

## Justice as Fairness (John Rawls) and Justice as *Sadaya Hṛdaya Darśana* (Bhagavan Buddha)

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**Abstract:** John Rawls's theory of justice as fairness is very popular. If in our society the concept of justice is to apply, then the brain of Rawls should be supplemented by the heart of Buddha. So we have preferred to discuss the two conceptions of justice—justice as fairness and justice of the *sadaya hṛdaya* (kind heart). Rawls turned to the liberal and democratic social contract tradition built up by Locke, Rousseau and Kant. The doctrine of social contract says that laws can be called 'just' when they could be admitted by free persons from a position of equal right. This argument had the consequence that, to be just, laws must benefit not simply a majority but everyone, arranging for common good. Rawls assumes an 'original position' in the state of nature of an individual. In this position men live in a 'veil of ignorance'. This 'original position' is related to an individual of any caste or class of a society. Fair distribution of natural assets, wealth etc. is possible behind a 'veil of ignorance', that is, in 'original position' and nobody will be deprived of by this system. Rawls's principle of justice are applicable to all persons of the world. On the other hand, Buddha also arranged for justice of the persons of a casteless and classless society i.e., Sangha. The principles of justice advocated by Buddha are applicable to the members of a Sangha or to all i.e. non-humans also—nature and animals. Buddha framed rules for democracy and he cancelled, like Sri Caitanyadeva, caste-distinction between man and man and he struggled for their equality and achieved social justice in the framework of his Sangha.

**Keywords:** Rawls, justice, fairness, *sadaya hṛdaya*, law, utilitarianism, social contract, veil of ignorance, Buddha, *Binaya Piṭka*.

### Introduction:

In our time John Rawls's conception of justice as fairness is very popular. It is articulate, it addresses itself to the immediate needs of a modern man's life, and, therefore, quite expectedly, it is also heart-touching. As compared to Rawls's conception of justice, philosophical theories of justice, such as we have in Plato, for example, are too abstract to be effectively brought to bear upon in dealing with complex social issues. Even then, Rawls's theory, it appears to us, to be too mundane, economics being the chief part of his theory of justice. Certainly, Rawls does not

subscribe to the *laissez – faire* economics of Adam Smith, but he shares in Smith’s guiding thought that from the cradle to the grave a man is involved in some economic situation or other, and, therefore, there can be no social justice without having justice in the economic front. Rawls’s perception is correct in perspective. One important prayer that Jesus taught is– “Lord, give us these days our daily bread. At the same time, he reminds the people that man does not live by bread alone. He must breathe in faith and be saturated in love. Thus goes Jesus second commandment– “Thou shalt love thy neighbor as thyself.”

Long time ago, Bagavan Buddha preached and practiced his own idea of social justice, whose philosophy, following the poet Joydeva, may be termed as *sadaya hridaya daršana*. On its basis the philosophers of the Mahāyana Bauddha community developed the idea of *sarvamuktivāda* and the sangha-people introduced the principles of democracy and fraternity in the sangha order. The Buddha-conception of fraternity is not limited to humans only; it extends over non-humans like inert nature and mute animals as well. Thus we strongly feel, if in a caste-ridden and in egalitarian society like ours the concept of justice is to apply, then the brain of Rawls should be supplemented by the heart of Buddha with this end in view we have preferred to discuss the two conceptions of justice – justice as fairness and justice of the *sadaya hridaya* or the kind heart. Let us begin with Rawls’s conception of justice as fairness.

**Justice as Fairness:** In Rawls’s ‘A Theory of Justice’, the question of most appropriate moral conception of justice was pursued as part of a general investigation into the nature of social justice. Rawls turned to the liberal and democratic social contract tradition built up by Locke, Rousseau and Kant. The doctrine of social contract says that laws can be called ‘just’ when they could be admitted by free persons from a position of equal right. This argument had the consequence that, to be just, laws must benefit not simply a majority but everyone, arranging for common good. He says, “the principles of justice are the principles that free and rational persons concerned to further their own interests would accept in an initial position of equality as defining the fundamental terms of their association”.<sup>1</sup>

Rawls explicated the argument that the principle of liberalism and socialist egalitarianism can coexist. This attempt of critical moral philosophy to harmonize the principles of liberty and equality in his theory of justice is his greatest contribution to liberal political philosophy.

