a complete life²³¹.

This idea of society seems to be sharply opposed to the Hobbesian hypothetical situation where men lived in isolation and as enemies. On the contrary, Rawls' idea of society seems to be that of Aristotle who conceives man as being naturally social. According to Rawls, man did not choose to become social, instead, he finds himself being born and growing in society, and his task is to find how he can lead a complete life in the society he was born. Rawls correctly claims that it is not by coincidence that we find ourselves living in society. It is in accordance with our nature as social beings that we grow and live in society. He also makes an important remark that it is in society where one can lead a complete life, that is, meet his ends, claims, needs, desires and the like.

²³¹. Ibid., p. 41.

About society as a union of social unions, Rawls maintains that,

The idea is that a democratic society well-ordered by the two principles of justice can be for each citizen a far more comprehensive good than the determinate good of individuals when left to their own devices or limited to small associations. Participation in this more comprehensive good can greatly enlarge and sustain each person's determinate good. The good of social union is most completely realized when everyone participates in this good²³².

Inevitably, Rawls' idea of society as a social union of social unions is an attempt to repudiate the criticism that his theory is exclusively individualistic. He emphatically maintains that a more comprehensive good can be better attained by individuals when they pursue it collectively than when left to their own devices. For Rawls, "persons need one another, since it is only in active cooperation with others that anyone's talents can be realized, and then in large part by the efforts of all. Only in the activities of social union can the individual be complete"²³³. However, Rawls' repeated emphasis on individual rights, an emphasis by means of which he intends to separate himself from those who tend to equate individuals with society, indicates that his theory does not completely absorb individuals into society. The later Rawls seems to be endeavouring to show that individuals cannot attain their respective goals alone, they need each other to do so. It is mostly through social union that each person should participate for her own good and the good of others in the rich collective resources.

b) Social cooperation:

In Rawls' society, a society he describes as being well-ordered, individuals work collectively to achieve their respective goals, and he calls this mutual collaboration a social cooperation. He maintains that,

²³². Ibid., p. 320.

²³³. Ibid., p. 321.

Cooperation involves the idea of fair terms of cooperation: these are terms that each participant may reasonably accept, provided that everyone else likewise accepts them. Fair terms of cooperation specify an idea of reciprocity: all who are engaged in cooperation and who do their part as the rules and procedure require, are to benefit in an appropriate way as assessed by a suitable benchmark of comparison²³⁴.

Given that people are born into society, and given that it is in society where they can lead a complete life, there may be a tendency to presume that they have no other option apart from joining a social cooperation. Now, Rawls makes it clear that as equal persons people are free to accept the fair terms of cooperation. So, the social dimension of Rawls' well-ordered society does not imply that the idea of social cooperation is imposed on people; instead they freely accept it. They accept it because they know that it is through it that they can lead a complete life. Their acceptance is based on two conditions: that it is reasonable, and that everyone else accepts it. For Rawls, persons are reasonable when they insist that reciprocity should hold within the social world, the world in which they, as free and equal, can cooperate with others so that each benefits along with others²³⁵. He also maintains emphatically that social cooperation must be beneficial to all those who participate actively. Thus he holds that, "fair terms of cooperation articulate an idea of reciprocity and mutuality: all who cooperate must benefit, or share in common burdens, in some appropriate fashion judged by a suitable benchmark of comparison"²³⁶. A constant repetition of Rawls on 'reciprocity and mutuality' is presumably due to the fact that social cooperation is primarily based on these two terms. While reciprocity implies active participation of all the participants, mutuality implies that all the parties must benefit from the deal and share in common the burdens that may accompany it.

²³⁴. Ibid., p. 16.

²³⁵. Ibid., p. 50.

²³⁶. Ibid., p. 300.

c) The merits and shortcomings of Rawls' social cooperation:

In his response to the criticism that his emphasis on individual rights depicts his theory as running along monadological lines, Rawls has shown that it is not the case that his political liberalism is exclusively individualistic. While retaining his teaching on the paramount importance of individual rights, he has attempted to show also that man is not an island. With his notion of society as a social union of social unions, he has demonstrated that it is preferable in society that individuals can successfully pursue collectively their respective determinate goals. His account of man is that man is an individual that necessarily lives in society, and so he must work with others to lead a complete life.

Rawls' discussion of social cooperation seems to be important to his commitment to equality. Central to social cooperation are the ideas of reciprocity and mutuality. Given that some people are more talented while others are not, and given that the more talented need the less talented just as the less talented need the more talented, it is more likely that if the fair terms of cooperation are implemented by all the parties concerned, all will benefit from the deal.

However, Rawls' social cooperation does not include all the members of a well-ordered society. The ideas of reciprocity and mutuality seem to be confined to persons who can actively participate in a system of fair cooperation. In social cooperation, complementarity between various human talents which makes possible the many kinds of human activities is restricted to active participants. The implication seems to be that despite the mutual benefit the reasonable active recipients get within a system of fair cooperation, it excludes passive recipients, and that means the people whose condition is such that they cannot actively participate in a system of fair cooperation. Presumably, as I will show later, Hegel's discontent to remain at the level of social cooperation is

due to its exclusiveness.

Second, Rawls maintains that the two principles of justice must be applied in the fair terms of social cooperation, terms that specify an idea of reciprocity. For Rawls, Since the primary subject of justice is the basic structure of society, these fair terms are expressed by principles that specify basic rights and duties within its main institutions and regulate the arrangements of background justice over time, so that the benefits produced by everyone's efforts are fairly distributed and shared from one generation to the next²³⁷.

Given that Rawls' overall theory is based on the two principles of justice, he cannot exclude them from his social cooperation without introducing a new theory altogether. But, I have attempted to show that Rawls' critics have correctly demonstrated that his lexical ordering of the two principles may be an obstacle in securing the basic liberties and pursuing his commitment to equality. Thus, with Rawls' two principles in operation in his social cooperation, Nielsen's criticism still holds that the well off people alone are likely to secure most of their basic liberties. They alone, for instance, will still be privileged to have a better legal counsel. With the difference principle in operation, the rich will still become richer, as I have shown in chapter two, and the poor will still be confronted with choosing between buying food or drugs. As long as the two principles of justice stand, I cannot see how his theory is really egalitarian. In his political liberalism, Rawls has not succeeded to resolve the incoherency I have talked about in the previous chapters.

2. *Can Hegel be enlisted in problem?*

Rawls' overall theory seems to be committed to liberty and equality. Whether he actually succeeds in attaining his goal is another question. On the whole, he is credited by his critics as a pioneer who has re-introduced these issues in contemporary philosophical debates. I, too, agree that

²³⁷. Ibid., p. 16.

Rawls deserves credit, at least for having exposed the problem. However, our earlier discussions have shown that he has not succeeded in solving it.

As I have mentioned, the problem can be summed up as the one of reconciling liberty with equality. That is to say, is it possible for individuals to retain their right to private property and simultaneously be committed to communal responsibility? I have indicated at the beginning of this chapter that Rawls' brief discussion on Hegel is strictly on the disputed issue of the social contract theory. Given that Rawls' theory is contractarian, it is not surprising that he responds to Hegel's criticism on the social contract theory²³⁸. However, my interest on Hegel lies on whether he can contribute to the problem at stake. In Hegel' theory, can individuals retain their liberty and at the same time commit themselves to communal responsibility?

Given the complexity of Hegel's theory, I do not attempt to discuss it as a whole lest I deviate from my subject matter. Instead, I confine myself to what can be seen as his contribution to our problem, namely, his teachings on abstract right, ethical life, and recognition. I think a brief exposition on abstract right, ethical life and recognition will suffice, and will enable me to show how Hegel's theory can be applied to shed light on the problem of the distribution of wealth.

²³⁸. In his *Political Liberalism*, Rawls notes that Hegel rejects the social contract doctrine on two accounts: first, that this doctrine is "an illegitimate and uncritical extension of ideas at home in and limited to... civil society"; second, that this doctrine fails "to recognize the social nature of human beings..." (p. 286). I shall discuss Hegel's critique of the social contract doctrine and Rawls' reaction because of their seminal importance to our discussion. Critics of Rawls have asked why the principles of justice should be chosen in a hypothetical situation. In his *Taking Rights Seriously*, Dworkin maintains that "a hypothetical agreement is not simply a pale form of an actual contract; it is no contract at all" (p. 151). Some ask why representatives should be under the veil of ignorance. For me, what is most important is not who chooses the principles of justice, where they are chosen or how they are chosen. What I regard to be most important is the principles themselves: Can they be applicable to our own situation? Do they provide us with a preferable solution to the problem at stake?

2.1 Hegel's theory:

In his *Philosophy of Right*, Hegel describes the progress of the human will through various stages to the conscious actualized freedom of man as a member of the social order. Although it cannot be denied that Hegel's work has a discernible historical dimension, it seems perhaps more in line with his mode of thought to consider the stages he discusses as various levels of the will's consciousness itself as freedom. The main subject in Hegel's *Philosophy of Right* is freedom. As paragraph 4 (henceforth abbreviated PR, #) tells us, freedom is going to be both the starting point and the terminus. There are three main stages or levels, and they are: abstract right, morality, and ethical life.

a) Abstract right:

It is the stage in which the will is immediate, that is, not yet mediated by other people, and right is merely abstract or formal. The starting point which is the subjective free will is located in pure subjectivity. At this stage, 'the will contains the element of pure indeterminacy'. This is the moment of absolute abstraction or universality (PR, #5). Abstract right is based on a distinctive human self, that is, the person is just a being capable of arbitrary free choice (PR, #35). The person as a free being is entitled to make a choice. With her unlimited freedom, the person is free to choose anything.

The will, which is subjective, finds its opposite in 'an external world outside itself' (PR, #8). As the subject, the person confronts the objective world out there. This confrontation does not happen automatically; the person must move into the external world (PR, #39). In this encounter between the subjective self and the objective world Hegel maintains that the person gets hold of

things because things do not have rights. It is inconceivable to have free persons if there are no things which are not free themselves. So, in order to be free, a free spirit needs its opposite (PR,#42).

The person has rights. Hegel maintains that “Personality contains in general the capacity for right and constitutes the concept and the (itself abstract) basis of abstract and hence formal right. The commandment of right is therefore: be a person and respect others as persons” (PR, #36). This means that as a person I have rights and I must respect other persons’ rights. The first abstract right is that the person has a right to own property. The person becomes the owner of property, that is, as an abstract subject, the person has dominion over a given part of the objective external world (PR, #44).

It is important to note therefore that in Hegel’s theory individuals have a right to private property. But, this right is just a beginning and not the end, that is, individuals must henceforth advance toward their ultimate goal, namely, absolute concrete freedom. Hegel illustrates this advancement to concrete freedom with his syllogistic process. In the *Philosophy of Right*, Hegel’s syllogistic process is such that as it moves from the abstract to the concrete, actual social institutions manifest themselves, and their dynamics begin to manifest themselves. According to Paul Diesing, “the two dialectics should mesh because Hegel is trying to describe the social dynamics of his own time”²³⁹. An advancement to the objective syllogistic process becomes more complex because the two syllogistic processes must co-exist, and this union takes place in the ethical life. In other words, the first moment of persons who own property becomes opposed to the next moment of subjectivity

²³⁹. Diesing, Paul. 1999. *Hegel's Dialectical Political Economy: A Contemporary Application*. Colorado: Westview Press, p. 35.

(to be discussed shortly), a moment in which a mere subjective morality is solely dependent on the individual's conscience. The next task is to unite the two syllogistic processes, and this occurs in ethical life. A point worth stressing for our discussion is that individuals in possession of private property by abstract right are not whole or complete yet, so to say. This is so because they have not yet attained absolute freedom.

b) Morality:

I am more interested in Hegel's discussion of abstract right and ethical life since it is here that he talks specifically about the right of individuals to private property and communal responsibility. However, for the sake of a smooth transition to ethical life, and faithfulness to Hegel's syllogistic process, a brief discussion of morality should suffice. The stage of morality is a moment of subjectivity. The layer of subjectivity in morality is far deeper than the one we have just seen in abstract right. The moral will that makes decisions is the individual. It is separated from the good that is its end, from the actual process of carrying out decisions, and alienated other moral wills. All these alienations must be overcome (PR, #107-112).

In morality, the moral will examines itself by reflecting upon its own actions, and examines whether certain actions ought to be done or omitted (PR, #113-115). Given that at this stage a moral will is still alienated from other moral wills, there are no agreed upon criteria or standards by means of which a moral being can evaluate an intentional, purposive action. Each moral will follows its own conscience when determining which duties it must perform. But this is problematic because a racist, for instance, might think it is her duty to employ only members of her race.

Consequently, there is an urgent need of objective rules and standards. A mere subjective morality that is solely dependent on the individual's conscience to evaluate proposed actions leads

us nowhere. In (what Hegel calls) morality the universal standard is present, but in a defectively subjective form. In short, in morality the will is reflective, that is, conscious of itself. Its defect consists in that it is still purely subjective and untouched by social conditions.

c) Ethical life:

As the moment of the subjective mind, morality ends in indeterminacy because individuals are unable to agree on universally valid moral principles. They are still abstract persons with free will and property, and yet the social dimension is still wanting. Now, an ethical life is the moment in which self-conscious right is applied to the social realm and freedom becomes a practical reality in the world. At this stage, concrete individuals have reached maturity in society. The Idea of freedom becomes concretized since the subjective and objective aspects of it merge. Customs are embedded in people's personalities and in social institutions (PR, #142). In Hegelian terminology, freedom is actualized.

However, it is important to note that people still retain their private property, interests, skills, personalities, and the like to preserve their respective identities. Although they share the same universal culture, each particular person is unique. The particular and the universal are interrelated in the dialectic, and this is unity in diversity (PR, #154). In ethical life, Hegel's abstract persons with abstract rights become citizens of the rational state, who, having cultivated their desires, and having recognized their social duties, can retain their right to private property while committing themselves to communal responsibilities. Civil society and the state are the two aspects of ethical life relevant to our discussion.

i) Civil society:

Civil society is the moment in ethical life in which subjective particularity, that is, individual

freedom, is actualized and consciousness comes to play an important role in the multiplication and satisfaction of human needs. It is important to note that Rawls' social cooperation of individuals who become aware of their interdependence that is essential for their survival is similar to Hegel's civil society. For Hegel, at this stage individuals become more and more conscious of their interdependence until civil society is subsumed into the state.

