RECONSIDERING SOCIAL AND ECONOMIC INEQUALITIES: A CRITICAL STUDY ON JOHN RAWLS'S DIFFERENCE PRINCIPLE

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ABSTRACT

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In American philosopher John Rawls's *A Theory of Justice*, it is argued that a number of principles, with a hierarchical relationship between them, should regulate social and economic inequalities. The difference principle, which is at the bottom level of these principles but undertakes the main regulatory function, stipulates that inequalities can only be accepted if they benefit the least advantaged members of society. This radical proposal has been taken in many ways. Some critics argued that the difference principle would exacerbate and deepen social and economic inequalities contrary to its intended purpose. They stressed the inadequacy of the principle regarding its structure, which only includes institutional mechanisms rather than individual measures. Others pointed out that the principle should not embrace outdated and ineffective economic argumentation and faulty decision rules. The definition of the least advantaged from a highly deterministic point of view has also been criticized. This thesis analyses the respective interpretations provided by Cohen, Dworkin, Harsanyi, and Reiff regarding the difference principle. The thesis also includes responses that can be derived from Rawls's text to these critiques.

Keywords: John Rawls, Difference Principle, Social and Economic Inequalities, Maximin Principle, Distributive Justice.

ÖZ

SOSYAL VE EKONOMİK EŞİTSİZLİKLERİ YENİDEN DÜŞÜNMEK: JOHN RAWLS'IN FARK İLKESİ ÜZERİNE ELEŞTİREL BİR ÇALIŞMA

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Amerikalı filozof John Rawls'un *Bir Adalet Teorisi* adlı eserinde, toplumsal ve ekonomik eşitsizliklerin, aralarında hiyerarşik bir ilişki bulunan birtakım ilkelerle düzenlenmesi gerektiği öne sürülmüştür. Bu ilkelerin en alt seviyesinde bulunan ancak esas regülasyon işlevini üstlenen fark ilkesine göre, söz konusu eşitsizlikler ancak toplumun en az avantajlı üyelerinin faydasına bir sonuç üretmesi koşuluyla kabul edilebilir. Bu radikal öneri birçok şekilde ele alınmış, akademik literatürde pek çok çalışmaya konu edilmiştir. Kimi eleştirmenler fark ilkesinin amaçladığının aksine eşitsizlikleri daha da artıracağına, yalnızca kurumsal bir çerçeveden uygulanmak suretiyle bireysel ölçekte anlamsızlaşacağına, hatalı bir karar kuralına dayanarak sorunlu sonuçlara cevaz vereceğine ve en az avantajlı kişileri oldukça belirlenimci bir noktadan tanımladığına dair eleştiriler yöneltmişlerdir. Bu tezde, Cohen, Dworkin, Harsanyi ve Reiff'in fark ilkesine ilişkin yorumları incelenmekte, aynı zamanda Rawls'ın teorisinden sözkonusu yorumlara cevaben öne sürülebilecek çıkarımlar değerlendirilmektedir.

Anahtar Kelimeler: John Rawls, Fark İlkesi, Sosyal ve Ekonomik Eşitsizlikler, Maximin İlkesi, Dağıtıcı Adalet.

To Leman, the love of my life

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CHAPTER 1

INTRODUCTION

> "I believe that there are at most two books in the history of Western political philosophy that are greater than *A Theory of Justice*, and they are Plato's *Republic* and Hobbes's *Leviathan*" (Cohen, 2008: 11).

This thesis delves into John Rawls's concept of the difference principle, a cornerstone of his influential works in political philosophy. It aims to provide both an analysis of the principle itself and an exploration of critical interpretations found in the scholarly literature, shedding light on the various perspectives and debates surrounding this fundamental concept. The difference principle, a central theme in John Rawls's influential work *A Theory of Justice* (hereinafter *Theory*), has attracted significant academic attention for its profound implications in discussions of social justice and political philosophy. The difference principle has been extensively explored and analyzed as a distinct focal point of inquiry by scholars, philosophers, and political theorists, reflecting its broad significance and relevance in academic discourse. There are several reasons why the difference principle has risen to prominence in terms of being one of the most frequently disputed issues in Rawls's œuvre.

The difference principle stands as the primary reference point upon which all other propositions and claims in the *Theory* are grounded, serving as the cornerstone for Rawls's overarching framework of justice. It was assumed that the difference principle, briefly introduced at the beginning of the *Theory*, is the core pillar, the decisive element of Rawls's egalitarian project, which engages in many diverse issues ranging from political economy, democratic theory, and philosophy of law. It can be argued that almost everything Rawls asserted as an argument in his *Theory* and other works is built on the major reasoning shaped by the difference principle. This thesis aims to offer a comprehensive exposition of this foundational reasoning. We believe

that it would be erroneous for any academic study on Rawls to ignore the difference principle. In this thesis, the difference principle is analyzed in detail, some of the criticisms directed at this principle over time are presented, and a comparative evaluation is made. Our overall aim is to clarify one of the most essential concepts of the philosopher who has made significant contributions to the field of political theory (as an outsider from political philosophy) and to show what this principle, which we think offers a vital perspective on social inequalities, actually purports to.

After providing a comprehensive overview of the difference principle and Rawls's theory in general, this thesis will analyze and compare prominent criticisms voiced by scholars such as G. A. Cohen, Ronald Dworkin, John Harsanyi and Mark Reiff. Specifically, it will examine their critiques regarding the practical applicability, moral foundations, and implications of Rawls's theory, offering a nuanced understanding of the debates surrounding this seminal concept. These distinct thinkers have meticulously discussed Rawls's difference principle and asserted that the principle has severe deficiencies and problematic aspects regarding its content and application. These discussions will be presented within a comparative perspective, examining the differing interpretations and critiques of Rawls's difference principle put forth by each scholar. The thesis will continue with a detailed reconsideration of the difference principle in accordance with the criticisms directed by the aforementioned scholars. These critics will be faced with responses that directly or indirectly stem from Rawls's own arguments. A final comparative discussion will be provided in the last chapter regarding the effectiveness and authenticity of the difference principle in light of all arguments presented previously.