Rawls wanted to redress the predominance of utilitarianism in modern moral and political philosophy. According to utilitarianism, laws are just when they promote the greatest overall happiness of the majority members of society. Rawls presented the theory of H. H. Sidwick, follower of utilitarianism, thus: “Society is rightly ordered and therefore just when its major

institutions are arranged so as to achieve the greatest net balance of satisfactions summed over all the individuals belonging to it.”<sup>2</sup> But issues of just distribution have long been as problematic for utilitarianism, which seems to condone sacrifices of individual and minority welfare for the sake of majority.

Along with the dominance of utilitarianism, there was a common intuition that the rights of individuals should not be sacrificed for the sake of social welfare. Again he says, “Utilitarians do not take severally the distinction between persons”.<sup>3</sup>

Rawls adopted the hypothesis of ‘social contract’ also to counter the defects of intuitionism which is a sort of incoherent jumble of ideas and principles. Intuitionism has two defects: (a) it cannot explain why its principles should be followed. Rawls deals with this defect by proposing a contractual hypothesis as a method of arriving principles of justice without relying simply on intuition. (b) Intuitionism gives no guidance for decision when two or more of its principles point to conflicting courses of action in a particular situation.

The contractual hypothesis would lead to the criterion of need. His theory of justice is meant to provide a political theory for finding out the principles of justice and a framework of a just society.

Rawls adopts the method of ‘reflective equilibrium’ for breaking the intuitional utilitarian deadlock and constructing his theory of justice. It is equilibrium because principles and judgments coincide, and it is reflective because people think about the principles conforming to people’s judgments and the premises of their derivation. When philosophers apply this process of approaching reflective equilibrium, they act on faith rather than reason. This equilibrium is not necessarily stable. The method of reflective equilibrium as used by Rawls, challenges every critic to offer constructive revisions of justice as fairness. The technique of reflective equilibrium is employed by Rawls as a method of testing rival theories and to make a judgment gauging which one is to be preferred.

Having his “social contract” idea in mind, Rawls makes some assumptions to put forward to logical presentation of his theory of justice. Firstly, he assumes an “original position” with which he starts his discourse and on which he focuses while developing his theory of justice. Rawls’s original position is similar to the ‘state of nature’ in earlier social contract tradition. He treats this as a hypothetical condition. In the original position persons live in a “veil of ignorance”. In this “original position” no one knows his place in a society, his class position or social status, nor does he know his fortune in the distribution of natural assets and abilities, his intelligence, strength and the like.... The parties (to the contract) do not know the particular circumstances of their own

society”. They do not have their idea of the good. Their special mental propensities also are not known to them. The principles of justice are chosen behind a “veil of ignorance” and in this situation nobody will be deprived of by these principles.

Secondly, the contract is hypothetical but it is made to serve a logical purpose of establishing a well-ordered and just society which protects the values of liberal democracy. In this scheme of justice (distribution) both the individual and society benefit simultaneously.

Thirdly, Rawls assumes that persons, while entering into a social contract want to achieve benefits of ‘primary social goods’ which includes liberty and opportunity, income and wealth and the bases of self-respect. These primary social goods are directly distributed by social institutions like powers, rights and liberties. They are distinguished from another kind of primary goods called primary natural goods which include health, intelligence, vigour, imagination and natural talents.