Civil society is the bourgeois society of persons characterized by materialistic values. Hegel's description of civil society is similar to the model of the free market in which it is every man for himself. Civil society is an association of members as self-subsistent, that is, autonomous individuals in a universality which, because of their self-subsistence, is abstract. Their association is brought about by their needs, the legal system, and the means to security of persons and property (PR, #157). Hegel conceives civil society as the sphere where each self-seeking individual is totally absorbed in satisfying her own selfish needs.

However, civil society is also a process of mediation of particularity. The positive aspect of mediation consists in that by working together in the economy, people learn how to 'determine their knowing, willing, and acting in a universal way' (PR, #187). They are now in a better position to adapt their abilities, needs, and lifestyle to the market and to other people. In other words, they develop themselves in society, according to the opportunities and inducements presented by society. Each individual comes to the recognition of how closely she is related to all the other individuals. The pursuit of private ends, that is, particularity, turns out to be governed by the universal laws of political economy. The universality of these laws (PR, #182) gradually asserts itself until the universal which has till now been implicit becomes explicit in the state.

The negative aspect of mediation (PR, #194-195) consists in that the market process

produces needs arbitrarily and by conspicuous consumption, rather than by deliberate self-development. The limitless market process produces needs indefinitely, and in the long run, both the producers' and luxurious consumers' fate is an unhappy one. Civil society is inadequate since the system of complete interdependence (PR, #183) is used as a means to selfish ends, not as an end in itself. Consequently, social relationships within civil society are reduced to relationships between individuals with needs and other individuals who are merely means to their satisfaction (PR, #182). The universal, that is, the community, is still seen as something distinct or alien from the particular individual in this external state that is based on need (PR, #183).

ii) The Rational State:

For Hegel, the state, as the third level of ethical life is an expression of community or universality in human life, and it is the highest embodiment of human rationality in the modern world. The relationship of the state to the individual is not something optional. According to Hegel, "since the state is objective spirit, it is only through being a member of the state that the individual himself has objectivity, truth, and ethical life" (PR, #258). In the state, "union as such is itself the true content and end, and the destiny of individuals is to lead a universal life; their further particular satisfaction, activity, and mode of conduct have this substantial and universally valid basis as their point of departure and result" (PR, #258). We have seen that the first two embodiments of human rationality are moments of particularity. Universality begins to show up in the third stage, and is fully manifested in the state. Hegel emphasises the universality that is here present and that was wanting in abstract right and morality, and inadequately present in civil society. However, particularity is not extinguished, rather it is objectified because the ultimate destiny of the individual is to live a universal life.

For Hegel, an advancement to the state is absolutely necessary not only because individuals are destined to lead a universal life, but also because “civil society affords a spectacle of extravagance and misery as well as of the physical and ethical corruption” (PR, #185). In civil society free individuals are so intent on pursuing their own private, selfish ends that they have lost all respect for the common good. Production of the extremes of wealth and want is a notable characteristic feature of civil society. However, Hegel correctly rejects Plato’s solution of the complete exclusion of subjective freedom from the state and denial of private property, choice of social positions, and the like. This solution is unacceptable since “the principle of the self-sufficient and inherently infinite personality of the individual, the principle of subjective freedom... is denied its right in that merely substantial form of the actual spirit [in Plato’s Republic]” (PR, #185).

Hegel’s rejection of Plato’s solution implies that the rational modern state must allow freedom to the particular person, and consequently, it must bring about particularity in harmony with the unity of ethical life. Given Hegel’s dialectic, it is not difficult to see how such a harmony can be maintained. The dialectical movement toward the state is inclusive since it embodied the previous moments. Hegel’s own technical term ‘aufhebung’ indicates that the past and the present are not eliminated, rather, they will exist in the future in a sublated form. So, the interaction and interpenetration of the movement of the opposites is not that of elimination but sublation. Perhaps we can say that through the tensions and conflicts, the opposites, instead of eliminating each other, purify each other, so to speak, in order to be lifted up or sublated. This amounts to saying that abstract right and morality continue to exist in ethical life, but this time in a sublated form.

In fact, the economy, that is, the universal permanent capital is the material base of the state. Hegel’s treatment of the ‘police’ as a regulatory agency of supervision and control is intended to

maintain a harmony between the particular and the universal. The task of the 'police' as understood in the sense of public authority or civil administration is to ensure that "the undisturbed security of persons and property should be guaranteed, but also that the livelihood and welfare of individuals should be secured - i.e. that particular welfare should be treated as a right and duly actualized" (PR, #230). In this sense, public authority does not arbitrarily strip individuals of their own private property in pursuit of the common good; rather, it is they themselves who recognize that they must assist others if they want to attain absolute freedom. The task of public authority is both to protect private property and pursue the common goal, that is, universal life. Citizens, as mature members of an ethical life, while retaining their own private properties, necessarily feel obliged to reach out to others because they know that they can only obtain absolute freedom in the other.

Discontent with the way Hegel describes citizens, as mature members of an ethical community, his critics may ask: Is there any concrete meaning to Hegel's claim that citizens can only obtain absolute freedom in the other? Why, practically, should this be a motive for the rich to (want to) help the poor? Unfortunately Hegel does not respond to such questions. However, I want to respond to them. My response will at the same time answer similar questions that are likely to be asked about Hegel's theory of recognition. Prior to my response, I discuss what Hegel says on recognition.

d) Hegel on recognition:

Regarding abstract right, Hegel talks about the liberty principle, and he maintains that individuals are necessarily entitled to own private property. Regarding ethical life, he stipulates that while entitled to own property, individuals also have a duty to commit themselves to communal

responsibility. I think it is appropriate to include Hegel's theory of recognition because in it he further explains why individuals who have a right to private property must commit themselves to communal responsibility, and how this can be achieved without incoherency.

Hegel admires the 'beautiful' individuality he attributes to the Greeks. In particular, he admires the Greek social harmonious unity. However, his discontent consists in that the Greek social harmonious unity is such that it denies the right of subjective freedom. But, Hegel also maintains that the defect of modern free individuality (as celebrated by contemporary liberals such as Rawls) consists in that it fails to see the individual in a new form of social relationship, that is to say, the other is not seen as the extension of one's freedom. So, Hegel tries to adopt and modify Fichte's theory of recognition.

Robert Williams correctly maintains that Hegel adopts Fichte's theory and attempts to ground right in mutual recognition. Like Fichte, Hegel conceives right as the relation of individuals to each other as they strive to recognize each other. As Williams puts it, "the structure of reciprocal recognition implies that a right can be asserted only on condition that it may be asserted or claimed by all. Reciprocity further implies a correlation between rights and duties"²⁴⁰. In this way, the genesis of right coincides with recognition of 'the other as other'. Whenever the recognition of the other counts, one concretizes one's freedom, and conversely, right is said to be present.

Hegel rejects Fichte's theory that grounds recognition on the transcendental deduction from the possibility of self-consciousness, the consciousness of an object that is identical to the subject of the same consciousness. Rather, Hegel conceives recognition as a process that passes through

²⁴⁰. Williams, Robert. 1997. *Hegel's Ethics of Recognition*. Berkeley: University of California Press, p. 117.

the unwanted asymmetrical master-slave relation in which the master is recognized by the slave and the slave is not recognized by the master. Hegel notes that slavery existed in the earlier stages of history. He talks about the objective dialectic of history, the movement that begins with oriental despotism through imperial and feudal times to the modern representative government he has in mind.

For Hegel, as the movement develops, gradual recognition is attained (PR, #57). In the course of the process individual selves develop genuine conception of what it really means to be a free self, and the result of the process is the mutual awareness of free self-conscious beings as persons with abstract rights. As Allen Wood notes, Hegel's view is not solely a philosophical argument, but it also involves historical application. "It attempts to say something about the difference between (modern) societies, which recognize every human being as a person with abstract rights, and (pre-modern) societies, which do not"²⁴¹. Hegel claims that the selves acquire a more genuine understanding of their rational nature in modern society, and in such a society rights of persons are respected. In this sense, Hegel is not an advocate of a pure social pre-modern society with persons devoid of their abstract rights.

It is important to note that for Hegel, a free self-conscious being as a person with rights is more free when it is aware of other self-conscious beings around it. "Self-consciousness reaches its satisfaction only in another self-consciousness"²⁴². Since non-human beings are devoid of a conception of a free self, it is inconceivable that a self-conscious being can ever find in them a

²⁴¹. Wood, Allen. 1990. *Hegel's Ethical Thought*. Cambridge: Cambridge University Press, p. 83.

²⁴². Hegel, G.W.F. [1807] 1977. *Hegel's Phenomenology of Spirit*. Trans. A.V. Miller. Oxford: Oxford University Press, p. 110.

confirming perspective of itself. Only an other free self has the capability of ascertaining or forming a conception of another self as a free self. "Self-consciousness exists in and for itself when, and by the fact that, it so exists for another; that is, it exists only in being acknowledged"²⁴³. In other words, a self-conscious being exists through being recognized by another self-conscious being and conversely. In relating to another self one truly becomes free with oneself in another. Hegel's saying that "the I that is a we and the we that is an I", means that it is both in a community of selves and recognition where the essence of the spirit lies.

2.2 Our obligation to assist others and the problem of obtaining absolute freedom:

Now, I want to respond to the possible questions I indicated earlier that could be raised against Hegel's description regarding the duty of mature citizens of an ethical community and his theory of recognition. The questions run as follows: Why, in the first place, should individuals feel obliged to commit themselves to communal responsibility? Why can they not obtain absolute freedom without assisting others? I will attempt to give a thorough response as far as possible since it will serve as a point of reference when I attempt to interpret and apply Hegel in concrete situations. I regard this to be very important because it also shows that it is hard for liberals such as Rawls to commit themselves to communal responsibility.

A response to such questions depends on how one construes and understands the proper account of man. My point of view is sharply opposed to a liberal view that is either individualistic or tends towards individualism.

²⁴³. Ibid., p. 111.

a) Libertarians' view:

Libertarian liberalism is clearly individualistic. David Boaz sums the libertarian view in the following way,

the basic unit of social analysis is the individual. It's hard to imagine how it could be anything else. Individuals are in all cases, the source and foundation of creativity, activity, and society. Only individuals can think, love, pursue projects, act. Groups don't have plans or intentions. Only individuals are capable of choice, in the sense of anticipating the outcomes of alternative courses of action and weighing the consequences ... Most important, only individuals can take responsibility for their actions²⁴⁴.

Inevitably, Boaz' account of man is exclusively individualistic. Only individuals count. He repeatedly uses the word 'only' presumably to remind us that he has set out to exclude society in which individuals are born. Only individuals are entitled to assume an active role. Society is relegated to assume a passive role. Boaz tells us what individuals are entitled to, but he does not talk about society's entitlements. In a similar fashion, we have seen earlier in chapter four that Robert Nozick exclusively talks about the rights of individuals. This sounds logical, given that they have first set out to exclude society in their description of individuals. A proper account of man in this view seems to be that a person is an individual who is endowed with inalienable rights. Thus construed, individuals have no reason to feel obliged to assist members of their society, and they can obtain absolute freedom without necessarily assisting others, given that only individuals count.

I have already shown the limits of libertarianism in chapter four. It is difficult to see how society can be sustained if everybody was a libertarian. Some people by brute bad luck, happen not to be favoured by nature. But those who are favoured by nature are not obliged to assist them because what counts is individuals and not society. Libertarians prohibit public authority to

²⁴⁴. Boaz, David. 1997. *Libertarianism*. New York: The Free Press, p. 95.

interfere with their private property they are entitled to. They exclude the same authority in a competitive market economy because they confine its role to securing rights. But, is not the government securing rights by enacting laws that can be fair to all citizens in a free market enterprise? Given that wealth is inseparable from power and authority, why should we believe that the rich individuals will enact fair laws to all, given their self-interestedness? I prefer governments of rich individuals because they are changed or re-elected from time to time.

b) Rawls' view:

Regarding Rawls' account of man, his view undoubtedly tends towards individualism at first sight. That is to say, it seems unfair at first sight to maintain that Rawls' account is exclusively individualistic. This is due most probably to the fact that his difference principle seems to be somehow misleading. I shall explain why I think it is misleading. But first, let us have a look at his first principle.

Rawls' liberty principle: In as far as his liberty principle stands, Rawls fully agrees with libertarians that individuals are endowed with inviolable rights. He cherishes the libertarian claim that individuals have a right to self-determination. In his own words, Rawls claims that as free and equal persons, individuals have a right to determine what to do with their own lives, and no one has a right to interfere. Regarding individuals' right to private property, Rawls maintains that no one except the rightful owners has a right to interfere whatever the circumstances. Even in moderate scarcity, no one can oblige individuals to sacrifice what rightfully belongs to them without violating their right to personal property. Rawls' liberty principle is such that nothing obliges individuals to assist others, rather they can do so if they themselves feel like. On the basis of his liberty principle, a principle that he himself stresses that carries more weight, we can justifiably classify Rawls as an

individualist.

Rawls' difference principle: Rawls formulates and explains his difference principle to make us believe that he is committed to communal responsibility. If that is the case, it seems unfair to regard him as construing the account of man that runs along monadological lines. But a close scrutiny at this principle depicts him as an individualist. Rawls acknowledges that by brute bad luck some people happen to be born with less talents. He maintains that those who are more talented must work with the least talented in view of alleviating them from their unwanted conditions. Now, let us have a closer look at Rawls' difference principle. It stipulates that the rich talented individuals must assist the badly off people, only if they (rich individuals) gain from the deal. The implication seems to be that if they can foresee that they will not gain, they are not obliged to join the cooperation. The conditional clause 'only if' they gain, attests that the primary motive for the rich talented individuals to join social cooperation is to enrich themselves, and not to assist the worst off people. If they foresee that they will not gain, they cannot join a social cooperation because their own interests come before everything else. Primarily, their motive is to enrich themselves, and accidentally it so happens that while enriching themselves they make the worst off better off.

Presumably, Rawls' response would be that if they can foresee that they will not gain, meaning that they will not have more than they already have, why should they allow themselves to become worst off? I presume that he would support his argument by maintaining that given that no one wants to become worst off, the rich individuals will be justified to decline to join the social cooperation if there is no assurance that they will become more rich. But this argument supports my claim that the difference principle is primarily intended to maintain and improve the conditions

of the rich talented individuals, and not the worst off. Let us suppose that Rawls is primarily concerned with making the worst off better off. What is the next step he would take to alleviate the situation of the worst off people, if the rich talented people would tell him that they decline to join the social cooperation in fear of not making a profit? I do not think he would be able to answer this question since his primary focus is on the rich talented individuals, and not the worst off people. I cannot ask the reverse question because Rawls thinks that the worst off people's situation is so devastating that they cannot even dream of declining to join the social cooperation. That is why he is apparently concerned about them.