It is widely acknowledged that Rawls's main arguments, developed over almost half a century, have significantly rejuvenated ongoing debates. His work has brought vitality to the discussions in normative political philosophy and theory, particularly through his groundbreaking concepts such as the original position and the veil of ignorance. Rawls remains among the top stars of these fields. He has become the center of attention not only for introducing new and compelling themes into the liberal theory but also for challenging certain fundamental liberal assumptions. The difference

principle is one of the most essential tools Rawls uses to do this. The principle emphasizes a crucial point largely ignored by the liberal tradition.

For many years, liberal theory predominantly framed justice in terms of freedom from state intervention and unrestricted economic activity. This conception emphasized individual liberties and minimal government interference in economic affairs. If justice was to be established and upheld, this would be possible through a structure in which the state was minimized, and individuals could dispose of their capitals as they wished. An underlying assumption within the traditional liberal tradition is that if the state respects individuals' rights to enterprise without significant interference and allows for free economic activity, prosperity will spontaneously emerge, and everyone's rights will be protected. This assumption posits that individuals, through their economic pursuits, will drive economic growth and foster a prosperous society, leading to the automatic protection of rights without the need for extensive state intervention. The vague conception of 'everyone' is a key aspect of the liberal tradition, particularly characterized by a utilitarian interpretation that prioritizes increasing overall welfare while often overlooking the unique contexts of individuals. Rawls raises critical objections to this approach, arguing that it fails to address the diverse needs and circumstances of separate individuals adequately.

According to the utilitarian view, it would not be proper for the idea of justice to be concerned with private contexts and to be reduced to the individual scale. Justice must deal with higher agendas, such as ensuring the continuation of the capital flow, limiting state intervention, and increasing aggregate welfare. From this perspective, the primary goal of justice is to promote overall societal well-being, often prioritizing the greatest good for the greatest number. This can be seen as a contradiction within liberal individualism: while the individual is considered essential for the proper functioning of capital and the promotion of general welfare, their particular circumstances are often overlooked because they are deemed to have no economic significance or impact. Despite being granted inviolable rights, individuals may find their unique needs and contexts disregarded within the framework of liberal theory, raising questions about the adequacy of individualism in addressing the complexities of human experience.

Rawls challenges the utilitarian and contradictory basis of liberal theory, arguing that the notion of justice cannot accept a structure built on such principles. He contends that the utilitarian approach has wrongly dominated liberal theory, overlooking individuals' diverse needs and circumstances. In response, Rawls endeavors to provide an alternative framework for theorizing justice that prioritizes fairness over aggregate welfare. His theory, grounded in the principles of equal basic liberties and the fair distribution of social and economic resources, seeks to address the shortcomings of the utilitarian approach and provide a more comprehensive understanding of justice.

In Rawls's conception of justice, each individual is regarded as having an exclusive inviolability. This principle underscores the fundamental importance of respecting the rights and dignity of every person within society. This inviolability forms the basis for his theory of justice, which prioritizes the fair treatment of individuals and ensures that their rights are protected against infringement by others or the state. In accordance with the principles of justice, no policy, no matter how beneficial it may appear for the majority, should ever be implemented at the expense of sacrificing the rights of any individual or minority. Such actions would be fundamentally contrary to the principles of fairness, equality, and respect for human dignity that underlie the concept of justice. The conception of the average utility of the majority, which the utilitarian view has prioritized for many years without any serious objection, has a basis incompatible with the sense of justice and should not simply be accepted as a norm. In this respect, Rawls strongly emphasizes, albeit indirectly, the rights of minorities and the uniqueness of the individual. The main tool he uses to do this is the difference principle.

Roughly speaking, the difference principle states that inequalities arising from natural contingencies among individuals should be regulated according to a certain framework, which should focus primarily on the conditions of least advantaged people and should be implemented in a way that mainly benefits them. The principle admits that inequalities inevitably exist in society and they should be appropriately regulated. Providing additional advantages to those systemically and structurally most affected by inequalities is necessary. This interpretation can be read as a new and reformative approach to the contemporary liberal tradition long dominated by the utilitarian

perspective. This is why we chose the principle as the main object of inquiry in our thesis.

The main theme that Rawls emphasizes with the difference principle is the necessity to reflect on the notion of the "disadvantaged[1]" or the "least-advantaged" when structuring the basic elements of the social, political, and economic establishment. Such a structure can only make just institutions and a just society possible. This should be done on an institutional basis, not through individual efforts, and should be implemented through institutional instruments such as the constitution, laws, and legislations, and not dependent on the contingent conditions of separate individuals. In a sense, Rawls wants to ensure the institutionalization of the priority of the conditions of the disadvantaged. Rawls is referred to as the "true champion of the poor" in one article. Indeed, this description is quite accurate for Rawls, who tries to provide a new and transformative perspective for the whole political and economic structure by classifying people primarily as disadvantaged and advantaged.

However, as we will see in the upcoming discussions, focusing only on improving the conditions of the disadvantaged ones may lead to some highly problematic consequences. Rawls was aware of this potential, and he required some additional steps prior to the implementation of the difference principle. He put forward the principles of basic liberties and fair equality of opportunity as a checking mechanism on the difference principle. This places the difference principle on a more consistent and solid ground. Nonetheless, some scholars disagree with the solutions presented by Rawls. This thesis includes a comparative discussion of their critical interpretations. With such a comparative perspective, we aim to give a broader explanation of what is precisely meant by the difference principle, as the essential instrument by Rawls for the problem of social and economic inequalities.