While persons in the ‘original position’ enter into a social contract to obtain the maximum of these primary social goods, they as negotiators have general wisdom but particular ignorance. They are wise enough to feel that they need these primary social goods as much as possible but living in a ‘veil of ignorance’ they are unable to distinguish their own interests from the interests of others in so far as they do not know what special qualities and talents they have. So justice requires a bargain made under fair conditions and that is why knowledge of inequalities is ruled out. Rawls says, ‘The idea of the original position is to set up a fair procedure so that any principle agreed to will be just. The aim is to use the notion of pure procedural justice as a basis of theory.’<sup>4</sup>

Fourthly, it is supposed that negotiations leading to the contract are conducted through the technique of reflective equilibrium. The principle of just distribution is thus the result of moral deliberations in the sense that the parties to the social contract rise above the considerations of personal interests, biases and prejudices. The principles of justice arrived at in the ‘original position’ by people living in a ‘veil of ignorance’ have therefore, to be the outcome of a fair agreement. Hence Rawls defines justice as fairness. The idea of ‘original position’ is to set up a fair procedure so that any principle agreed upon would be just. It is assumed that parties to the ‘social contract’ in the ‘original position’ are situated in the ‘veil of ignorance’. Rawls in his theory of justice seeks to unite libertarian ideal of liberalism with the economic egalitarianism into a single theoretical structure. Rawls’ general conception of ‘justice as fairness’ consists of one central idea: ‘All social values – liberty and opportunity, income and wealth and bases of self-respect are to be distributed equally unless an unequal distribution of any, or all of these values is to be everyone’s advantage.’<sup>5</sup>

Rawls admits that the general conception is extremely vague and requires interpretation. But various primary social goods being distributed according to that principle may conflict among themselves. For instance, income increase for some may be accompanied by the loss of liberty for others; or unequal income may benefit everyone but may create inequality of opportunity, thereby disadvantaging those with less income. So it is not yet a complete theory of justice.

Rawls suggests a solution of this problem by introducing two principles of justice and two priority rules. He discussed these principles in the 45<sup>th</sup> section of the fifth chapter of his book in detail.

**First principle:** First principle is concerned with equal basic liberty for all.<sup>6</sup> The First principle is the liberal core of Rawls's theory. It implies that each person is to have an equal right to the most extensive basic liberty compatible with similar liberty for others. Rawls point out that the basic liberties of citizens include political liberty like right to vote, eligibility for public office, together with freedom of speech, liberty of conscience, freedom of thought, right to personal property etc. Rawls opines that justice should be understood in the light of an individual's liberty is to be realized in the light of common good.

**The Second principle:** The second principle is concerned with fair equality of opportunity for all.<sup>7</sup> This principle has two parts. First part is the difference principle. 'Social and economic inequalities are to be arranged so that they are reasonably expected to be to everyone's advantages and, in particular, to the advantage of the least well-off persons.'<sup>8</sup> This principle is known as 'maximin' principle. i.e. maximum benefit to the minimum advantaged.

The 'maximin' rule means maximization (or increase) of the incomes and advantages of the least advantaged group. It would always evolve justice because it would always be just to impose any loss, though big, upon a better-off group in order to attain a gain, though small, to the least advantaged group. These two principles of justice are intended to serve as guidelines for how basic institutions are to realize the values of liberty and equality.

According to second part of this principle, social and economic inequalities are to be arranged so that they are in positions and offices and these are open to all under conditions of fair equality of opportunity. Persons with analogous abilities and skills should have equal life chances irrespective of the income class in which they are born.

These two principles are accompanied by two priority rules. The first rule speaks of priority of liberty over equality of opportunity. Here it is said that liberty can be restricted only for the sake of liberty and equal enjoyment of liberty should be pursued prior to the restriction of social

and economic resources.

The second priority rule speaks of priority of fair equality of opportunity over efficient distribution for realizing the ‘maximin’ principle.

**Justice as *sadaya hr̥daya darśana*:** Now we turn to the Bauddha view on justice as *Sadaya hr̥daya darśana*. Bauddha did not write a separate book on justice like that of Rawls. We can know Buddha’s view on justice from the Buddhist literature like *Vinaya Piṭaka* etc.

The invaluable contribution regarding justice is acknowledged even in the *Daśāvatāra Stotra* of Jaideva, belonging to the later Brahmanical framework, where Buddha is regarded as the ninth incarnation of Bhagavan Vishnu highlighting the unique nobility involved in a fair treatment extended to all living creatures including animals.<sup>9</sup> The concept of ‘justice’ is inherent in the entire movement of Buddha and even in later Buddhism.