In his liberty principle, Rawls sets out to protect the basic liberties of the rich talented individuals. I have shown in chapter two that Nielsen has correctly demonstrated that the basic liberties of the worst off people in Rawls' principles are not secured, given their economic situation. Regarding the difference principle, I have attempted to show in chapter two that Rawls' primary motive is to ensure that the condition of the rich individuals is maintained and improved. They cannot assist others if they cannot make more profit. This means that their primary aim is not to assist others but to make profit. Strictly speaking, therefore, the rich talented individuals are not obliged to assist others. A closer look at Rawls' difference principle shows that it does not tend toward individualism, rather, it is individualistic.

c) My Hegelian position:

In my view, the proper account of man must construe a person as a being that is inseparable from the community. Without her choice, a person is born in a given community. It is not accidental that she grows in a certain community that should care for her by giving her love and affection, provide her with material needs, and help her to develop her skills so that she can reach

maturity. This view is sharply opposed to a libertarian view that overemphasizes the importance of individuals at the detriment of separating them from the community in which they are born and live. In my view, an individual needs a community to become a fully mature person. But the community also needs individuals to keep going. Boaz maintains that the community is composed of individuals, and correctly stresses that it has no independent existence. The implication is that the community must be sustained by individuals that compose it, given that it has no independent existence. In this sense, individuals are necessarily obliged to commit themselves to communal responsibilities for the sustenance and maintenance of the community, given that it has no independent existence. Given that individuals need the community just as the community needs them, we can say that the two are interdependent. I believe I have responded to the question why individuals should feel obliged to commit themselves to communal responsibilities.

Why can individuals not obtain absolute freedom without committing themselves to communal responsibilities? Because they know that community is composed of them, that is, they are wholes that make a whole. So, they cannot be 'whole' without making a whole 'whole'. It is important to note that just as individuals make a community a complete whole, it in turn makes them complete wholes. I have explained above how a community makes individuals complete wholes. I have used the term 'whole' in two senses to denote individuals and the community. Leibniz's theory of monadology can be referred to here clarify what I mean. Leibniz defines a monad as a simple substance that enters into composites. Each monad is different, and simple because it has no parts. This means that it is a whole that combines with other wholes to form a composite. Similarly, individuals are not parts but wholes that form another whole, namely, the community.

It is unfortunate that some individuals, when reaching maturity, may decide to ignore their communal responsibilities. This is unfortunate because it is hard to see how their community can become a complete whole without their assistance. If all individuals would decide likewise, would it be possible at all to sustain and maintain community, given that it has no independent existence? Among many reasons that differentiate the human species from brutes, one is that we take care of our own **all the way**. Normally, there should be no stage in which a person can think that she is self-sufficient and so does not need anybody, and that she is not obliged to assist anybody, as the brutes do. Even a very rich talented individual still needs the community to give her love and affection, and these she cannot buy with her wealth. As Kant attests, humanity could not subsist if people did not care about each other.

In fact, Rawls seems to be aware of the communal bond existing between individuals, and the fact that individuals must be committed to communal responsibilities. He notes that the parties in the original position will “find that they have ties of sentiment and affection, and want to advance the interests of others and to see their ends attained”²⁴⁵. In this passage, Rawls seems to agree with the claim I have made. But the formulation of his principles is such that it is hard for him to commit individuals to communal responsibility. As I have attempted to show, he seems to have formulated them along individualistic monadological lines.

d) Hegel’s criticism of the social contract doctrine:

Now, I want to discuss Hegel’s criticism of the social contract that I indicated earlier in a note because of its importance and relevance for our present debate. The social contracts which the

²⁴⁵. Rawls, John. 1971. *A Theory of Justice*. Massachusetts: Harvard University Press, p.129.

bourgeois individuals in civil society enter into, cannot fit in the family and the state, given the above proper account of the person I have attempted to explain. The family and the state must be sustained and maintained unconditionally by the members, given that these institutions have no independent existence.

Rawls specifies that the original position is just a hypothetical situation, that is, he does not believe that it ever existed. The reason why he imagines such a situation is simply to explain why people would choose his two principles of justice. I think that what is most important is to evaluate the reasons he gives in support of his principles, and not why he creates a hypothetical situation.

I think it is also important to situate Hegel's criticism of the social contract doctrine. Regarding civil society, individuals must make contracts when they indulge in a competitive market economy. The nature of social contract in social cooperation or civil society is such that the parties concerned are free to join, and that implies that they can choose not to join. Also, in a contract the parties determine the amount of work each will be expected to do and the rewards they will receive respectively. In short, the terms of agreement are fixed, and there is no room for one making sacrifices for others. It is important to note that in a contract the parties are exclusively self-interested. This means that the primary motive individuals have when entering into a contract is to satisfy their own interests. I believe it is this type of contract that Hegel thinks cannot be applicable to the family and the state.

According to Hegel, the family and ethical community are not contractual relationships. He maintains that it is shameful to ground the nature of the family and the state on the contractual relation (PR, #75). In his interpretation of Hegel, Marold Westphal mentions three reasons why Hegel holds the view that it is shameful to claim that the family and ethical community are

contractual. Contractual relationships are abstract, self-centred, and contingent²⁴⁶.

First, Hegel makes a distinction between rights which pertain solely to abstract personality as such and rights which presuppose 'substantial ties'. According to Westphal's interpretation, the relationship of the human bond in rights which only concern abstract personality is exhibited in property-ownership and contract²⁴⁷. Recalling our discussion on abstract right, we should expect this type of relationship, given that property-ownership is an exclusive concern of abstract persons. There is no room for an other, and this means that recognition is still lacking. The people who enter contracts in Rawls' social cooperation or Hegel's civil society are not really concerned about each other's welfare. They are exclusively concerned about themselves and how they will get what they need to carry out their life plans. Robert Williams' interpretation is correct that "contracts are properly about particular, external things, for these alone are capable of being both possessed and alienated. Only such things can be 'owned' in the strict sense of the term"²⁴⁸. It follows that the contracting parties remain external to each other since their convergence is about external matters, and not about themselves personally. On the contrary, "in the notion that family and political life involve 'substantial ties' there lies embedded Hegel's distinctive understanding of community as an essential feature of human experience and fulfilment"²⁴⁹. Reciprocal recognition occurs in the

²⁴⁶. Westphal, Merold. 1984. "Hegel's radical idealism: family and state". In *The State and Civil Society: Studies in Hegel's Political Philosophy*. Ed. Z.A. Pelczynski. Cambridge: Cambridge University Press, p. 78.

²⁴⁷. Ibid., p. 78.

²⁴⁸. Williams, Robert. 1997. *Hegel's Ethics of Recognition*. Berkeley: University of California Press, p. 149.

²⁴⁹. Westphal, Merold. 1984. "Hegel's radical idealism: family and state". In *The State and Civil Society: Studies in Hegel's Political Philosophy*. Ed. Z.A. Pelczynski. Cambridge:

family and ethical community. In the initial phase of ethical life, namely, the family, it is an incomplete form of recognition. It is important to note that Hegel regards the family as the model and not the goal of ethical community. The point he is making here is that the 'substantial ties' which are essential to the family and ethical community ought to be relationships of concrete persons to each other.

Second, Hegel rejects the idea of associating the 'substantial ties' of the family with contractual relationships since the primary motivation of contractual relationships is self-centredness. We have seen that Rawls' individuals in social cooperations and Hegel's bourgeois individuals in civil society enter into contractual relationships primarily for the sake of their own personal advantages they will gain. The primary motive when entering into contractual relationships is not to share themselves with someone else or share what they have with someone else. Selfishness is but one essential characteristic feature of contractual relationships. It is hard to see how the family and ethical community could be sustained and maintained if we were to think of them in terms of contract models. Westphal thinks that this is the most obvious of the three reasons Hegel has given in his criticism of the contract models. I think that the third reason is as persuasive as the second.

For Hegel, the family and ethical community are the moments of the will that do not accommodate contracts. It is not hard to find why Hegel holds that the family and ethical community are not contractual. A contract arises from the arbitrary will (PR., #75), that is, one is free to enter into a contract. The exercise of will exhibited by contract is arbitrary and optional (PR,#161: Addition). But this is not the case with the family. I am not free to choose to be born in

this family. The same thing applies to a community. I just find myself to be a part of this community. Rawls too attests to this fact when he says “it is not as if we came from somewhere but rather we find ourselves growing up in this social position... Thus, we are not seen as joining society at the age of reason, as we might join an association, but as being born into society where we will lead a complete life”²⁵⁰. Hegel regards the family and ethical community to be necessary and essential. But, regarding an ethical community, an adult can freely choose to join another community. However, the point that I want to make is that even if one decides to join another community, once she has become a member, she does not sign a contract with it as she would do when joining a social cooperation. The parties in social cooperations sign agreements that are fixed, and there is no room for some making sacrifices to others. On the contrary, regarding the family and community, people offer the assistance needed by these institutions, and they are willing to make sacrifices if needed. The person who joins another community must support it to make it a complete whole, given that it has no independent existence. Similarly, it must support her to make her a complete whole. I have already shown that even wealthy individuals need to be shown love and affection. Wealth alone is insufficient to make a person a complete whole. The importance of Hegel’s criticism of the social contract doctrine regarding the family and an ethical community consists in that we are not free to exempt ourselves from communal responsibilities. Such an attempt would lead to the destruction of the family and community, given that they have no independent existence.

However, some people may still persist that individuals can obtain absolute freedom without committing themselves to communal responsibilities, and that nothing obliges them to assist others.

²⁵⁰. Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.41.

They can cite examples of hermits and people who feel that the community abandoned them when they needed it. Hermits live on their own without the assistance of the community and without assisting it. Given that they feel content about this type of life, is it not the case that they can obtain absolute freedom without committing themselves to communal responsibility? The people who grew up in the streets may have a feeling that the community abandoned them when they needed its assistance. If through their own efforts they have succeeded to become wealthy, why should they feel obliged to assist the community that had abandoned them? These are concrete examples that happen in real life, but they are exceptional cases. Under normal circumstances, people generally want to belong to a certain community. Under normal circumstances also, the community should take care of its own. The practice of electing a new government every five years is precisely to ensure that the community is led by leaders who can provide the community with the opportunity of functioning as expected, meaning, taking care of its own. In my view, if we wish to reach any conclusion, our focus must be more on the normal behaviour of human beings, and on the normally expected behaviour of the community to its members. It would be ridiculous to argue that because of these exceptional cases, people can generally obtain absolute freedom without committing themselves to communal responsibility, and that nothing obliges them to assist others.

It is important to note that on the view I attempted to defend, I repeatedly insisted that individuals make a community a complete whole, just as it makes them complete wholes. I did not use the word 'whole' incidentally. In fact, my comparison of Leibniz's's monads with individuals was intended to show that although individuals form a community, they are wholes that retain their differences. As such, individuals cannot be treated merely as parts. As 'wholes', individuals have rights that must be respected by the community. This means that their commitment to communal

responsibility does not imply that they are absorbed in a larger 'whole'.

2.3 How can Hegel be deployed to address Rawls' unresolved problem?

Rawls' whole conception of justice as fairness seems to be summed up in his two principles of justice. He formulates his first principle of justice exclusively to protect individual rights, rights that secure an inviolable human dignity. His theory is correctly called a theory of rights because it is primarily intended to protect individual rights. Rawls himself confirms this claim by maintaining that right must take precedence over the good. In his second principle of justice, Rawls seems to be committed to strive for equality. However, the previous discussions have shown that based on Kant's doctrine, Rawls fails to attain his goal, namely, the protection of right and achieving the equality he is committed to. The problem that remains unresolved in Rawls' theory, the problem that hinders him from attaining his goal, seems to be the apparent unavoidable conflict between the liberty principle that entitles individuals to own property and their commitment to communal responsibility. What remains to be seen is whether an interpretation of Hegel can provide a possible solution to the problem.

a) Rights are respected in Hegel's theory:

In my discussion of Hegel's theory, I have shown that concerning abstract right, Hegel talks about the necessity of private property. Subjective free will requires property, that is, something objective in order to be actual. The rights that Hegel draws our attention to in abstract right are those we are immediately entitled to by the fact that we are free. Such rights immediately objectify our freedom, and the right to own property is one of them. We have the right to own property

simply because we are conscious that we are free and that freedom must be respected.

From the beginning, Hegel maintains that persons have rights (PR, #36, 38, 39). Abstract persons as subjects have abstract rights. And the right to private property is of vital importance to the recognition of personality. Smith's interpretation of Hegel is correct that,

Property is not just instrumental to the attainment of material ends but is a means of moral self-realization or the development of personality. Not just our moral growth, but our very sense of self, of who and what we are, is dependent upon possessing something that makes this development possible. I cannot know myself unless I can express my will, and I cannot express my will unless there is a medium for such expression. This medium is property²⁵¹.

Undoubtedly, Rawls' claim of the right to private property is already entailed in Hegel's initial phase of freedom. But Rawls thinks that Hegel's abstract persons do not have rights, and this means that they have no right to private property. In his interpretation of Hegel, Rawls maintains that,

the particular desires and needs, while present in us, are not themselves part of personality as such - not part of its capacity for rights, or indeed of its capacity to have a free will. And so they are irrelevant to the explanation and justification of rights. The basic rights of personality do not depend on what our particular desires and needs are.... Hegel leaves aside any appeal to the advantages of private property, either to individual persons or to society as a whole²⁵².

Rawls maintains that he has paraphrased Hegel's view, and he hopes that he has not distorted it²⁵³.

But it seems to me that he has seriously distorted Hegel's view. The right to private property is entailed in Hegel's theory. Hegelian scholars, (at least those I have read so far), generally agree that Hegel's abstract persons have abstract rights. On abstract right, Wood maintains that a person is a subject of dominion over part of the external world, and this means that he is a property owner (PR,

²⁵¹. Smith, Steven. 1989. *Hegel's Critique of Liberalism*. Chicago: The University of Chicago Press, p. 123.

²⁵². Rawls, John. 2000. *Lectures On The History Of Moral Philosophy*. Ed. Barbara Herman. Cambridge: Harvard University Press, pp. 341, 343.