The difference principle is, at least for the liberal theory, a quite radical idea. It justifies the intervention by the state and institutions in the socioeconomic structure. It

[1] Throughout the thesis we use this expression as a synonym for the least advantaged.

considers the inviolable rights of each individual both legally and economically, and sees justice as the vital requirement for the institutions. Some of the scholars we discuss in this thesis have interpreted Rawls's consideration as inadequate, incomplete, methodologically flawed, or too optimistic and idealistic. The common argument of the critics we have analyzed is that the difference principle will ultimately lead to unpredictable and ridiculous practical results. It must be acknowledged that such a radical change of establishment, which would affect the socioeconomic structure in its entirety, would involve serious risks as and therefore some dilemmas, as a giant project. However, as we have argued in this thesis, Rawls seems to have equipped well against these counter-arguments and tried to answer almost every tiny detail of the critiques.

In the thesis, after introducing the criticisms of the difference principle, we delve into Rawls's texts, examining his writings to uncover potential responses to these criticisms. By closely analyzing Rawls's arguments and theoretical framework, we aim to elucidate how he addresses and defends the difference principle against its critics, offering insights into its applicability within the broader context of his theory of justice. As noted earlier, the main finding we see and defend here is that Rawls does not think of the difference principle alone, but tries to regulate it with other binding principles. Rawls has made all the necessary methodological moves to consider the difference principle as a whole with the principles of basic liberties and fair equality of opportunity. We have argued that a contrary interpretation could be regarded as a misreading that would contradict the integrity of the *Theory*. We are certain that Rawls did not conceive and construct the difference principle to be freely applied without constraints or considerations.

Through our analysis of Rawls's texts and theoretical framework, we demonstrate that the principle is intended to operate within specific parameters and in conjunction with other binding principles. By contextualizing Rawls's arguments, we highlight the importance of interpreting the difference principle within the broader framework of his theory of justice, rather than as a standalone prescription for social policy. Like many political arguments, the difference principle has faced criticism, often without

adequate consideration of its context. We argue that Rawls's texts provide a preemptive preparation against certain criticisms by deploying a range of conceptual tools.

The importance of the difference principle lies in its robust emphasis on the initial conditions of individuals, highlighting the profound impact of social and economic inequalities on people's life opportunities. By foregrounding the significance of initial conditions, the difference principle offers a distinctive framework for addressing systemic injustices and promoting greater equality and fairness in society. The idea that systemic injustices primarily seek to politically dominate people through conditions over which they have no will and cannot make choices is a serious perspective. This domination is kept alive by social, political and economic institutions in an endless cycle. Even though Rawls did not assign such an idealistic mission, the difference principle seems to have been developed to combat this unjust and vicious cycle. In support of the difference principle, Rawls addresses a range of core issues, including the monopolization of political decision-making mechanisms, centralization of political influence, and diffusion of property acquisition. These themes derive from the emphasis on the conditions of the least advantaged. People pay the price of being born in a least advantaged environment by remaining least advantaged throughout their lives, leaving their descendants also least advantaged, not being able to effectively benefit from the primary goods, not being able to produce, and always being under the pressure and domination of the advantaged. What leads to this situation are mainly random circumstances rather than the choices of individuals. There is a cycle of injustice here that is ontological as well as political. The perspective provided by the difference principle codifies the evaluation of individuals according to their advantageous status as a fundamental political stance and obliges institutions to regulate and legislate according to this stance.

The discussions that Rawls initiated directly or indirectly with the difference principle offer a broad perspective on how political institutions can have an impact on the initial conditions of individuals. In Rawls's realist utopia, everything from the constitution to legislation, from economic regulations to family structure should be shaped around

initial conditions, and only then can justice be involved in these institutions. Rawls's engagement in political philosophy provides a meta interpretation of many issues concerning political science and theory. This is the main reason why the difference principle is the subject of this thesis.

CHAPTER 2

LOCATING RAWLS INTO THE TRADITION OF CONTEMPORARY POLITICAL THEORY

2.1. Fundamentals of Rawls's Theory of Justice

American philosopher John Rawls has frequently been called one of the most prominent and controversial figures in modern political philosophy, specifically within the Anglo-American academy (Dreben, 2002: 320). Rawls's works and arguments, which were laid out through an extremely elaborative academic fragmentation and conceptualization, sparked wide discussions despite the excessive abstractions which make it critically hard for the reader to follow the general construction of the work. However, Rawls's *Theory* has enjoyed great popularity, which would not easily happen to any academic work with more than 600 pages abounding with hundreds of philosophical and theoretical conceptions. It was translated into more than 25 languages and became a key reference text not only in political philosophy but also in legal theory (Freeman, 2002: 1).

There are several reasons why Rawls attracted that much intense attention, not only from academia but also from public intellectuals and politicians. We will try to draw them up as follows: first, in the formal sense, even though he used thoroughly exhausting language, his arguments and concerns focused on a few central points which were directly stemming from daily and ordinary issues such as self-respect, fraternity and distribution of primary goods. Second, Rawls's work has come across a period in which political philosophy was proclaimed as dysfunctional and meaningless in the presence of the endeavor of analytic philosophy which was standing clear from political questioning in essence. In that period, most Anglo-American universities triumphed the problems concerning language, logic and mind as the core topics that were deemed worthy of being classified as the subjects of academic philosophy and regarded political philosophy as outmoded and completed (Mandle, 2009: 1). Within

this context, utilitarianism was considered as the indisputably dominant way of political thinking in the Anglo-American world (Scheffler, 2002: 156).Accordingly, within such a cumbersome and unproductive context for political philosophy in Anglo-American academia, what Rawls's work meant was a new adventure that would rejuvenate the tradition of political philosophy.