Justice in the eyes of law may not be justice at all; it may even be regarded as injustice in a broader perspective. Perhaps, that was the sense in which Siddhartha disowned the claim of Devadatta with regard to the bird hit at first by Devadatta’s arrow for he was only drawing our attention to the broader perspective because the person who does the nursing of the wounded creature is entitled to possess the creature in question rather than the person who had attempted to kill it. So we find that the word ‘justice’ is used here by Buddha in a broader perspective rather than that used by Rawls. Legal framework, in any case, is not unchangeable, for we are every now and then confronted with social reform that brings about change in our conceptions of justice in the legal framework. Here one can never be sure that justice has been meted out in a more or less uniform manner to the people.

John Rawls was a political philosopher. His aim was to form a just society in which the principles of it will be just or uniform for all. Buddha, on the other hand, was a spiritual philosopher. He wanted to establish a casteless, classless ideal society in the name of Sangha.

The foundation of the order of monks (Sangha) is a special ideal of Buddha. Buddha felt the necessity of establishing such a society of celebrates in order to train up the minds of his disciples for the realization of truth. There were brahmanic and non-brahmanic recluses and other wondering ascetics who, in groups, moved about throughout the country or dwelt in hermitages, forests and villages. Buddha adopted more or less general directions prevalent in other religious communities especially those of the Jainas who had a monastic system and a code and formed his Sangha, a well-organized and ideal religious society ever found. During his life-time the Sangha was firmly established in almost all the *janapadas* (localities) of *Mājjhimadeśa*. Buddha formulated a

code of disciplinary rules, which being revised and commented upon ultimately got the shape of the present Vinayapīṭaka. This was meant to guard the male and female disciples from committing offence and also to keep them aright for the attainment of the summum bonum of life. He framed rules covering all aspects of monastic life including admission and ordination, training food, dress, residence, medical treatment, legal procedure to settle disputes and so forth. This code of rules, when synthesized, gave a very nice system of democracy. Buddha instructed the monks to follow deliberately the seven conditions of welfare and propensity.<sup>10</sup> viz. (1) to assemble frequently in the general meeting (2) to meet together and carry out their undertaking in concord, (3) to act in accordance with the ancient institutions established in former days; (4) to honor, esteem and support the elders of experience; (5) not to show disrespect towards womenfolk; (6) to honor and worship the shrines and (7) to render rightful protection and support to Arhants.

Buddha applied his new principle in social life and establishing a casteless society brought a revolutionary change in the existing *Varṇāśramadharmā*. Before the advent of Buddha the Aryan society was divided into four *Varṇas* or castes, viz *Brāhmaṇa*, *Kṣatriya*, *Vaiśya* and *Sūdra*. These *varṇas* mainly determined the various grades in the society. The Brāhmaṇas held lofty claims of superiority in the society and they formulated duties and obligations for each *varṇa*. The rigidity of these *varṇas* ultimately blocked a large section of people from their proper development of self and culture. Buddha was antagonistic towards the division of people on the basis of caste. He denounced the superiority of the Brahmins or the inferiority of lowborn people (*hinajāti*) on the ground of birth. The worthlessness of caste-system has been expounded by Buddha in the Brāhmaṇavagga of the *Dhammapada*, the *Vasallasutta* and the *Vasetha sutta* of the *suttanipāta* and in many other discourses of the canon. Thus Buddha denouncing caste-distinction between man and man stood for their equality and achieved social justice thereby. He held the view that it is *Karma* (action) that determines high and low state of beings. It is stated in the *Dhammapada* that '*Na jacca hoti brāhmaṇo*' (one does not become Brahmin by birth).<sup>11</sup> Admissions into Buddhist order was open to all without any distinction of caste, creed or sex excepting the criminals.