²⁵³. *Ibid.*, p. 343.

#41). A person's right to property includes both the right of possession over external things and the possession of one's body and life²⁵⁴. According to Smith's interpretation of Hegel, the right to private property is of vital importance to the recognition of rights. Smith's interpretation of Hegel is correct that property is a means of moral self-realization or the development of personality²⁵⁵.

According to Hegel, personality requires its opposite to be itself (PR, #42). Hegel's dialectic is such that it is inconceivable to have persons who are free, unless there are things which are not free. The correct interpretation of Hegel is that the first abstract right that the person has is the right to own property. The person has dominion over a given part of the external world (PR, #44). Contrary to Rawls' interpretation that Hegel leaves aside any appeal to the advantages of private property to individual persons, Hegel maintains that "the person must give himself an external sphere of freedom in order to have being as Idea" (PR, #41). The rational aspect of property is to be found in the superseding of subjectivity of personality. This means that the person exists as 'reason' only when he has property. For Hegel, therefore, it is unjust to deny a person of the right to private property. I have attempted to show that the right to own property is maintained in the three moments of the will. Selfish bourgeois individuals in civil society have the right to own property. Citizens of the rational state have a right to own property. While retaining their private property, Hegel's citizens also recognize that in order to attain concrete freedom, they must be committed to communal responsibilities.

Rawls' misinterpretation of Hegel on the right to private property may be based on the

²⁵⁴. Wood, Allen. 1990. *Hegel's Ethical Thought*. Cambridge: Cambridge University Press, p. 22.

²⁵⁵. Smith, Steven. 1989. *Hegel's Critique of Liberalism*. Chicago: The University of Chicago Press, p. 123.

allusion that Hegel is an advocate of a pure communitarianism. But Hegel strongly rejects Plato's pure communitarianism and maintains that, "the Idea of Plato's republic contains as a universal principle a wrong against the person, in as much as the person is forbidden to own private property" (PR, #46). Given that the right to own private property is crucial to the recognition of personality, this right is not alienated in the succeeding phases but simply cultivated. This cultivation is extremely important because it can help Rawls to avoid the incoherence he is confronted with when pursuing his commitment to equality.

Hegel's analysis of the concept of freedom shows that the persons in abstract right do not have absolute freedom because in this moment subjectivity is lacking. Absolute freedom cannot also be obtained in the sphere of morality since the sphere of moral right is in its way exclusively subjective. A moral subject claims the right to determine itself. The will recognizes something "only in so far as that thing is its own, and in so far as the will is present to itself in it as subjectivity" (PR, #107). Inevitably, at these first two moments persons are exclusively individualistic, concerned solely with their own affairs and nothing else. If Rawls wishes to pursue his other commitment to equality, he must proceed with Hegel to the third sphere of freedom, namely, ethical life.

b) Bourgeois individuals have rights, are entitled to pursue their own interests, and this pursuit posits them in a system of all-round interdependence:

As I have shown in my discussion of Hegel's theory, ethical life is the moment in which self-conscious right is applied to the social realm and freedom thereby becomes a practical reality. At this level, freedom is actualized. The first aspect of ethical life is an initial community, that is, a unity of differences, and Hegel calls it the family. It is important to note that the Idea of the family

is actual when it lives in its own property, estate, capital. This means that the protection of private property is ensured in this initial phase of ethical life. Similarly, private property is also guaranteed in civil society. Civil society is the sphere of activity generated by free individuals who both assert their right to own and exchange property. With their own labour and activity they pursue the satisfaction of their own needs and interests. Civil society is thus the sphere of economic activity in which free individuals produce goods so as to meet their needs and exchange for other goods which they themselves cannot produce. Economic activity is based on free individuals' freedom and right.

For Hegel, individuals as bourgeois, "are private persons who have their own interest as their end" (PR, #187). Bourgeois freedom comprises freedom of choice, freedom of personhood and freedom of self-determination, and this amounts to one basic freedom, and that is the freedom to pursue one's own particular interests and to satisfy one's own particular needs by means of whatever objects one chooses to own. For Hegel, the freedom to pursue one's own interest is not immoral but absolutely fundamental and therefore commands our respect just as the freedom discussed in abstract right and morality does. He considers modern society that respects this freedom to be much more advanced than the rigidly ancient society envisaged by Plato in the Republic. Hegel's sphere of civil society seems to be compatible with Rawls' self-interested individuals who pursue their own interests and needs. This means that individual right to own property exists not only in abstract right, but also in the more advanced moment of ethical life.

Hegel shows that interdependence in bourgeois freedom is unavoidable. By freeing themselves from the limits imposed upon them by nature, individuals in civil society intensify their economic interdependence. For instance, free individuals in civil society are more inclined to

demand a particular kind of food prepared in a special way, and so their needs and wants become more specialized and sophisticated. Consequently, this leads to the increase of specialization, and individuals' capacity for being self-sufficient decreases as their dependence on others increases.

Bourgeois individuals necessarily must be engaged in the production and exchange of goods they require to meet their needs and wants. This engagement posits them in a "system of all-round interdependence, so that the subsistence and welfare of the individual and his rightful existence are interwoven with and grounded on, the subsistence, welfare and rights of all" (PR, #183). If this is the case, Rawls' difference principle does not seem quite right. It is through their endeavour to satisfy their own interests that the bourgeois individuals recognize that the economic system itself is the condition of their own freedom and satisfaction. This means that they must further the interests of others, that is, those participating in that system if they wish to find fulfilment themselves. Amartya Sen's reference to Adam Smith can be cited here to prove that in social cooperation the well off primarily participate to meet their own needs and wants. The quotation runs as follows: "It is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest. We address ourselves, not to their humanity but to their self-love"²⁵⁶. Sen's interpretation is that the butcher sells his product not because she wants to promote the welfare of the consumer, but because she wants to meet her own needs. Likewise, the consumer buys the product not because she wants to promote the interest of the butcher, but because she wants to meet her own needs. Of course, the butcher may predict that her exchange of meat for money will also be beneficial to the consumer. Still, the fact remains that her primary motive for exchanging meat for money is her own satisfaction. Similarly, we can say

²⁵⁶. Sen, Amartya. 1999. *Development as Freedom*. New York: Alfred Knopf, p. 256.

that it is not the case that the well off individuals primarily associate with the worst off to make them better off. Rather, they do so because they recognize that it is in a system of all-round interdependence where they can meet their respective needs and wants. This being the case, Rawls' difference principle needs to be properly understood. The rich talented individuals do not join social cooperations in order to make the worst off better off, just as the worst off people do not join social cooperations in view of furthering the wealth of the rich. Rather, their motive respectively is to meet their needs and wants. It is not surprising, therefore, that the rich people would decline to join if they have no assurance that they would gain.

It is important to note that Rawls' idea of social cooperation seems to be compatible with Hegel's civil society that favours a system of all-round interdependence where individuals can freely work in cooperations so as to meet their respective needs and wants. On the contrary, Nielsen strongly opposes a free market enterprise because it causes and sustains inequalities²⁵⁷. In a capitalist class-divided society, Nielsen maintains, ownership and control of the means of production are entrusted to the care of selfish individuals. Capitalism must therefore be suppressed because it is incompatible with the demand of equality, that is, the demand for the abolition of classes. Accordingly, Nielsen suggests that in order to attain equal liberty and equality of self-respect, at least a rough economic equality is required²⁵⁸. But this cannot be achieved in Hegel's civil society favoured by Rawls where capitalism seems to prevail. Economic inequalities in such a system are inevitable, given that one way or another a free market enterprise sanctions them. If it is true that a free market enterprise sanctions unwanted inequalities, does this not justify Nielsen

²⁵⁷. Nielsen, Kai. 1980. "Capitalism, Socialism, and Justice". *Social Praxis* 7, p. 254.

²⁵⁸. *Ibid.*, p. 256.

to suppress the root cause of inequalities, that is, capitalism? I will respond to Nielsen's view while discussing Rawls' point of view which is sharply opposed to Nielsen's.

Nielsen notes that Rawls does not conceive himself as the defender of capitalism²⁵⁹. Rawls himself maintains that his two principles can be applicable either in a capitalist order or socialist order. In this sense, he regards himself as holding a neutral position. However, I find Rawls to be more of a capitalist, and I do not see how his principles, particularly the difference principle, can be operable in a socialist order. If it is true that one notable characteristic feature of capitalism is a class-divided society with inevitable inequalities, that is precisely what the difference principle justifies. In Rawls' own words, "the difference principle permits indefinitely large inequalities"²⁶⁰. Now, as I have shown in chapter two, inequalities are impediments not only to equality but they also hamper the basic liberties citizens of Rawls' well-ordered society. Why, then, not just suppress a free market enterprise that Rawls' theory and Hegel's civil society accommodates, if it is the source of unwanted inequalities?

Rawls justifies inequalities and maintains that they "are inevitable, or else necessary or highly advantageous in maintaining effective social cooperation. Presumably there are various reasons for this, among which the need for incentives is but one"²⁶¹. Inevitability of inequalities is not an issue disputed even by socialists. Nielsen repeatedly holds that we must aim at attaining at least a 'rough

²⁵⁹. Ibid., p. 257.

²⁶⁰. Rawls, John. 1971. *A Theory of Justice*. Massachusetts: Harvard University Press, p.536.

²⁶¹. Rawls, John. 1996. *Political Liberalism*, 2nd ed. New York: Columbia University Press, p. 270.

economic equality'²⁶². This claim is presumably due to the fact that he recognizes that strict equality is unattainable. G.A. Cohen too allows inequalities by claiming that he raises no objection against incentives designed to induce people to undertake particularly unpleasant jobs [such as the miners I talked about earlier, I presume]²⁶³. Rather, he argues against incentives that confer rewards on talented people who claim to deserve them because of what they do. Can such incentives favoured and encouraged by Rawls be defended?

Rawls acknowledges that conferring rewards to people of talent will amount to disparities among the citizens of a well-ordered society. In defence of such disparities he maintains that, "these inequalities work as incentives to draw out better efforts, the members of this society may look upon them as concessions to human nature"²⁶⁴. Despite the fact that incentives beget inequalities, the reason for providing them, that is, more production, is beneficial for all members of society. Earlier in this chapter I attempted to show that Rawls is being inconsistent when he deploys the incentive argument to show that his difference principle is egalitarian. Now I want to show that the incentive argument can be defended, if it is primarily intended to induce people of talent to further deploy their talents and to encourage others to follow suit.

If we want creativity to bloom, conferring incentives to people of talent can be instrumental, whether socialists admit it or not. Students work hard if they know that they will be rewarded for

²⁶². Nielsen, Kai. 1980. "Capitalism, Socialism, and Justice". *Social Praxis* 7, pp. 256, 259.

²⁶³. Cohen, G.A. 1995. "Incentives, Inequality, and Community". In *Equal Freedom*, ed. Stephen Darwall. Michigan: The University of Michigan Press, p. 340.

²⁶⁴. Rawls, John. [1958] 1999. *Collected Papers*. Ed. Samuel Freeman. Massachusetts: Harvard University Press, p. 55.

their strenuous effort, and the same thing applies to people already working in the field. Against the incentive argument that serves as a justification of inequality on the lips of people of talent, Cohen argues that they cannot answer why they would work less hard if they were deprived of special incentives, incentives that in fact are the main source of inequality²⁶⁵. Conversely, in favour of incentives, one can correctly argue that Cohen cannot answer why the people whose strenuous efforts that become beneficial not only to themselves but the community as a whole, should be deprived of incentives by the community that enjoys the fruits of their labour.

If high-talent performances would be impossible without incentives since some people of talent could not work hard unless they have enough money to buy superior relaxation, Cohen would be justified to question the motivation version of providing incentives. But if such incentives are provided simply to reward people for their strenuous efforts, they are being treated fairly because they get what their labour deserves. Fairness requires that the people of talent be rewarded for their performance. Fairness requires the same procedure to be followed with regard to the least talented people. Besides fairness argument, providing incentives to people of talent would serve as an encouragement to other people of talent to follow suit.

I agree with Nielsen that inequalities allowed by Rawls' difference principle are detrimental to the basic liberties of the badly off people. I also agree with him that, given that strict equality is unattainable, we should at least aim at a rough equality that can enable the worst off to secure their own basic liberties. But, in as far as incentives that induce people of talent are concerned, I think that Rawls has a point. Our goal should not be to attain equality, given that it is unattainable.

²⁶⁵. Cohen, G.A. 1995. "Incentives, Inequality, and Community". In *Equal Freedom*, ed. Stephen Darwall. Michigan: The University of Michigan Press, pp. 348, 356.

Rather, we should aim at reducing inequalities as far as possible. Instead of abolishing incentives, we should reduce the scale we are deploying when providing them. We do not, for instance, have to reward Mike Tyson with ten million dollars after a fight that can last for two minutes, and the same thing can be avoided with regard to other talented people in other sports activities. We can also reduce incentives we provide to other people of talent, such as medical doctors, university professors, lawyers, and the like. We can agree on a reasonable scale of providing incentives that can reduce the already existing inequalities, inequalities that enable some people to have their own private planes while others struggle with even buying a bus-pass, and offer a reasonable satisfactory inducement to the people of talent. I believe that the acceptability of my view will depend on the account of the person one follows. If the people of talent follow Rawls' individualistic account of the person, they are likely to oppose the idea of reducing incentives, given their exclusive self-interestedness. If they follow the account I have argued for, they can accept my suggestion. But who should decide how much people should be rewarded for the performances well done? Clearly not the selfish people of talent because of their thirst to become more rich. Neither the poor less talented people because they might underestimate the enormous effort made by the people of talent. As we move on, I shall discuss a possible plausible answer Hegel suggests.

c) Inadequacy of civil society:

Hegel notes that in civil society the human will has not yet progressed to the actualized freedom of man as a member of the social order. The notable positive aspect of civil society is that each individual comes to the recognition of how closely she is related to all the other individuals. But, the association and cooperation of individuals is as yet only conceived as a means to furthering the aims of the individuals. In civil society each self-seeking individual is totally absorbed in

satisfying her own selfish ends. Rawls' social cooperation falls within the sphere of civil society for individuals associate so as to meet their particular needs.