Rawls exerted remarkable efforts to establish a solid theory of justice that would function as a coherent alternative to utilitarianism[2]. His core motivation seems to eliminate the harsh attitude of utilitarianism against individual dignity and freedom which were arguably considered trivial before the utility of the majority. The individual, for Rawls, should be comprehensively respected and should be entitled to certain rights that cannot be violated regardless of any grand advantage that will be enjoyed by the many. Rawls believes liberalism cannot be predicated on a view that may easily jeopardize the unique and inviolable dignity of the individual. To put it with his famous words, he says: "justice denies that the loss of freedom for some is made right by a greater good shared by others" (Rawls, 1971: 3).

Before getting into the details of Rawls's theory, we intend to provide a brief explanation of why he attacked utilitarianism with such a dedicated vision and what directed him to construct an opposing alternative of justice as fairness. It would be useful to keep in mind that what Rawls means by utilitarianism was its classical doctrine which was advocated by Bentham, Mill and Sidgwick (Rawls, 1971: 29). The more contemporary and relatively developed versions of utilitarian thought were not included in both Rawls's criticism and this thesis. Several discussions were made regarding Rawls's focus on a specific type of utilitarianism.

2.2. A Fierce Rupture within the Liberal Tradition: Rawls and Utilitarianism

Utilitarianism is primarily an ethical theory with many separate fractions (Mulgan, 2019: 6). It focuses on actions and regards these actions as virtuous and meaningful so

[2] Rawls's endeavor to provide an alternative included intuitionism. Our thesis does not cover that aspect of the theory.

long as they contribute to or produce happiness and welfare which are defined in most general terms. In *Theory,* Rawls defines utilitarianism as "the view that the principle of utility is the correct principle for society's public conception of justice" (1971: 158). From this basic reasoning, it has also been considered one of the most effective theories of political thought in the Anglo-American world with its explicit and robust argumentations. With its primary British thinkers, Hume (1711-1776), Smith (1723-1793), Bentham (1748-1832), Mill (1806-1873) and Sidgwick (1838-1900), it has been meticulously developed in a wide period starting from 18th century towards the early 20th century and influenced the latter in an unprecedented way. Commentaries were frequently made regarding the ongoing dominance of utilitarian thought in the current political philosophy literature despite several other claims which declared utilitarianism as dead or obsolete (Driver, 2022).

When Rawls attempted to construct an alternative theory of justice to that of utilitarianism, his key motivation was to scrutinize the unquestionable dominance of the utilitarian vision. Political and moral philosophy seemed to embrace the utilitarian way of argumentation for a remarkable period and Rawls finds certain utilitarian tenets should be put into question mostly in terms of their economic and justice-related repercussions. Before he gets into the discussion, he makes a delimitation and stresses that among different utilitarian theories, the main version he mainly focuses on is Sidgwick's classical doctrine which specifically engages with the "net balance of satisfaction" produced by the institutions and enjoyed by all the individuals within a society (Rawls, 1971: 20).

In the initial sense, the normativity that classical utilitarianism puts forward is a rather comprehensible and simple one: from a consequalist and teleological point of view, one should regard the condition, action, or habit that provides, in the end, most happiness and welfare for the most amount of people as ethically and politically correct (Schultz, 2021). Every social and moral system should be looked into view whether it promotes the well-being and happiness of the maximum quantity of people. At the early stages of the utilitarian theory, specifically with Bentham, the notions of well-being and happiness were matched with the condition of not having pain but pleasure,

in a quite literal sense (Driver, 2022). Later, other several utilitarians, such as Mill, tried to develop more complex definitions of utility which would not only amount to bodily and instant pleasures, but a more high-quality satisfaction which derives from intellectual capacity. An average social utility that is not for the few but for the many is the ultimate goal that should be reached under a political establishment. A quite shortcut reasoning from the utilitarian way of thinking suggests that when each and every individual seeks utility for themselves, it would be corollary to deduce that these individuals would form a utilitarian unity that would produce maximum utility for the majority. This would enable people to live in a prosperous and wealthy society.

It sounds rather straightforward, sensible and respectable to concern for the well-being of the majority. If the majority seems satisfied and content, a political system can be dubbed as functioning properly. It can also be counted as a morally just and reliable system in which citizens would enjoy a sense of relative peace and freedom with strong and inviolable political rights.

Even most radical socialists and Marxists would partially endorse such a "fair" and fine-sounding proposition. However, when it comes to Rawls, we see that he objects to this strong emphasis on the majority and believes that in such a purely utilitarian political system, the uniqueness of individual freedoms would be ignored or trivialized, and certain citizens would highly likely be forced to cede their liberties for the sake of the content of the majority, whatever the common utility was generated within such an action (Mandle, 2009: 36).

This is the core of Rawls's critique of utilitarianism and the reason why he tried to develop a new and full alternative to the utilitarian notion of justice. As we will discuss in the further pages, Rawls believes that the agents in the original position would not prefer a utilitarian system because of the relative indifference towards the condition of the minority, which any agent might find him/herself dwelled in with a strongly disadvantageous position. As Freeman stresses:

> The parties in the original position should […] choose the principles of justice over utilitarianism […] both to guarantee their equal status as citizens and

> secure their sense of self-respect, and to procure the same for others, thereby guaranteeing greater overall stability (Freeman, 2002: 35).

Rawls accuses utilitarianism of not being individualistic enough despite the customary claims which classify utilitarianism under the individualistic ideologies (1971: 26). Indeed, utilitarianism puts a specific emphasis on the advancement of individual conditions under the principle of utility; however, it is not guaranteed or concerned that any other agent would not get harmed by the better conditions of the other agent. What Rawls tries to achieve is both to establish a necessary institutional basis that would not let anyone violate others' rights and freedoms and to have a solid formation that does not provide any excessive advantages to anyone that may lead other individuals to plunge into unfair and disadvantageous conditions. Utilitarians, as Rawls argues, do not have the slightest interest in the formation of institutions to protect individuals from the potential harms caused by the intended utility of the majority.