**Comparison between Bhagavān Buddha and Śrī Caitanyadeva:** We find a similarity between Bhagavān Buddha and Śrī Caitanyadeva with regard to Buddha's view on justice concerning *Varṇāśramadharmā*. In this connection we find that although Śrī Caitanyadeva removed borders of caste in the matter of worship and devotion to Śrī Kṛṣṇa, he did not oppose to the Hindu social order of *Varṇāśramadharmā* and even within the fold of his own religion, eating and other social activities were governed by the prevalent social rules. Śrī Caitanyadeva did not want to disturb the order of society outside the fold of his own religion, but it would be unjust to maintain

that within the fold of his own religion, he did not do away with the barriers of *Varṇāśramadharmā* because Śrī Caitanyadeva points out with emphasis in *Caitanya-Caritamṛta*: “Whether one is a *Brāhmin*, a *Sannyāsi* or a *śūdra*- regardless of what he is – he can become a spiritual master if he knows the science of Kṛṣṇa.” In like manner, he says, “Even if one is born in the family of Candala, if one engages in the devotional service of the Lord, he becomes the best of *Brāhmanas*. But even a *Brahmana* who is devoid of devotional service is on the level of lowest dog-eater.”<sup>12</sup>

Buddha, with all his aristocratic leanings, had invoked the principles of liberty, equality and fraternity, especially within the fold of his Sangha. Dr. B. R. Ambedkar in his concluding speech in the constituent Assembly rightly remarked that “political democracy cannot last unless there lies at the base of it social democracy. What does social democracy mean? It means a way of life which recognizes liberty, equality and fraternity as the principles of life. These principles of liberty, equality and fraternity are not to be treated as separate items of trinity. They form a union of trinity in the sense that to divorce one from the other is to defeat the very purpose of democracy. Liberty cannot be divorced from equality; equality cannot be divorced from liberty. Nor can liberty and equality be divorced from fraternity.” Within the framework of Buddhist Sangha, though not outside, all these principles seem to have been active even during the Buddha’s life time. Even people of lower birth and women breathe the air of liberty, equality and fraternity, once they are initiated by the Buddha. Buddhist Sangha fostered a sense of equality and dhamma among people who were really deprived of these in their actual life. Rawls, on the other hand, attempts to redefine the relationship between liberty, equality and fraternity. He rejects meritocracy and advocates fair equality of opportunity for correcting morally arbitrary inequalities in society. He is uncompromising on the primacy of liberty and intends that society endeavours to equalize economic, social status, political power and wealth.

As far as animals are concerned, Buddha showed some sort of continuity within the framework of *anātma*, no permanent soul doctrine, existing between the human and animal life. It is evident from the Jataka stories that there is a difference only in degree, not in kind, between animals and human beings. In recent literatures on subjects such as animal ethics and ethics of future generation we come across authors like Feinberg<sup>13</sup> and Regan<sup>14</sup> who have advocated and defended animal rights. Regan points out that possess rights, since they are ‘subjects-of-a-life’ because they experience, and care about their own welfare and are able to initiate actions in pursuit of their goals and desires. In this sense, they possess “inherent value that deserves our respect. Wenz<sup>15</sup> follows regan in this approach and points out that ‘justice is giving what is due.’”

The concept of fairness, it is true, is fundamental to justice, as Rawls<sup>16</sup> has pointed out;

‘equity’, however, ‘looks to the intent rather than the form’ and it needs for be worked out in a broader perspective, if all living beings are to benefit from this in some form or the other.

The love for all living beings transcends the concept of mere justice in a narrow framework no doubt and yet it is not to be construed as violation of the principles of equity and fairness in so far as the Buddha or the bodhisattva is not goaded by any selfish motive of gaining something in return for doing good to all. In any case it is not guided by any false notion of equality either. *Madhyamapratipad* or the middle path was the guiding principle of Buddhism even here.