So, Hegel correctly maintains that civil society is inadequate since the economic system of complete interdependence (PR, #183) is used as a means to selfish ends, not as an end in itself. As a result, social relationships within civil society are reduced to relationships between individuals with needs and other individuals who are merely means to their satisfaction (PR, #182). This means that the universal, that is, the community, is still seen as something distinct or alien from the particular individual in this external state that is based on need (PR, #183). Inevitably, Rawls' self-seeking individuals who are still totally absorbed in satisfying their own needs can hardly pursue the other goal, namely, equality. If he wishes to pursue this goal, he must follow the progress of the human will to the last stage where freedom is concretely actual, that is, the stage in which the thinking rational subject recognizes that it is a member of the social order.

Civil society is also inadequate because in bourgeois ethical life individuals have no guarantee that they will get what they need. Mere participation in the economic system of production, exchange and consumption does not give an assurance that individuals' needs are actually met. The economic system only opens an opportunity for freedom and satisfaction. Whether individuals actually find satisfaction within the system is uncertain. This means that the freedom of economic enterprise underlying civil society is not absolute.

d) The rational state:

Hegel correctly maintains that ensuring individual satisfaction should not be a matter entrusted to the consciences of selfish individuals. The opportunity to find satisfaction in the economy should rather be secured as an objective right by a legitimate authority. It is a high risk

to attempt to ensure the satisfaction of all the members of society by entrusting it to the consciences of selfish individuals. The authority that Hegel favours must be entitled to intervene in the economy and regulate the freedom of trade and competition, and ensure that everyone respects the rights and welfare of others. This authority must also ensure the security of those unfavoured by nature. So, public authority must see to it that,

The right to regulate individual matters... (e.g. by deciding the value of the commonest necessities of life) is based on the fact that, when commodities in completely universal everyday use are publicly marketed, they are offered not so much to a particular individual as such, as to the individual in a universal sense, i.e. to the public, and the task of upholding marketed commodities, as common sense, [together with] public arrangements to provide for and determine the work of everyone... may be entrusted to a public authority (PR, #236).

Presumably, an immediate liberal objection would be that Hegel's public authority tramples on personal freedom. Rawls insists that individuals have a right to determine their own lives. But, Hegel's public authority is neither introduced to determine the lives of individuals nor to enforce equality of income. Rather, its role is to ensure that equality of opportunity and public wealth are open to all. Entrusting such a task in the care of selfish individuals in bourgeois ethical life would be a serious mistake that would soon be regrettable. These individuals are exclusively concerned with satisfying their own needs. Participating in the economic system of production, exchange, and consumption, is for them merely a means to further their own interests and nothing else. A recent typical example is that of Microsoft. Because of their selfishness individuals who own 'Windows' have monopolized the Internet at the detriment of abolishing other companies. So, a neutral body is absolutely necessary to intervene, and this body is called public authority by Hegel. The same authority can be entrusted with the responsibility of monitoring incentives which induce people to work harder. The credibility of the rich talented people to carry out this task is highly questionable,

given their selfishness and dissatisfaction with what they already have. It is important to note that people still determine their own lives. But the task of monitoring incentives and enacting laws that regulate the free competitive market economy is entrusted to public authority. And the advantage of public authority over the selfish individuals in social cooperations or civil life is that the former is replaced or changed from time to time.

However, some people may insist that Rawls would presumably not accept such an external authority, given his liberal stand point on the right individuals have to self-determination. Liberalism is associated with the doctrine that individuals should be free to pursue their own preferences in religious, moral, economic, and political affairs. Undoubtedly, Rawls cherishes liberalism's idea that private property and the competitive market economy are central mechanisms for coordinating individuals' interests. With his Kantian view of the person, he maintains that if we allow people to be self-determining in religious, moral, economic, and political affairs, we duly recognize them as free and equal rational persons with inalienable rights. Rawls accepts paternalistic decisions to be made only in the case of children who are still unable to make decisions for their own good, and in the case of those seriously injured or mentally disturbed²⁶⁶. Otherwise, he wants people to be allowed to make decisions about their own lives. This, according to Rawls, is the only way to respect them as fully moral beings.

But, we should bear in mind that the issue of self-determination can be observed in all stages of the will in Hegel's theory, and this can be shown by recalling what Hegel says in his *Philosophy of Right*. I have shown that in Abstract Right, abstract persons use their property to do whatever

²⁶⁶. Rawls, John. 1971. *A Theory of Justice*. Massachusetts: Harvard University Press, pp.248-250.

they have decided to do with it (PR, #177, 181). In this stage of difference everybody wants to be unique, though the family bond is not completely broken. It is also important to note that they seek jobs of their own choices. Civil society is the realm where each individual 'burgher' explicitly strives only to fulfill her own needs and wants, but is inevitably led by necessity to participate in the system of needs obtaining among all diverse individuals. In this competitive market economy, individuals freely join associations solely to meet their needs. That is why Hegel regards civil society as the sphere of self-seeking individuals who are totally absorbed in satisfying their own selfish needs. It is obvious, then, that in all these phases of the will individuals are allowed to make decisions about their own lives.

I have no objection to the claim that individuals themselves must make decisions in moral and religious issues because of the diversity of opinions in morality and religion. But I think that allowing self-determination in competitive market economy must be restricted. I agree that individuals must be allowed to determine the jobs they prefer, and be allowed to join associations of their choice. But allowing them to make laws that regulate the competitive market economy would be a serious mistake. Entrusting such a task to selfish individuals does not ensure fairness to the laws they will enact, given that their primary motive is to save their own skins. Imagine Bill Gates being one of the law-makers! Is it not likely that he would push for a law that would assure his company to continue operating without being challenged? In the meantime, what would be the financial situation of companies that cannot compete with Bill Gate's Microsoft? Of course, I am aware that Bill Gate generously donates millions of dollars to charitable organizations. But, not all multi-billionaires or rich people do what he does. Besides, we cannot entrust the needy to the care of a few rich people, given that they are numerous. My point, however, is that we cannot entrust

people who run big companies to enact laws that regulate our market economy because they will be inclined to save their skins at the detriment of small companies.

So, the view that public authority should be entrusted with the tasks of monitoring and enacting laws in competitive market economy to ensure fairness to all members of society seems to be more preferable. If strict measures are taken in competitive market economy to ensure fairness to all members of society, particularly the worst off who cannot afford to find a better legal counsel to fight for their rights, people would get what they deserve and no more than that. Public authority can better carry out the job, not selfish individuals.

However, I am aware that some may be inclined to think that I interpret Hegel in a way that tends to associate him with some socialist theorists who are more in favour of the abolition of the free market trade. If that is the case, their immediate possible objection would be that the economic inefficiency of the socialist system consists precisely in its denial of the free market trade. But, I have shown that in Hegel's civil society we have good reasons to buy and sell, to exchange, and to seek lives that can flourish on the basis of transactions. I have also attempted to show that civil society continues to exist in the state, although in a sublated form this time. This means that the practice of free market trade still exists in the state. The only notable difference is that this time it is operable under the supervision of public authority whose aim is to ensure the satisfaction of all members of society.

Another possible objection could be that it is also a risk to entrust more power to the government since it is not always the case that it ensures the satisfaction of all members of society. If that is true, it means we are confronted with making a choice between two evils, and in this case the rule is to choose the lesser evil. In my view, entrusting the satisfaction of all the members of

society to the conscience of selfish individuals seems not to be the wise decision to make. Given that under normal circumstances the rich entrepreneurs pass their inheritance to their descendants, and given that individuals are naturally inclined to save their own skin (at times at the expense of using others as means), they are likely to work exclusively for their own good in a free trade. Unfortunately, this arrangement that is so detrimental to the least fortunate can go on indefinitely. Although public authority may not be immune from a similar misfortune, the advantage of opting for it, as I said earlier, is that in a real liberal democratic society public authority is changed from time to time. This means that if it fails to ensure the satisfaction of the people, they have a right to substitute it.

It is in the state, that is, the most developed form of ethical life, that right and duty can co-exist harmoniously. It is in this developed form of ethical life that Rawls can pursue his commitment to equality and at the same time succeed to protect individual rights. Stephen Houlgate's interpretation of Hegel is correct when he says that: "the state is the union of fully autonomous, rights-bearing individuals who consciously and willingly identify with one another simply on the basis of common membership of that union; that is, simply on the basis of common citizenship"²⁶⁷. This claim is not just an ideal, if one follows the account of the person I have provided earlier. In that account individuals are wholes within a whole. As autonomous beings with rights, individuals recognize that they live in a community that needs their assistance, given that it has no independent existence.

Hegel regards social cooperation (also cherished by Rawls) as valuable because persons in

²⁶⁷. Houlgate, Stephen. 1991. *Freedom, Truth, and History: An Introduction to Hegel's Philosophy*. London: Routledge, p. 120.

cooperatives recognize that there is a distinct form of freedom found in sharing a common identity and purpose with someone else. However, the deficiency of cooperations consists in that the sense of common purpose is confined to a particular trade. As such, cooperatives can be a potentially divisive force within society as a whole since they can be ossified and 'decline into a miserable guild system' (PR, #255, addition). Perhaps Hegel should be understood as saying: given that cooperations are supervised by selfish individuals who are exclusively concerned with their own interests, they are likely to exclude the naturally disadvantaged who cannot participate actively in them. Also, if cooperations are solely supervised by self-interested individuals, monopoly in free trade is the likely outcome. They need the higher supervision of the state therefore since it is more inclusive. The state as the most developed form of objective freedom constitutes the highest sphere of right for free beings. As a result, it has a legitimate claim to the ultimate authority over the less developed forms of human freedom. The essence of a free state, therefore is that,

the universal should be linked with the complete freedom of particularity and the well-being of individuals, and hence that the interest of the family and of civil society must be focussed on the state; but the universality of the end cannot make further progress without the personal knowledge and volition of the particular individuals, who must retain their rights (PR, #260, addition).

It is important to note that it is at the highest form of ethical life that individual rights are ensured and guaranteed. If the state enacts laws that protect citizens' right to property, freedom of thought, free economic activity and freedom to free associations, it thereby ensures individual rights. In this sense, Rawls' first principle of justice has a reliable basis. Individual rights are not only declared, but also laws are enacted to ensure that they are not violated.

It is in the state that citizens find their concrete freedom. Within the state the following must occur: First, citizens must be able to pursue their own interests under the law. Second, they must

have the right to participate in framing and executing the law. When the political process elevates the consciousness of the citizens, they can actively participate in the improvement of the economy, political decision-making, maintenance, and the like. Then, we have a free society, that is, freedom objectified. Hegel anticipated this goal earlier when he said “the will is free, so that freedom constitutes its substance and destiny and the system of right is the realm of actualized freedom” (PR, #4). As members of an ethical community, citizens participate in the running of the economy and this makes them what they are. It is objective freedom that enables them to shape themselves by being able to participate in the running of their own institutions.

Third, citizens must promote the welfare of others. But, why and how can they perform this duty? Hegel’s theory can be summed up as a description of a gradual development of the human will. As abstract persons, individuals are exclusively concerned about their well-being. Gradually as they reach maturity, they recognize that they are members of an ethical community that entirely depends on their assistance for survival, and it is at this stage of their development that Hegel calls them citizens. As citizens, they recognize that besides committing themselves to meeting their own needs, they must also promote the welfare of others, particularly the welfare of those disadvantaged by nature if they wish their community to remain intact. It is important to note that no external force obliges them to perform this duty, but they themselves have reached the maturity that enables them to become aware that they ought to do something for their own community. To use Hegel’s terminology, Rawls’ individuals who join social cooperations are still abstract persons who are exclusively concerned about their well-being. In defence of the right to personal property, Rawls maintains that justice “does not allow that the sacrifices imposed on a few are outweighed by the

larger sum of advantages enjoyed by many”²⁶⁸. In Rawls’ theory, justice does not oblige multi-millionaires like Bill Gates to sacrifice some of their wealth to those who desperately need help.

But what about some millionaires who do in fact donate millions to charitable agencies? We can respond to such a question by recalling the egalitarian liberals’ and socialists’ claim that such people do not deserve to have been born with exceptional talents. Given that they do not deserve to benefit from their morally arbitrary talents, they are bound by duty to assist those who are not favoured by nature. But this is not the case in Rawls’ theory. They are free to do what they like with their wealth. In Rawls’ individualistic account of the person, this is acceptable. In my account discussed earlier (which in fact is an interpretation of Hegel), rich individuals commit themselves to communal responsibility because they know that their community depends on them for existence.

Hegel maintains that by controlling their desires, they are in a position of furthering the end of others. Unlike abstract persons with un-purged desires, rational citizens are in a better position to further not only their ends but also that of others. In his interpretation of Hegel, Andrew Vincent correctly maintains that,

concrete positive freedom exists when individuals control their impulses and desires through socially defined norms. Social norms should embody the recognition of others having similar claims to self-development. One must recognize others’ rights to self-development in order for one’s own claim to be recognized. This argument encapsulates the move towards a positive concept of freedom, which can be defined as self-creativity and self-determination within the parameters of social norms²⁶⁹.

For Hegel, freedom increases self-control over one’s impulses and motivations. Consequently, this ends with the acceptance of norms that contribute towards the development of other members of

²⁶⁸. Rawls, John. 1971. *A Theory of Justice*. Massachusetts: Harvard University Press, p.4.

²⁶⁹. Cullen, Bernard, ed. 1988. *Hegel Today*. New York: St. Martin’s Press, p. 49.

the state. Respect for and recognition of other citizens are essential constituents of freedom. Citizens who discipline their own subjective impulses, and embody an unconditional commitment to the development of others are absolutely free. As mature members of an ethical life, citizens know that they can only obtain absolute freedom when they reach out to others. Let me cite an example of my own family to illustrate my point. My father worked as a migrant labour in South African mines. He deprived himself of luxuries that other people enjoyed to ensure that we, his children, can obtain an adequate education. Finally, he told us that he was the happiest man in the whole world because he had accomplished his mission. In Hegelian terminology, he had obtained absolute freedom. He worked labouriously and deprived himself of luxuries because he recognized that his family depended on his assistance for survival. In the same way, I believe that people who become aware that their community depends on their assistance for survival, cannot hesitate to reach out to those in need of their help, and they know that their assistance can be accompanied by sacrifices. When they have reached their goal, which is making their whole a complete whole, I believe they would exclaim like my late father, and say that they are the happiest people in the whole world, meaning that they have obtained absolute freedom. Of course, this view does not make sense to someone who holds an individualistic account of the person.