The utilitarians completely disregard the disadvantageous positions that can be attributed to any chosen individual within the society in terms of his/her naturally unchanged and accidental conditions. The concept of the individual also seems quite ambiguous for the utilitarian because all the morally and politically correct claims are merely associated with the sphere of the majority. Utilitarians tend to think of the disadvantageousness of society, not the individual. This makes them quite indifferent to how an individual, out of the context of society, might experience devastatingly random conditions, which may drive him into an extremely poor environment that will not let him/her have any kind of self-respect.

This is why Rawls disagrees with calling utilitarianism "individualistic" (1971: 26). Despite not directly pointing out this critical interpretation of utilitarian thought, one of the major challenges posed by Rawls regarding the failures of utilitarianism is its theoretical negligence towards the context of the individual. Rawls, on the other hand, makes the context of the individual the main question that political philosophy should adopt as its main task. Due to this, Rawls was accused of having an extremely abstract

and “unencumbered” vision of the individual by several prominent communitarian philosophers such as Michael Sandel and Charles Taylor (Luppi, 2021: 1).

Another point for Rawls regarding the critique of utilitarian theory is that it is also arguably imbued with severe flaws and problematics that do not allow citizens to live in a just, properly democratic and pluralistic society. As its etymology explicitly suggests, democracy concerns the rule of the *demos* (δῆμος), the common and ordinary people, and the theory that puts a central focus on the condition of the majority would seem perfectly fit with the idea and the application of democracy. However, as Rawls widely discusses, a democracy that overlooks the rights and liberties of any single individual or minority within its political system would turn out to be dysfunctional and contradictory (Nagel, 2002: 62). Because the democratic critique of utilitarian thought is not covered in this thesis, no further discussions will be made on that issue in the following sections. Nonetheless, the discussion on democracy gives strong insights into many other issues. For example, as it will be argued, utilitarianism fails, in many respects, to provide a robust institutional ground for a just democratic society within which individual and minority rights are protected. Rawls puts a specific stress on this institutional perspective by defining justice as “the first virtue of social institutions” (Rawls, 1971: 3). For him, what will let people experience their rights and liberties in a way that they would not be dragged into the random conditions of the natural mechanisms are the institutional means, not mere individual measures.

Hence, principles of justice will regulate basic social, political, and economic institutions. However, this is not a shared concern for the utilitarian: institutions cannot be separated from the ones who rule and legislate them, and it would be a futile effort to apply the principle of utility in an institutional framework (Crimmins, 2014: 52).

Without having such an assuring institutional foundation, Rawls thinks that “[utilitarianism] may authorize the lesser welfare and liberty of some for the sake of a greater happiness of others who may already be more fortunate” (Rawls, 1971: 502) which is a manifest contradiction with the principles and expectations of a liberal democratic society.

Rawls points out that while utilitarian theory aspires to satisfy the majority with diverse benefits producing greater earnings for the maximum amount of people, it does not worry about the means of distribution of the acquisitions that a given society procures. These acquisitions might be attained under the pretext and motivation of getting the majority of society to benefit as much as possible, but the institutions that are arranged to produce the "greatest sum of satisfactions" are not asked or scrutinized about how they obtained and distributed these goods. There is no institutional obligation for the utilitarian society regarding not to produce benefits that may attack and harm the rights of others. This is another problem for utilitarian theory reflected in *Theory*. Rawls states straightforwardly:

> In utilitarianism the satisfaction of any desire has some value in itself which must be taken into account in deciding what is right. In calculating the greatest balance of satisfaction it does not matter, except indirectly, what the desires are for. […] [W]e ask no questions about their source or quality but only how their satisfaction would affect the total of well-being. Social welfare depends directly and solely upon the levels of satisfaction or dissatisfaction of individuals. Thus if men take a certain pleasure in discriminating against one another, in subjecting others to a lesser liberty as a means of enhancing their self-respect, then the satisfaction of these desires must be weighed in our deliberations according to their intensity, or whatever, along with other desires (1971: 27).

As we will see, Rawls tries to amend these defective aspects attributed to utilitarianism and engage in constructing a new conception of justice. Now, after having an introductory background on Rawls's critique of utilitarianism, we might take a closer look at his theory in general. Following this additional brief section, we will be ready to discuss the difference principle and subsequently its fierce critics.

2.3. Rawls's Political Theory In General: Constructing a Framework for Justice

As we have seen, Rawls developed an alternative theory of justice to that of utilitarianism and advocated his formulation of justice as fairness. In this brief section, we will try to outline the basic tenets of Rawls's thought with a specific attention to

the theory of justice. As we emphasized earlier, Rawls engaged in several different realms of inquiry and we will suffice to focus solely on his *Theory*.

Thus, his other major and late works *Political Liberalism* and *Law of Peoples* will be excluded from the discussion. Nonetheless, there are certain remarkable points in these latter works which amend or further develop some flawed conceptions and arguments, thus we will be partially referring to these subsequent explanations. *A Restatement* has a special place in this regard, because it reflects Rawls's final words on his theory which he was never sick and tired of working on it.

Before presenting the details of Rawls's theory, we will first discuss his relationship with Kant as we argue that Kant is one of the primary sources that he uses to shape his conceptions and theory in general. Kant laid the philosophical and theoretical groundwork for many of the concepts Rawls constructed. Rawls places himself on the side of social contractarian theory and states that Kant is "the high point" of this tradition (1971: 252).

At the very beginning, Rawls says, "the theory that results is highly Kantian in nature" (1971: xviii). There are a number of reasons for this. Rawls wants to transform the theoretical tools he borrowed from Kant into a set of procedural systems, attaching great importance to the autonomy that Kant attributed to free and equal individuals. Rawls's challenge to the utilitarian theory is motivated and supported by Kantian concepts. The autonomy of the individual is an ethical imperative and should be protected by certain institutional measures.