It is true that the Buddha, in practice (vyavahāra) discriminated between different groups and even different types of persons for the management of Sangha, but this is quite understandable for his ultimate goal of achieving the common good. Here, perhaps, it could be seen to be a form of justice not in the strict sense of equality nor in the interest of any particular section but in accordance with his *madhyama pratipad* working for the common good of the Sangha. Buddha would accept it for the achievement of balanced life as well as development for all in accordance with the rules of the Sangha. Inequality, if it is to be allowed, according to Rawls in another context, can only be allowed on the ground that it benefits those who have the least advantages of life. This might be the basis of the Buddha’s blunt refusal to hand over the Sangha to Devadatta and his like even in his old age, as is recorded in the *Vinaya Pitaka*, ‘not even to Sariputta or Moggallana,’ said the Buddha, “would I hand over the order, and would I then thee, vile one ; to be vomited like spittle?” We are told that the Buddha had also refused to make a set of five rules obligatory for all members of the Sangha, as suggested by Devadatta and others. This is very much in accordance with the Buddha’s view of a balanced life where there is little room for excesses this way or that, where *madhyamapratipad* is followed for making a life of moderation an actuality; this by itself should be able to ensure Justice. In the Buddhist framework, by the avoidance of extremes.

**Assessment:** Rawls assumes an ‘original position’ in the state of nature of an individual. In this original position persons live in a veil of ignorance. This ‘original position’ is related to an individual of any caste or class of a society. Fair distribution of natural assets, wealth etc is possible behind a ‘veil of ignorance’ i.e., in ‘original position’ and nobody will be deprived of by this system. The principles of justice are applicable to all persons of the world.

Buddha also arranged for justice of the persons of a casteless and classless society i.e. Sangha. The principles of justice advocated by Buddha are applicable to the members of a Sangha or to all in other sense. We have already mentioned that Buddha framed rules for democracy and he rejected caste-distinction between man and man and he struggled for their

equality and achieved social justice in the framework of his Sangha.

Rawls' theory of justice is a political and ethical theory. It is concerned with the needs of every individual. It is related only to man's mundane existence and Economics is the main part of his theory of justice. Economically fair distribution of primary social goods and other essential things for sustaining of our life is the chief concern of this theory. Though these aspects are important; there are other unavoidable aspects also in our life. Rawls' theory speaks of proper arrangement of essential commodities among human beings only. But man does not live by these commodities only. Man has a broader outlook and a kind heart. So Buddha used his theory of justice in a broader perspective. His conception of justice is of a kind hearted being (*sadaya hrdaya*). We have mentioned earlier that Bhagavan Buddha's conception of justice is concerned not only with humans but also with non-humans. i.e. nature and animals. His ideal of fraternity and noble society may be fulfilled through proper justice to nature, man and animals. Besides, in India man is not satisfied only with his material prosperity; his aim is to attain the ultimate truth. His theory of justice leads everyone to attain this truth also.

#### Notes and Refernces

1. Rawls, John: *A Theory of Justice*, P. II
2. Ibid, P. 22
3. Ibid, P. 27
4. Rawls, John: *A Theory of Justice*,, 1971, Chapter – II, Section, 24
5. Rawls, John: *A Theory of Justice*,, 1971, Chapter – II, Section, II
6. “Each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others”-Rawls – *A Theory of Justice*, 1971, Chapter II, Section II.
7. Vide Rawls 1982, 1993 for the revised form of second principle. John Rawls – *A Theory of Justice*, 1971, Chapter II, Section II.
8. Rawls, John: *A Theory of Justice*, 1971, Chapter II, Section II.
9. “*Nindasi yajtnavidherahaha śrutiyatam, sadaya hrdaya darśita paśughatam keśava dhṛta Buddha śarīra jaya Jagadīśa Hare.*”
10. *Māhāparinibbāna Suttanata*, Chapter I.
11. Cf. *Na Jatahi na gottehi na jacca hoti brahmano, Yam hi saccam ca dhammo ca so*

*suci So ca brahmano, Dhammapada, 26, Brāhmana Vaggo.*

12. *Caitanya-Caritāmṛta*, Madhya 8.128.
13. Cf, Feiberg, “The Rights of Animals and Unborn Generations” in W. T. Blackstone (Ed.) *Philosophy and Environmental Crisis*. 1974.
14. Cf. T. Regan, *The Case for Animal Rights*, University of California Press, Berkeley, 1983.
15. Cf. P. S. Wenz, *Environmental Justice*, State University of New York Press, Albany, 1988.
16. Cf. John Rawls, “Justice of Fairness”, *The Philosophical Review*, Vol. LXVII, April, 1958.