It is important to stress that by committing themselves to the development of others, citizens' subjective interests are not completely suppressed or alienated, instead, they are tuned such that they can be reconcilable with social interests. Hegel reconciles individual interests with social interests by bringing subjective interests into the rule-governed framework of the social world. In this way, the arbitrary quality of the individual is re-shaped by the concrete universal of social rules. It is from the social world as a rational practice that rationality is derived. It is also important to note

that they acquire the most fundamental norms when they participate in social life. Given that social life is an expression of the ontological structure of human nature, this seems to be obvious.

Rawls believes that just as Hegel's citizens of the rational state are committed to communal responsibilities, so does his citizens of the well-ordered society. Rawls maintains that, "Hegel claims that what has the most value for individuals, what actualizes their freedom most completely, is the pursuit of a universal or collective end, not the pursuit of their own private ends as such. But the liberal tradition does not in general deny this"²⁷⁰.

The liberal view that Rawls defends is sharply opposed to Hegel's teaching on communal responsibility. On Rawls' supposedly egalitarian difference principle, I have argued that the primary motive of Rawls' rich individuals is not to assist the least advantaged people but to enrich themselves. Nielsen has correctly pointed out that Rawls' difference principle is arranged such that even in moderate scarcity, Rawls rich people cannot be obliged to assist others.

I have attempted to show that Rawls' individuals who join social cooperations can be associated with Hegel's selfish bourgeois individuals. Such self-seeking individuals are totally absorbed in satisfying their own selfish ends. They join social cooperations primarily motivated by selfishness. An example of the butcher whose primary motive is to promote her own interests can be recalled.

At the end, I conclude that a preferable alternative is derivable from Hegel. I am well aware of the fact that in the history of political philosophy Hegel has hardly figured as a model for egalitarians. However, I believe that my interpretation of Hegel's theory, particularly with regard

²⁷⁰. Rawls, John. 2000. *Lectures On The History Of Moral Philosophy*. Ed. Barbara Herman. Cambridge: Harvard University Press, p. 369.

to reconciling individual rights with social duties, has shown that he, in fact, figures as a model for egalitarians, and that he provides a preferable solution to the problem of the distribution of wealth. Some may argue that I am simply being persuaded by Hegel's verbal resolution that individual rights can be reconciled with social duties. Against such an accusation, I have shown that it depends on how one construes the conception of the person. If one maintains what I have regarded as the proper account of the person, then Hegel's resolution is real. In fact, I have argued that it is Rawls' resolution that is verbal. In short, I have made a claim that the Hegelian concern to reconcile individual freedom with new forms of community is germane to his vindication of economic rights. This being the case, I find Hegel to be a preferable solution to the antinomies of contemporary thought, that is to say, he is a potential interlocutor in contemporary debates concerning the problem at stake.

Conclusion: The relevance of universal education to our discussion

I want to conclude this work with the issue of free education which I raised and defended in the previous chapters. But, in what way is this issue relevant to the overall discussion? Its apparent irrelevance may be due to the fact that Rawls, his critics, and Hegel do not talk about it when trying to find a solution to the problem of distribution of wealth. However, the fact that they have excluded it does not suffice to make it irrelevant. I have tried to show that free education for all at all levels can be instrumental to the pursuit of equality without violating individuals' rights to their own property, and hence that it is relevant to our debate. Inevitably, Hegel does not talk about free education for all at levels as I have explained it. What I am trying to do here is to see whether my interpretation of Hegel's theory, particularly on education, can accommodate free

education at all levels.

For Hegel, education is beneficial not only to individuals but also to society as a whole. If that is the case, is it not the duty of society itself to ensure that individuals acquire adequate education? Therefore, the main reason why people must obtain adequate education is that it is beneficial to the community and individuals. Hegel maintains that civil society as the system of needs is the free play of competitive and mutually antagonistic free individuals. He claims that in civil society, “the Idea has lost itself in particularity” (PR, #229). This implies that when these antagonisms are allowed to progress, civil society itself will fall asunder. So, one possible way in which Hegel endeavours to mitigate the effects of the “contingencies on the subjective side” (PR, #237) of civil society is through a programme of education.

He maintains that, “in its character as a universal family, civil society has the duty and right, in the face of arbitrariness and contingency on the part of the parents, to supervise and influence the education of children in so far as this has a bearing on their capacity to become members of society” (PR, #239). In the same way, Hegel continues, society must provide public education facilities as far as is practicable (PR, #239). A notable primary motive for Hegel’s educational programme is to ensure that every member of civil society has an opportunity to become a member of the universal class, the state bureaucracy, devoted to the welfare of the entire community. If education is devoted to the welfare of the entire community, it is not unfair to demand that society itself provide public educational facilities as far as it is practicable.

It is through education that membership of the bureaucracy which stands above the sectional interests of civil society can be obtained. Hegel stresses the importance of education as a mediating process within civil society. As quoted above, ‘education has a bearing on children’s capacity to

become members of society'. It also liberates individuals from the snares of their own particularities by training them to use their intelligence such that they can focus on what is universal rather than idiosyncratic. And so liberation is another purpose of education (PR, #17). I believe that an account of the person I defended earlier, an account that claims that an individual endowed with rights feels obliged to commit herself to communal responsibility because she knows that it depends on her assistance for survival, is an account that should be taught. In other words, children should not only be taught about individual rights, as it is the case in many liberal states, but they should also be taught about the responsibilities they have to their community. Such an account, which I consider to be the true account of the person, cannot be taken for granted, given the prevailing spirit of individualism that has been propagated by liberal theorists.

Education, therefore, serves a multi-purpose in society: it trains individuals to become members of society, trains them to liberate themselves from their own particularities, ensures that all members of civil society have a reasonable opportunity to become members of the universal class, ensures that they acquire special training that will make them eligible to occupy valued jobs, and ensures that all members of civil society devote themselves to the welfare of the entire community. Now given the cost and duration of universal education, and given that universal educational programme is beneficial to the community as such, it must be offered freely at all levels to all individuals by society itself. It seems to me that a free education at all levels can ensure a reasonable opportunity for all to acquire an adequate universal educational programme.

I have attempted to show that education could be a useful tool for Rawls to deploy in his commitment to equality. Employed educated members of a well-ordered society can contribute more to the welfare of the community. After all, giving equal opportunity for all to acquire adequate

education seems to correspond to Rawls' justice as fairness. So, Hegel provides us with reasons that are supportive to universal education, and I believe that endorsing it would presumably mark an advancement in Rawls' pursuit of equality. I believe also that Hegel's mature citizens will not hesitate to subsidise free education as I have explained it. Having cultivated their impulses and desires that prevail in civil society, they now recognize that besides satisfying their own needs society also needs their assistance to remain intact.

However, critics of universal education may object to endorsing it on the ground that in an effective liberal democratic society the state can offer students part-time jobs during vacations. This means that students themselves can contribute to their own education. If this is the case (as they would say it is in some developed countries), it is not necessary to enforce free education at all levels. But this argument seems to be weak for various reasons.

First, this suggestion seems to be limited in scope. It is not operable in many developing countries with a high rate of unemployment. Given that such countries are already struggling with finding jobs for people who have graduated, it would be ridiculous to expect employers to employ students during their vacations. Even in the more developed countries this suggestion would still be problematic. Amartya Sen testifies that unemployment has risen dramatically in much of Western Europe, and provides us with a typical example of Italy, France, and Germany which have unemployment rates that hover around ten to twelve percent²⁷¹. Given the massive scale of unemployment in contemporary European economics, it is hard to figure out how employers can actually afford to employ students during their vacations. In other words, in practice it is simply not

²⁷¹. Sen, Amartya. 1999. *Development as Freedom*. New York: Alfred A. Knopf, pp.94-96.

the case that in developed countries respective states can afford to offer part-time jobs to all students who need them to ensure that they have all the essentials in their studies. Moreover, the actual fact is that even students who are fortunate to find jobs sometimes find it hard to meet all their needs, so much so that they sometimes find themselves in a situation that forces them to drop out of school temporarily. This leads me to my second reason against Rawls' objection.

Sometimes some students have to leave their studies so as to earn a substantial amount of money sufficient to meet their needs. But, those who by mere brute luck happen to be born into wealthy families can proceed with their studies without any interruption. The first do not deserve to be interrupted from their studies simply because by brute bad luck they happen to come from the least fortunate families. Moreover, even in the case of those who are fortunate enough to find reasonable part-time jobs that give them sufficient money to meet their needs, fairness still seems to be wanting. It seems unfair that only those who are by brute luck born of wealthy families should enjoy the privilege of having a complete rest during vacations, while the others must work hard during this time to try to cover their needs. Still, some may argue that, perhaps a preferable alternative is that employment be required even of wealth children, as part of their education. But, if employers cannot afford to hire all poor children, it is clear that expecting them to employ all poor and wealthy children is impossible. So, a free education remains the best option to take.

Sen shows how education can be beneficial to individuals and society. He maintains that, If education makes a person more efficient in commodity production, then this is clearly an enhancement of human capital. This can add to the value of production in the economy and also to the income of the person who has been educated. But even with the same level of income, a person may benefit from education - in reading, communicating, arguing, in being able to choose in a more informed way, in being taken more seriously by others and so on. The benefits of

education, thus, exceed its role as human capital in commodity production²⁷².

Inevitably, an educated person does benefit a lot from the education she has received. Given that she can now participate more efficiently in commodity production, she contributes to the expansion of the economy, and this implies that she can play a vital role in the pursuit of society's common goal. However, we must bear in mind that when talking about free education, Sen confines himself to basic education. But I have attempted to show that basic education alone is inadequate. If we really expect education to be beneficial to the person and society as such, we must go beyond basic education.

²⁷². *Ibid.*, pp. 293-294.

Conclusion:**1. *The strength and weakness of Rawls' liberalism:***

I have attempted to show some of the serious shortcomings of Rawls' liberal theory. I have also tried to show the weaknesses of right-wing and left-wing liberals. Nonetheless, liberalism still appears to be more attractive and suitable for the concrete realisation of liberty and equality. Perhaps one should confess that this apparent attractiveness and suitability implies that there is something good about liberalism.

Nielsen and Sandel raise sound arguments against Rawls' liberal principles. While Sandel correctly shows that the right cannot be construed independently of the good, Nielsen correctly argues that some of the basic liberties tend to be undermined in Rawls' theory. However, Rawls' first principle still appears to be favoured, at least in principle. Why? In my view, it is the long-standing tradition of the violation of fundamental human rights that makes Rawls' liberty principle admirable despite the serious shortcomings Nielsen and Sandel point out.

The long-standing evil practice of slavery, particularly in the United States where Rawls formulated his liberty principle, is but one instance of a direct violation of basic human rights and human dignity. This unacceptable practice denied some people of their rights to vote, free speech, free movement, and worst of all, it deprived them of their culture, language, and identity. The subordination of women and the brutal practice of child labour are but other instances among many of the violation of human dignity. If Rawls' liberty principle is conceived as a shield for an inviolable human dignity, it is not surprising that to some people it can still appear to be attractive. If it is the case that this principle protects an inviolable human dignity, there is something good about it.

What are the weaknesses of Rawls' liberalism? From our discussion, it is clear that in the name of protecting individual rights, rights that secure an inviolable human dignity, some liberals have gone to the extreme and mistakenly tend to undermine the duty of individuals to communal responsibility. I have attempted to show that Rawls' socio-economic principle, that is, the difference principle, is not primarily intended to make the worst off better off as Rawls claims. In fact, Rawls' conception of liberalism seems to correspond to that of Jeff Spinner. Spinner defines liberalism as "a political theory that is concerned with giving people power over their own lives and an equal say in how the government is run. Liberty and equality are important aspects of liberalism"²⁷³. It is important to note that equality here referred to does not imply economic equality, but rather equal rights among citizens of a liberal state. If that is the case, liberalism is primarily a theory of liberty rights. It is less concerned with economic rights, rights that not only imply communal responsibility but also secure liberty rights, as we have seen in chapter two.

The lexical order of the two principles is such that the socio-economic principle, a principle that strives not only to bridge the economic gap between the rich and the poor, but also aims at protecting the liberty principle, is undermined. In favour of the priority of liberty, Rawls maintains that "justice denies that the loss of freedom for some is made right by a greater good shared by others"²⁷⁴. In this way, the liberty principle cannot be infringed even in moderate scarcity for the sake of the socio-economic rights. This must be so if liberty can be restricted only for the sake of liberty. Even in the case of the people who are in desperate situations, Rawls' liberty principle

²⁷³. Spinner, Jeff. 1994. *The Boundaries of Citizenship*. Baltimore: The Johns Hopkins University Press, p. 3.

²⁷⁴. Rawls, John. 1971. *A Theory of Justice*. Massachusetts: Harvard University Press, pp.3-4.

states that property owners cannot be obliged to sacrifice some of their belongings to assist.

Under this somewhat strange conception of Rawls' liberty principle it is not clear how the very principle he cherishes so much can be protected if socio-economic principle is undermined. Given Rawls' own conception of liberty principle, it is unfair to maintain that his theory is egalitarian. Egalitarianism requires equality as an end, and strives to eradicate social and economic inequality. But, Rawls' so-called egalitarianism allows inequalities to prevail. Indeed, they seem to be permitted to prevail because the arrangement is such that they will always be there given that there will always be two groups in society, namely, the talented and the least fortunate. In fact, I have attempted to show that given that Rawls' account of the person is individualistic, his principles must focus primarily on individual rights. They are formulated such that individuals cannot to commit themselves to equality. In short, Rawls' theory of right is one-sided since it focuses on the rights individuals have and exclude their social duties.

2. What about Nielsen's socialist principles of justice?

I do not have much to say about Sandel since he is a critic of Rawls who provides us with no alternative. However, his critique has been helpful because it has enabled me to see the strengths, weaknesses, and inconsistencies in Rawls' theory.

Nielsen's principles of justice seem to be interesting. They seem to be more egalitarian in the true sense of the word than Rawls'. Nielsen is careful not to undermine the value of the socio-economic principle. By striving to eradicate social and economic inequalities with his second principle of justice, he seems to be taking egalitarianism seriously. Comparatively, Nielsen's principles seem to fare better than Rawls' because while committed to retain the liberty principle,

he at the same time attempts to bridge the gap between the rich and the poor. However, Nielsen's principles are not without shortcomings.