There are some basic themes in Rawls's theory which we will be touching upon in the following pages. For instance, free and equal individuals are in themselves honorable, dignified, and valuable beings who hold inviolable rights. These individuals should not be deprived of self-respect due to purely random circumstances. They have a categorical significance. These themes are quite Kantian. Rawls's theory approaches individuals on such a basis, emphasizing that individuals should be seen as "ends in themselves" and should not be sacrificed for the good, rights, or freedom of some

lucky others. In this framework, his concept of the original position is closely related to Kant's notion of "original contract". He states that the original position can be considered as "a procedural interpretation of Kant's concept of autonomy" (1971: 226). Rawls gets the basic idea from Kant's work and puts it into a procedural discussion, evolving it into a more practical and concrete context.

In his *Theory*, we see that Rawls endeavours to show that the basic concepts he constructs can be found in Kant and that they do not fundamentally contradict with him. For Rawls, being in line with Kant is indispensable for the validity and legitimacy of his alternative to the utilitarian tradition. For example, he emphasizes that the veil of ignorance is "implicit in Kantian ethics" (1971: 121). He points out that the "priority of right" over the good, which is central to the whole theory, is also a significant feature of Kantian ethics (1971: 28). Throughout the whole theory, he reads justice in terms of the "right" of the individuals rather than the "good" of the individuals, thus following a purely Kantian perspective. After this brief discussion of Kant's centrality on Rawls's body of thought, we can begin to discuss the theory.

Many scholarly works associated Rawls's philosophical journey with the events that took place in the tumultuous times he lived in. He joined the army during the Second World War and the atrocities he witnessed left their mark on his thinking (Pogge, 2007: 9-10). Similar to many philosophers at that period, Rawls also tried to find a solid alternative and strived to construct a perfectly just and liberal society that would not allow, under no circumstances, anything that might be correlated to totalitarian oppression and the dictatorship of the majority which were the remnants of the great war (Reidy, 2013: 10). The individual remained a core issue to be handled philosophically because it has been devastated by the events raised in the 20th century. Rawls was one of the philosophers who devoted his effort to the idea of individual dignity.

Rawls, by relying upon the contractarian theory presented by Locke, Rousseau, and Kant, intended to construct a society from the ground up. He believed that for providing a perfectly just society, everything should be initialized, and the origins

should be radically questioned so that the institutions are to be arranged according to the outcomes resulting from such inquiry. His theory was an extensive attempt in this regard.

Rawls believes that utilitarianism cannot provide a sufficient proposition for social justice (1971: xii). As it was indicated earlier, he thinks liberalism cannot let the domination of utilitarian way of thought in the sense of justice. He seemed to have assumed a significant task regarding the recovery of liberalism from the strong hegemony of utilitarianism. He provided a robust critique of utilitarianism and developed a novel alternative that was not supposedly violating the basic rights and freedoms of the citizens while holding the idea of the greatest benefit for the maximum amount of people.

Rawls, overall, starts with a quite straightforward assumption: not all the members of the society agree with each other regarding the concept of justice and this marks a specific type of problem that needs to be resolved through democratic and peaceful means. Conflicting meanings of justice may lead to further divisions that would threaten the unity and harmony of the given society. It is, however, not suggested that there would be a total system that does not allow any other definitions or perceptions of what justice requires or what justice is. What is intended, rather, is to secure the condition of reciprocity and reconciliation among the members of the society, which is regarded as the absolute must for a well-ordered society.

Without any doubt, from Rawls's point of view, utilitarianism does not meet the criteria that let people live in a reciprocally well-ordered and just society due to the aforementioned reasons that we will not discuss again. Rawls thinks that there is a more solid way to ensure that society would not drag its members into conflicts because of the different visions of justice.

He believes it is impossible, in liberal and democratic societies, to standardize the particular definitions of justice, no matter how they may sound unacceptable and ridiculous. However, at the institutional level, all the parties within a given society

may reconcile with each other under commonly agreed principles. Rawls's theory may be defined as a detailed study and argumentation of these principles upon which a well-ordered society might be institutionally established as a response to the utilitarian conception of a just society.

Rawls has remained within the boundaries of liberalism. The principles that he laid out were not strange to liberal tradition, and he "disclaims any originality for the views [he] put forward" (Rawls, 1971: xviii), but he conducted strong modifications on especially social and economic aspects within the traditional liberal ideology which has been remarkably dominated by the utilitarian viewpoint. These modifications were designed first through *Theory*, and the principles of justice he advocated in his book were seminal milestones. Many of his efforts regarding the theory were shaped by the ramifications of these principles.

The first of two principles that he specified as the fundamental ground for justice as fairness is the equal basic liberty principle, which is implemented on a constitutional and political basis: "Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all" (Rawls, 1971: 266). Basic liberties are assigned equally to each and every citizen in the society. This is not a complex principle in terms of its unambiguous context and implication. Rawls unsurprisingly stipulates that for a society that its members would be eager to cooperate, these basic liberties, namely, "political liberties, freedom of speech and assembly, liberty of conscience, freedom of thought, freedom of the person, […] the right to hold personal property and freedom from arbitrary arrest and seizure" (1971: 53) are absolute and cannot be a matter of political negotiation. An equal framework of basic liberties is guaranteed by the first principle (Mandle, 2009: 15). The second principle, however, belongs to the realm of laws and regulations applied specifically to the economic institutions and initiated a wide discussion within the literature:

> Social and economic inequalities are to be arranged so that they are both: (a) to the greatest benefit of the least advantaged, consistent with the just savings principle, and (b) attached to offices and positions open to all under conditions of fair equality of opportunity. (Rawls, 1971: 267)

Many salient critics of Rawls's theory were considerably rooted in the second principle. In its lexical structure, Rawls prioritizes the first principle as a founding one over the second. The second principle has two distinct subdivisions, (a) and (b) which are respectively (a) the difference principle, asserting that social and economic inequalities cannot be justified unless they are to be to the greatest benefit of the least advantaged members of society and (b) the principle of fair equality of opportunity, suggesting that offices and positions have to remain open to all citizens regardless of their backgrounds. These two also hold a lexical hierarchy in which the latter (fair equality of opportunity) has precedence over the former (the difference principle). These principles are the main pillars of the theory of justice. Briefly, in a given society, some basic liberties and rights should be assigned each and every one of citizens equally and it is also regarded that social and economic inequalities are inevitable only in the cases that there is a social establishment allowing strict equality of opportunity which does not allow favoring anyone due to his/her primary advantage and fortune and with this background, it would also be unjust to have a system that would not benefit the least advantaged members of the society during a fair distribution.