First, Nielsen's second principle is arranged such that individuals must be given their just entitlements. The implication is that the naturally disadvantaged and those who are unemployed not because they chose so, are excluded from entitlements by their respective conditions. The common stock of means that they share seems to be nothing but a mere compensation that enables them to meet their basic needs. It is doubtful that such a compensation will suffice to help them to secure their own basic liberties as Nielsen would like. It seems to me that in this type of arrangement it will be hard for Nielsen to bridge the gap between the rich and the poor. As long as people are given their just entitlements, it is not clear how we can arrive at a classless society of people who are more or less equal economically. As a matter of fact, it is hard for Nielsen to attain his goal, namely, equality. Perhaps that is why he himself maintains that we should at least aim at a rough equality. But if it is obvious that this is strictly speaking unattainable, why should we aim at it at all? Why should we not just aim at reducing inequalities as far as possible, something we know that we can attain?

Second, on the liberty principle, Nielsen holds that he is indebted to Rawls. We have seen that Rawls' liberty principle based on Kant's conception of the person states that a person is endowed with an inviolable dignity. Now, this dignity is protected by inalienable rights. As beings endowed with inalienable right to personal property, nothing can oblige individuals to commit themselves to communal responsibility, even in moderate scarcity. Clearly, Rawls' liberty principle to which Nielsen is indebted conflicts with our commitment to communal responsibility. Perhaps Nielsen should have acknowledged his indebtedness to Hegel. Hegel also maintains that individuals

have rights, and I have insisted on his claim that individuals have a right to property, a right that must be respected. Now, the merit of Hegel's theory over Rawls' Kantian based theory is that in Hegel's theory there is no conflict between right and duty. Maybe Nielsen should have based and claimed his indebtedness to Hegel because in Hegel's theory, citizens, while retaining their rights, also commit themselves to communal responsibilities to obtain their full freedom. In this sense, maybe Nielsen's desirable goal of bridging the gap between the rich and poor could be a realisable dream.

Third, Nielsen favours the abolition of a competitive market economy since it causes and sustains inequality. But I have attempted to show that large inequalities are not necessarily caused by a free market enterprise that prevails in Hegel's civil society. Rather, they are caused by the fact that a competitive market economy is supervised by selfish individuals. I have shown that if a competitive market economy is under the supervision of an external or neutral body, namely, public authority, we have a reason to believe that inequalities can be reduced.

Nielsen is also opposed to the idea of providing incentives to the people of talent because incentives cause and sustain inequality. But Nielsen maintains that for the work they have done, individuals must be given their just entitlements. There is no convincing reason why we should not reward the people of talented for their performances, given that they have applied an enormous effort. Fairness requires that they too be given what their labour deserves. Besides, incentives not only enhance people to produce more, they also encourage others to make use of their talents. As I have said, incentives cause and sustain large inequalities when public authority is excluded. If the task of devising the scale of providing incentives is entrusted to selfish individuals, we should expect large inequalities.

Fourth, Nielsen does not explain why citizens of a just society should feel obliged to commit themselves to communal activities. Why should they feel obliged to share what is rightfully theirs? Maybe it is in Hegel that Nielsen should seek an answer. For Hegel, citizens as mature members of an ethical community know that it is precisely by committing themselves to the common good that they can recognize and concretize their own freedom. In other words, it is by assisting others that they obtain their concrete actual freedom. In short, I think that all Nielsen needed to have done was simply to base his principles on Hegel. But, given Nielsen's position on incentives (which are allowed in Hegel's civil society), it is clear that Nielsen would have a problem with Hegel's overall theory.

3. Can Hegel make a difference to our problem?

My discussion of Hegel in chapter six suggests that if deployed, he can solve the problem of the distribution of wealth. The merit of Hegel's theory is that our commitment to protect individual rights and our commitment to communal responsibility can be reconcilable. Hegel attempts to show that individual freedom and communal responsibility, right and duty, and the private and the public can finally be united in a higher synthesis. As mature members of a rational community, rational citizens are not solely confined to selfishness and self-interestedness. Instead, they now freely participate fully in the pursuit of the common good. At this stage, with objectified particularities, citizens can actively participate to attain the common good, and by so doing they confirm their own freedom.

It is important to note that the process of becoming mature members of a rational community is gradual. Persons behave like children, that is, they are exclusively concerned about their needs

and wants. Gradually, they recognize that they live in a community that depends on their aid, given that it has no independent existence. As mature citizens of an ethical state, their happiness is not complete until they have strived to make their community a complete whole. In other words, their happiness is complete not only when they can meet their own needs, but also when they can reach out to others. They understand the proper account of the person to mean that a person is a being that is tied with the community in which it lives. In this account, an individual does not only have rights, but also has duties she must fulfil to maintain her community. It is through education that we can recognize and arrive at this true account of the person, given that we are not born with this awareness. Liberals educate people from childhood exclusively to become aware of their basic individual rights. In my view, a proper education consists in making people aware from their childhood of their fundamental individual rights and their social duties. It is important to note, however, that people do not require to have post-secondary education to know about their rights and social duties. I simply talk about education here with reference to the improper education provided by liberals concerning the proper account of the person.

It is good to bear in mind that for Hegel, the right to property is the original of the rights to life and liberty (PR, #66), and as I noted earlier, abstract right is not alienated in ethical life but sublated. Also, civil society as the sphere of economic activity of free individuals who pursue the satisfaction of their own needs and interests is not completely diminished but equally sublated in ethical life. If this is the case, it is doubtful that Hegel had in mind equality as his goal when developing his theory. In my view, the term 'equality' in the strict sense is something that is hardly attainable. Even in a pure socialist state, equality cannot be attained because people are different and have different needs. As Nielsen too attests, resources cannot be divided equally like a pie. So,

rather than deploying the term equality maybe we should either use the phrase to 'bridge the gap between the rich and the poor' or 'to reduce inequalities as far as possible', since this is something that can be achieved. It can be achieved in Hegel's theory where duty and right are united within the state in one and the same relation. In doing something for the common good, citizens realize that they at the same time confirm their own freedom as fully participating members of a rational community.

4. *Free education:*

In his *Development as Freedom*, Amartya Sen talks about adequate social opportunity in the form of education as being instrumental to freedom²⁷⁵. In my explication of free education at all levels, I have attempted to show that I do not regard free education as a solution to our problem, but as something that could be instrumental to the problem at stake. Unfortunately, by adequate social opportunity to education, Sen confines himself to basic education. I have attempted to show that basic education is inadequate to attain substantive freedoms that Sen discusses. Free education at all levels, I have maintained, can be instrumental in the removal of major sources of unfreedom such as poverty. Adequate education is also required in the pursuit of equal political liberties. I have shown that Hegel can accommodate such a project. Dworkin's income tax scheme can be endorsed to subsidise such a project. Since citizens as mature rational members of an ethical community recognize that their freedom is concretely actualized when they reach out to others, they cannot complain that they are denied their right to private property when they are taxed to subsidise free education at all levels.

²⁷⁵. Sen, Amartya. 1999. *Development as Freedom*. New York: Alfred Knopf, p. 39.

In conclusion, it becomes clear that Rawls does not succeed in solving our problem. His failure, as I have attempted to show, seems to consist in that he has formulated his principles of justice too much along monadological lines. Consequently, it is hard for Rawls to protect some of the basic liberties of the people he claims to be concerned about. It is hard for Rawls' rich people to feel obliged to commit themselves to communal responsibilities. And it is hard for Rawls' rich individuals to feel obliged to subsidise free education at all levels. But, as I have attempted to show, Hegel's theory is such that individuals can retain their rights while committing themselves to communal responsibilities. Hegel's citizens who feel obliged to reach out to others can subsidise universal education

5. *What remains to be resolved:*

The problem that I did not attempt to tackle, and one that remains unresolved is to find the most suitable political theory under which Hegel's theory could be deployed in the pursuit of bridging the gap between the rich and the poor and protecting individual rights. Sharp differences arise as to which political theory fair better in the problem of distribution of wealth.

The right-wing liberals hold the view that capitalism is the only political system under which individuals can fully retain their rights. They maintain that only the liberal capitalist state can render to individuals what is rightfully theirs. They, therefore, opt for capitalism because it leaves the reign of private property and individualism intact. On the contrary, Rawls holds the view that his principles of justice can be applicable either in a liberal capitalist system or in a socialist system. But the two systems however seem to be moving in opposite directions. On the one hand, socialism strives to eradicate social and economic inequality. On the other hand, the type of capitalism

favoured by liberals allows large inequalities that widen the gap between the rich and the poor. Given that Rawls allows large inequalities, his principles can be applicable only in a liberal capitalist system.

Socialists such as Nielsen condemn capitalism as an intrinsic evil. For Nielsen, "capitalism is incompatible with equality, it is also incompatible with equal liberty and moral autonomy for all humankind"²⁷⁶. He holds the view that it is only in a socialist system that social and economic inequality can be eradicated. Karl Marx also condemns capitalism as an intrinsic evil that is a stumbling block to equality. According to Marx, capitalism is the system of exploitation because the bourgeois accumulates his capital by exploiting the proletariat. Marx concludes that equality as a common goal can only be pursued in communism.

Hegel introduces the term 'Kapital' in his discussion of classes (PR, #200). But he does not explicitly distinguish nor explain capital separately from property or resources. According to Hegel, the workings of the capitalist economic order are frequently chaotic. Civil society, the sphere in which the capitalist economic order prevails, cannot solve the problem of poverty (PR, #245). Hegel maintains that civil society is confronted with contradictions it cannot overcome. It is not rich enough to deal with poverty, and because it is too rich, it overproduces. Employers and workers are interdependent opposites. In order to increase their profits, employers encourage ever higher consumption standards and reduce their labour costs. The more they become rich, the more they tend to push more workers into socially defined poverty. However, workers are also consumers. The implication is that as employers impoverish more workers, they also reduce their own wealth since the downfall of wages, demands, and production implies the downfall of profits. Thus, in the

²⁷⁶. Nielsen, Kai. 1985. *Equality and Liberty*. New Jersey: Rowman & Allandheld, p. 93.

last analysis both parties impoverish themselves collectively.

The temporary solution suggested by Hegel is unfortunately that of colonies. He maintains that colonies can provide a home for the surplus labour. Of course, in Hegel's time such a solution was not considered to be intrinsically evil in itself because the saying that 'all animals are equal but some are more equal than others' was a generally accepted creed in the West. However, my interest in Hegel consists more in his claim that poverty is a special case that goes beyond ordinary repair, and that it is a consequence of the central contradiction of a capitalist economy.

Now, given that civil society is sublated in ethical life, it is not the case that it is completely diminished in Hegel's State. Does this imply that Hegel opts for a social-capitalist system? If so, how can it function? This issue was intentionally excluded within the framework of the present work. But I believe that it is an issue that is worth pursuing since it would most probably contribute to the solution suggested to the existing problem of distribution of wealth.

Bibliography:**A) Works by Rawls:**

Rawls, John. 1971. *A Theory of justice*. Massachusetts: Harvard University Press.

_ 1977. "The Basic Structure as Subject". *American Philosophical Quarterly* 14, pp. 159-165.

_ 1978. "A Theory of Justice". In *Justice and Economic Distribution*, ed. John Arthur and William Shaw. New Jersey: Prentice - Hall.

_ 1979. "The Concept of Justice in Political Economy". In *Philosophy and Economic Theory*, ed. Frank Halin and Martin Hollis. Oxford: Oxford University Press.

- 1979. "Economic Systems". In *Ethical Theory and Business*, ed. Tom Beauchamp and Norman Bowie. New Jersey: Prentice - Hall.

_ 1979. "An Egalitarian Theory of Justice". In *Ethical Theory and Business*, ed. Tom Beauchamp and Norman Bowie. New Jersey: Prentice - Hall.

_ 1979. "A Well-Ordered Society". In *Philosophy, Politics and Society*, ed. Peter Laslett and James Fishkin. Oxford: Blackwell.

_ 1982. "The Basic Liberties and Their Priority". In *The Tanner Lectures on Human Values*, ed. Sterling McMurrin. Cambridge: Cambridge University Press.

_ 1988. "Classical Utilitarianism". In *Consequentialism and Its Critics*, ed. Samuel Scheffler. New York: Oxford University Press.

_ 1995. "Reconciliation through the Public Use of Reason". *Journal of Philosophy* 92, pp. 132-180.

_ 1996. *Political Liberalism*, second ed. New York: Columbia University Press.

_ 1996. *The Law of Peoples: With "The Idea of Public Reason Revisited"*. Cambridge: Harvard University Press.

_1999. *Collected Papers*. Ed. Samuel Freeman. Massachusetts: Harvard University Press.

_2000. *Lectures On The History Of Moral Philosophy*. Ed. Barbara Herman. Cambridge: Harvard University Press.

B) Historical works consulted:

Cullen, Bernard, ed. 1988. *Hegel Today*. New York: St. Martin Press.

Diesing, Paul. 1999. *Hegel's Dialectical Political Economy: A Contemporary Application*. Colorado: Westview Press.

Forster, Eckart, ed. 1989. *Kant's Transcendental Deductions: The Three 'Critiques' and the 'Opus Postumum'*. Stanford: Stanford University Press.

Harris, George. 1999. *Agent - Centred Morality: An Aristotelian Alternative to Kantian Internalism*. Berkeley: University of California Press.

Hegel, G.W.F. [1821] 1967. *Hegel's Philosophy of Right*. Trans. T.M. Knox. Oxford: Oxford University Press.

_ [1807] 1977. *Hegel's Phenomenology of Spirit*. Trans. A.V. Miller. Oxford: Oxford University Press.

_ [1821] 1991. *Elements of the Philosophy of Right*. Trans. H.B. Nisbet & edited by Allen Wood. Cambridge: Cambridge University Press.

Hiley, David. 1990. "The Individual and the General Will: Rousseau Reconsidered". *History of Philosophy Quarterly* 7, pp. 159-178.

Hobbes, Thomas. [1651] 1991. *Leviathan*. Ed. Richard Tuck. Cambridge: Cambridge University Press.

- Houlgate, Stephen. 1991. *Freedom, Truth and History: An Introduction to Hegel's Philosophy*. London: Routledge.
- Kain, Philip. 1990. "Rousseau, the general will, and individual liberty". *History of Philosophy Quarterly* 7, pp. 315-334.
- Kant, Emmanuel. [1785] 1964. *Groundwork of the Metaphysic of Morals*. Trans. H.J. Paton. New York: Harper & Publishers.
- _ [1786] 1970. *Kant on the Foundation of Morality*. Trans. E.A. Liddell. Indiana: Indiana University Press.
- _ [1797] 1969. *Foundations of the Metaphysics of Morals*. Trans. Lewis White Beck. New York: The Bobbs-Merrill.
- Levine, Andrew. 1993. *The general will: Rousseau, Marx, Communism*. Cambridge: Cambridge University Press.
- Locke, John. [1690] 1990. *Concerning Civil Government*. Ed. Robert Maynard. Chicago: William Benton Publisher.
- Marks, Jonathan. 1998. "The Savage Pattern: The Unity of Rousseau's Thought Revisited". *Polity* 31, pp. 75-105.
- Pelczynski, Z.A., ed. 1971. *Hegel's Political Philosophy: problems and perspectives*. Cambridge: Cambridge University Press.
- _ ed. 1984. *The State and Civil Society: Studies in Hegel's Political Philosophy*. Cambridge: Cambridge University Press.
- Rousseau, Jean-Jacques. [1755] 1964. *The First and Second Discourses*. Trans. Judith Masters. New York: St. Martin's Press.

_ [1762] 1978. *On The Social Contract*. Trans. Judith Masters. New York: St. Martin's Press.

_ [1782] 1979. *The Reveries of the Solitary Walker*. Trans. Charles Butterworth. New York: New York University Press.

Russell, Bertrand. 1945. *A History of Western Philosophy*. Oxford: Oxford University Press.

Smith, Stephen. 1991. *Hegel's Critique of Liberalism*. Chicago: The University of Chicago Press.

Taylor, Charles. 1979. *Hegel and Modern Society*. Cambridge: Cambridge University Press.

Velkley, Richard. 1989. *Freedom and the End of Reason*. Chicago: The University of Chicago Press.

William, Robert. 1997. *Hegel's Ethics of Recognition*. Berkeley: University of California Press.

Wolff, Robert Paul. 1973. *The Autonomy of Reason*. Cambridge: Cambridge University Press.

C) Other works consulted:

Altham, J.E.J. 1973. "Rawls' Difference Principle". *Philosophy* 48, pp. 75-78.

Anerson, Richard. 1990. "Liberalism, Distributive subjectivism, and Equal Opportunity for Welfare". *Philosophy and Public Affairs* 19, pp. 158-194.

Anita L. Allen and Milton C. Regan, eds. 1998. *Debating Democracy's Discontent*. Oxford: Oxford University Press.

Aronovitch, Hilliard. 2000. "From Communitarianism To Republicanism: On Sandel And His Critics". *Canadian Journal of Philosophy* 30, pp.1-39.

Arthur, John and William H. Shaw, 2nd ed. 1991. *Justice and Economic Distribution*. New Jersey: Prentice Hall.

Barry, Brian. 1973. "John Rawls and the Priority of Liberty". *Philosophy and Public Affairs* 2, pp. 274-290.

- _ 1973. *The Liberal Theory of Justice*. Oxford: Clarendon Press.
- _ 1989. *A Treatise on Social Justice*. California: University of California Press.
- _ 1990. "Social Criticism and Political Philosophy". *Philosophy and Public Affairs* 19, pp. 360-373.
- _ 1995. *Justice as Impartiality*. Oxford: Clarendon Press.
- Beggs, Donald. 1999. "Rawls' Political Postmodernism". *Philosophy Review* 32, pp. 123-141.
- Beiner, Ronald. 1992. *What's the Matter with Liberalism?* Berkeley: University of California Press.
- Blang, Ricardo. 1987. "John Rawls and the Protection of Liberty". *Social Theory and Practice* 12, pp. 241-258.
- Boaz, David. 1997. *Libertarianism*. New York: The Free Press.
- Cauthen, Kenneth. 1987. *The Passion for Equality*. Totowa: Rowman - Littlefield.
- Choptiany, Leonard. 1973. "A Critique of John Rawls' Principles of Justice". *Ethics* 83, pp. 146-150.
- Cohen, G.A. 1984. "On the Currency of Egalitarian Justice". *Ethics* 99, pp. 906-944.
- _ 1986. "Self-Ownership, World Ownership, and Equality". *Social Philosophy and Policy*. 3, pp. 77-96.
- _ 1995. "Incentives, Inequality, and Community". In *Equal Freedom*, ed. Stephen Darwall. Michigan: The University of Michigan Press.
- _ 1995. "The Pareto Argument for Inequality". *Social Philosophy and Policy* 12, pp. 160-185.
- _ 1995. *Self-Ownership Freedom and Equality*. Cambridge: Cambridge University Press.
- _ 1997. "Where the Action Is: On the Side of Distributive Justice". *Philosophy and Public Affairs* 26, pp. 3-30.
- Daniels, Norman, ed. 1975. *Reading Rawls*. Oxford: Basil Black Well.

- Darwall, Stephen, ed. 1995. *Equal Freedom*. Michigan: The University of Michigan Press.
- De Marneffe, Peter. 1990. "Liberalism, Liberty, and Neutrality". *Philosophy and Public Affairs* 19, pp. 253-274.
- Diggs, B.J. 1998. *The State, Justice, and the Common Good: An Introduction to Social and Political Philosophy*, ed. Troy: Educator's - Inter- Press.
- Dombrowski, Daniel. 1997. "Process, Thought and the Liberalism - Communitarian Debate: A Comparison with Rawls". *Process - Studies* 26, pp. 15-32.
- Dukor, Maduabuchi. 1997. "The concept of Justice in Liberalism". *Journal of Indian Philosophy* 14, pp. 17-29.
- Dworkin, Ronald. 1978. *Taking Rights Seriously*. Massachusetts: Harvard University Press.
- _ 1978. "Liberalism". In *Public and Private Morality*, ed. Stuart Hampshire. Cambridge: Cambridge University Press.
- _ 1981. "What is Equality? Part I: Equality of Welfare". *Philosophy and Public Affairs* 10, pp. 185-246.
- _ 1981. "What is Equality? Part II: Equality of Resources". *Philosophy and Public Affairs* 10, pp. 283-345.
- _ 1983. "In Defence of Equality". *Social Philosophy and Policy* 1, pp. 24-40/
- _ 1985. *A Matter of Principle*. Massachusetts: Harvard University Press.
- _ 1987. "What is Equality? Part III: The Place of Liberty". *Iowa Law Review* 73, pp. 1-54.
- _ 1988. "What is Equality? Part IV: Political Equality". *University of San Francisco Law Review* 22, pp. 1-30.
- _ 1989. "Liberal Community". *California Law Review* 77, pp. 479-504.

- Ellen Frankel Paul, Fred D. Miller, Jr. and Jeffrey Paul, eds. 1995. *Contemporary Political and Social Philosophy*. Cambridge: Cambridge University Press.
- Ferry, Luc. 1990. *Rights: The New Quarrel Between the Ancients and the Moderns*. Chicago: University of Chicago Press.
- Friedman, Jeffrey. 1994. "The Politics of Communitarianism". *Critical Review* 8, pp. 297-340.
- Frohock, Fred. 1997. "Conceptions of Persons". *Social Theory and Practice* 23, pp. 129-158.
- Gutman, Amy and Dennis Thompson. 1997. *Democracy and Disagreement*. Massachusetts: Harvard University Press.
- Haldane, John. 1996. "The Individual, The State, and the Common Good". *Social Philosophy and Policy* 13, pp. 59-79.
- Kautz, Stephen. 1995. *Liberalism and the Community*. Ithaca: Cornell University Press.
- Kymlicka, Will. 1988. "Liberalism and Communitarianism". *Canadian Journal of Philosophy* 18, pp. 181-203.
- _ 1989. "Rawls on Teleology and Deontology". *Philosophy and Public Affairs* 17, pp. 173-190.
- _ 1989. "Liberal Individualism and Liberal Neutrality". *Ethics* 99, pp. 883-905.
- _ 1990. *Contemporary Political Philosophy: An Introduction*. Oxford: Clarendon Press.
- _ 1994. "Communitarianism, Liberalism, and Superliberalism". *Critical Review* 8, pp. 263-284.
- _ 1998. "Liberal Egalitarianism and Civic Republicanism: Friends or Enemies?". In *Debating Democracy's Discontent*, eds. Anita L. Allen and Milton C. Regan. Oxford: Oxford University Press.
- McLeod, Colin. 1998. *Liberalism, Justice, and Markets: a critique of liberal equality*. Oxford: Oxford University Press.
- McPherson, C.B. 1973. "Rawls's Models of Man and Society". *Philosophy of the Social Sciences*

3, pp. 341-347.

Mahadevan, Kanchana. 1997. "Justice, Community and Selfhood". *Journal of Indian Philosophy* 14, pp. 1-16.

Martin, Rex. 1985. *Rawls and Rights*. Lawrence: University of Kansas Press.

Mulgan, Tim. 1999. "The Place of the Dead in Liberal Political Philosophy". *Journal of Political Philosophy* 7, pp. 52-70.

Naticchia, Chris. 1998. "Human Rights, Liberalism, and Rawls' Law of Peoples". *Social Theory and Practice* 24, pp. 345-374.

Nielsen, Kai. 1979. "Radical Egalitarian Justice: Justice as Equality". *Social Theory and Practice* 5, pp. 209-226.

_ 1980. "Capitalism, Socialism, and Justice". *Social Praxis* 7, pp. 253-277.

_ 1981. "Impediments to Radical Egalitarianism". *American Philosophical Quarterly* 18, pp. 121-129.

_ 1984. "Global Justice, Capitalism and the Third World". *Journal of Applied Philosophy* 1, pp. 175-186.

_ 1985. *Equality and Liberty*. New Jersey: Rowman & Allandheld Publishers.

_ 1987. "Rejecting Egalitarianism". *Political theory* 15, pp. 411-423.

_ 1989. "A Moral Case for Socialism". *Critical Review* 3, pp. 542-553.

_ 1989. "Liberal and Socialist Egalitarianism". *Journal of Social Philosophy* 20, pp. 137-154.

_ 1991. "On Capitalism, Socialism, and the Market". *Journal of Social Philosophy* 22, pp. 54-62.

_ 1997. "Radical Welfare Egalitarianism". In *Equality*, ed. Louis Pojman and Robert Westmoreland. Oxford: Oxford University Press.

- Nozick, Robert. 1974. *Anarchy, State, and Utopia*. New Jersey: Basic Books.
- _ 1991. "Anarchy, State, and Utopia". In *Justice and Economic Distribution*, 2nd ed. John Arthur and William Shaw. New Jersey: Prentice Hall.
- _ 1997. "Justice Does Not Imply Equality". In *Equality*, ed. Louis Pojman and Robert Westmoreland. Oxford: Oxford University Press.
- Nussbaum, Martha. 1999. "Conversing with The Tradition: John Rawls and the History of Ethics". *Ethics* 109, pp. 424-430.
- O' Neill, William. 1991. "Rights as Rhetoric: Nonsense on Stilts?". *Listening* 26, pp. 111-120.
- Pojman, Louis and Robert Westmoreland, eds. 1997. *Equality*. Oxford: Oxford University Press.
- Rasmussen, Douglas. 1974. "A Critique of Rawls' Theory of Justice". *Personalist* 55, pp. 303-318.
- Reiman, Jeffrey. 1974. "A reply to Choptiany on Rawls on Justice". *Ethics* 84, pp. 262-265.
- Rodewald, Richard. 1985. "Does Liberalism Rest on a Mistake?". *Canadian Journal of Philosophy* 15, pp. 231-252.
- Rorty, Richard. 1985. "Postmodernist Bourgeois Liberalism". In *Hermeneutics and Praxis*, ed. R. Hollinger. Notre Dame: University of Notre Dame Press.
- Rosenblum, Nancy, ed. 1989. *Liberalism and the Moral Life*. Cambridge: Harvard University Press.
- Russel, Keat and David Miller. 1974. "Understanding Justice". *Political Theory* 2, pp. 3-31.
- Sandel, Michael. 1984. "The Procedural Republic and the Unencumbered Self". *Political Theory* 12, pp. 81-96.
- _ 1991. "Morality and the Liberal Ideal". In *Justice and Economic Distribution*, 2nd ed. John Arthur and William Shaw. New Jersey: Prentice Hall.
- _ 1994. "Political Liberalism". *Harvard Law Review* 107, pp. 1765-1794.

- _ 1998. *Liberalism and the Limits of Justice*, 2nd ed. Cambridge: Cambridge University Press.
- _ 1998. *Democracy's Discontent*. Massachusetts: Harvard University Press.
- Schultz, Walter. 1994. "Towards a Communitarian Liberalism". *Kinesis* 21, pp. 1-14.
- Schwartz, Adina. 1973. "Moral Neutrality and Primary Goods". *Ethics* 83, pp. 294-307.
- Schweickart, David. 1978. "Should Rawls be a Socialist". *Social Theory and Practice* 5, pp. 1-27.
- _ 1993. *Against Capitalism*. New York: Cambridge University Press.
- Sen, Amartya. 1973. *On Economic Inequality*. Oxford: Clarendon Press.
- _ 1980. "Equality of What?". In *The Tanner Lectures on Human Values*, ed. S. McMurrin. Utah: University of Utah Press.
- _ 1985. "Rights and Capabilities". In *Morality and Objectivity*, ed. T. Honderich. London: Routledge & Kegan Paul.
- _ 1990. "Justice: Means versus Freedom". *Philosophy and Public Affairs* 19, pp. 111-121.
- _ 1996. "On the Status of Equality". *Political Theory* 24, pp. 394-400.
- _ 1996. "Legal Rights and Moral Rights: Old Questions and New Problems". *Ratio Juris* 9, pp. 153-167.
- _ 1999. *Development as Freedom*. New York: Alfred A. Knopf.
- Szrednicki, J. 1988. "All Good Counts". *Etyka* 24, pp. 25-38.
- Teitelman, Michael. 1972. "The Limits of Individualism". *The Journal of Philosophy* 69, pp. 545-556.
- Trackman, Leon and Sean Gatien. 1999. *Rights and Responsibilities*. Toronto: University of Toronto Press.
- Van Parijs, Philippe. 1995. *Real Freedom For All*. Oxford: Clarendon Press.

Wallach, John. 1987. "Liberalism, Communitarians, and the Tasks of Political Theory 15, pp. 581-611.

Watt, John. 1998. "John Rawls and Human Welfare". *Radical Philosophy* 49, pp. 3-10.

Wellbank, J.H., Denis Snook and David Mason. 1982. *John Rawls and his critics: an annotated bibliography*. New York: Garland Publisher.