After having set out these principles as the pillars of justice as fairness, Rawls advocates that in an environment similar to the state of nature, where parties would choose these principles as the main regulative basis for the institutional structure of the just society. The very well-known and original concepts of the "original position" and the "veil of ignorance" become thus relevant. Compatible with the contractarian theory and mostly Kantian interpretation, Rawls imagines an experimental condition. Parties who are deprived of certain characteristics assigned to them such as their status within the society, their language, gender, race, natural advantages, and other things that are naturally inevitable means when getting into any type of social agreement. Rawls makes parties ignorant of their origins and tries to get a fully impartial environment. The original position radically equates the parties and forces them to reach a just and fair conclusion which will be the institutional foundation of their future well-ordered society. They will reach such a conclusion, as a social contract and then they will supposedly live in accordance with what their contract requires them to do. Rawls firmly believes that the individuals who have been included in the original

position in this experimental stage would rationally choose the principles of justice for the best outcome that would most benefit their social and economic conditions in which they live after the state of nature. He stresses: "[…] from the standpoint of the original position, the parties would reject the principle of utility and adopt the more realistic idea of designing the social order on a principle of reciprocal advantage" (Rawls, 1971: 155).

This is so, for several reasons: the principles stipulate basic equal liberties for each and every party within the experimental society. This means that no one has any type of relative advantage over others in terms of rights and freedoms. The first principle arranges a strongly egalitarian environment for the citizens in which they would not be compelled to be devoid of their liberties because of certain natural and contextual conditions. For the second principle, which was divided into two as fair equality of opportunity and difference principle, citizens would also get into an advantageous condition when they adopt them: whatever natural endowments or handicaps they would have, they can feel safe and ensured regarding their availability to reach the offices and positions of the institutions and moreover, in case they find themselves in a disadvantaged condition, they would know that the institutional structure they have set up at the original position, will protect the least advantaged members of the society. Thus, all the potential troubles that may happen to any citizen in a liberal democratic society, institutionally admitting that social and economic inequalities inevitably exist, are handled in a fair way through justice as fairness. This is a broad overview of how Rawls tried to solve the problem of justice and inequalities as a response to utilitarian indifference towards the context of the individual. Now, we want to get into details of the main subject of this thesis and see how Rawls constructed his idea of difference principle.

2.4. Towards the Realization of Justice as Fairness as an Egalitarian Project: The Difference Principle

A society is not a homogenous organization. It has different people with different backgrounds making them belong to certain social positions, statuses, namely, classes. In a given society, there will be both advantaged and disadvantaged members who

experience totally distinct ways of life in terms of experience, vision, and perception. Rawls believes that a given society should be regarded in such a fragmented framework: he thinks of society within its divided structure between those who have natural advantages and those who do not have them. This division is not something that should be taken indifferently or should be put aside for reflection: on the contrary, it bears certain red lines on how a society can be defined and depicted. This fragmented structure is extremely prone to serious disagreements which may evolve into conflicts, and it should be handled and resolved with liberal, egalitarian and peaceful means as Rawls aspires to do. The difference principle was designed and formulated according to such an argumentation.

Once the society is radically and inevitably fragmented, its resources and allocations will be distributed in accordance with the establishment laid out by the requirements of that fragmentation. Within this distribution scheme, it is readily accepted that certain levels of inequalities will occur, and this excludes Rawls from being a fully egalitarian theorist, an issue which we will later focus in Cohen's criticism (Hunt, 2010: 156). The core question arises regarding when it will be justified to allocate more or provide less to a given group or individual in the society. Who gets more, who gets less and how this allocation is arranged and then justified as the outcome of a social contract? From mostly their natural endowments, some members of the society deserve to be called the advantageous ones and others do not have any capacity, opportunity and potential to be called as advantageous. Rawls constructs the idea of justice from this basic perspective regarding the benefit of the least advantageous part of the society which should be socially and institutionally favored mostly in economic manners.

In sum, the advantaged members of the society should not be allowed to get more without paying particular and necessary attention to the condition of the least advantaged ones in case of their additional acquisition. If these least advantaged ones cannot benefit from this desire for further welfare, it should be called unjust and be sanctioned by the difference principle. Individual conduct will be regulated and restrained on an institutional basis for the benefit of the least advantaged.

Within Rawls's imagined society, it is assumed that citizens, who have also been considered as the agents acting cooperatively, do not remain indifferent to the conditions of each other and take a reciprocal stance in their social, and more importantly material and economic relations. These citizens are concerned about benefitting each and every one of individuals living in the society, and no single person is to be excluded from the establishment, as the basic structure of the society requires. They pursue a strict idea of social cooperation, and it compels the institutions they build to incorporate basic tenets of the difference principle.

The difference principle is the main solution that Rawls proposes as a response to the problem of social justice. A social system can only be depicted as just and fair only if it holds specific mechanisms that regulate economic life with reference to the idea of promoting the prospects and capacities of the least favored in which they acquire a larger share from the primary goods. These mechanisms are authorized to sanction certain inequalities happening in a given society: if they are not positively contributing to the condition of the worst-off members, these inequalities have to be rejected and nullified.

Another core question for the difference principle is how to determine the least-advantageous ones. What criteria would allow any individual to be labeled as one of the worst-off members of the society? Such determination is very critical since all social and economic institutions will be established with a primary concern on their situation. Rawls admits that it would be crucially hard to lay down a formula that can directly point to the one who is in need and who can be called as the least-advantageous. Rather, he proceeds, the principles of justice are not to be applied on the individual level, but on the institutional level. This does not require institutions to find a clear scheme or formulation that would provide direct standards in classifying individuals for their statuses. When these social institutions are to be arranged in a comprehensive vision towards the conditions of the individuals within the society, they will conduct their tasks successfully. With this in mind, however, Rawls also characterizes the unskilled workers and those who earn less than the median income of society as belonging to the worst-off group.

The difference principle has mostly been regarded as an egalitarian doctrine. It is quite apprehensible to consider it as an attempt to balance the severe inequalities between persons and to have a more equal and just social system, however, the difference principle does not carry any purpose to eliminate all inequalities within a society. It recognizes the presence of the inequalities in advance and does not seek to have a full stance against those inequalities, but rather attacks and illegalizes the abnormal and excessive interpersonal imbalances. From this perspective, the difference principle has also frequently been associated with luck egalitarianism but it is worth noting that Rawls, highly likely on purpose, never refers to this concept. Indeed, there are quite straightforward connections between the difference principle and luck egalitarianism in terms of their common attention on natural endowments through which the agents widely enjoy by being dependent solely on luck (Kaufman, 2018: 142). It is illicit, for luck egalitarians, to have a claim on the advantages that are procured without volitional effort, namely through accidental conditions. Rawls also shares the view that the goods produced by natural talents, which are only be attributed to conditions of luck, should be taken as a common asset and distributed commonly. He argues:

> "The difference principle represents, in effect, an agreement to regard the distribution of natural talents as in some respects a common asset and to share in the greater social and economic benefits made possible by the complementarities of this distribution" (Rawls, 1971: 87).

What makes an individual or a group of people classified into the advantageous or disadvantageous side is mainly shaped by luckiness or unluckiness. Rawls is obviously eager to "mitigate the arbitrary effects of the natural lottery" (1971: 64). The original position can also be discussed from such a point of view: by way of disregarding the elements that are largely inherited by natural capacities which are unchanged and unpreventable, the parties in the original position become radically equal, having been protected from the lucky or unlucky issues. However, Rawls does not centralize the idea of luck in the core of his theory of justice; he contents himself with the premise that there are accidental and arbitrary effects from which individuals within a society cannot stay away when they are posited in a specific economic status. The idea of luck is one of the reasoning tools in constructing basic pillars of the original position. It is

not argued that due to the fact of luckiness, there should be no unequal distribution. As previously stated, unequal distribution is given as status quo with being stipulated to a particular requirement.

A final point: Rawls makes another reference to the difference principle around the concept of fraternity. He thinks that when the difference principle is applied, fraternity ties between the members of the society would be strengthened because the parties share the vision of "not wanting to have greater advantages unless this is to the benefit of others who are less well off" (Rawls, 1971:90). Such a robust desire would make them shielded against certain types of social threats against cooperation such as envy, spite, and hatred. When the members of the society act in a way that they are in a family, the distribution mechanism may easily get into a better framework and each and every member of the society would be more prone to cooperate for the sake of the other in terms of advantage. This makes the difference principle not only an economic or institutional stipulation but also an interpersonal and everyday way of reaching justice as fairness and a universal principle of reciprocal assistance in an individual context.

By being the kernel of *Theory*, the difference principle has been both acclaimed and criticized in the literature. Because we aim to sketch several prominent criticisms in this thesis, in the next chapter, we will discuss how certain philosophers and theorists reacted to the main aspects, implications and potential applications of the difference principle. We will be looking what Canadian Marxist philosopher G. A. Cohen, American legal theorist R. Dworkin, Hungarian-American economist J. Harsanyi and American political philosopher Mark Robin Reiff asserted against the difference principle.

2.5. Concluding Remarks

Rawls's project, which is based on the contractarian tradition and has brought a remarkable rejuvenation to the political philosophy in the late 1970s, aims to offer a different and viable alternative to the utilitarian and perfectionist conception of justice.

The utilitarian view defines the principles of justice according to the benefit provided to society. Society, in that case, necessarily implies an idea of the majority. So, utilitarianism tends to prioritize the well-being of the majority. This may authorize violating the rights and freedoms of some disadvantaged individuals for the benefit of the majority. Utilitarianism does not consider individuals with reference to their contextual circumstances, but sees them as rootless and disengaged, like cogs in a wheel. Inequalities in society are thus imposed on the worst-off members who are sacrificed for a majority to be satisfied. Rawls argued that such an idea is radically incompatible with justice, and liberal theory should reject relying on such an understanding of the individual. With these motives, Rawls developed an alternative. One of the most essential components of this alternative is the difference principle. It is the main characteristic of the conception of justice that Rawls constructs in detail in his *Theory*. It basically states that social and economic inequalities can only be allowed if they benefit the least advantaged group. An unequal political or economic practice must first satisfy this condition. Society has a responsibility to support these groups, to prevent their conditions from becoming permanent.

In Rawls's theory, the difference principle is scrutinized and controlled by the principles of equal liberty and fair equality of opportunity. The satisfaction of these prior principles is a must. Accordingly, the liberties and opportunities have to be fairly distributed. The difference principle would otherwise fail to be valid. In this framework, Rawls has constructed a multi-layered, institutional, and hierarchical structure. He argues that social and economic inequalities must be regulated by taking into account the initial conditions of the individuals. This would ensure that political influence will not be concentrated at the hands of privileged groups and society will not be categorically separated between luckily advantaged and unluckily disadvantaged ones.

The difference principle is a vital tool for dealing with these fundamental concerns. In the next section, we will delve into critical interpretations of the difference principle in the literature, examining how some selected scholars have understood and commented on this foundational concept. Our analysis will focus on the works of

scholars such as Cohen, Dworkin, Harsanyi, and Reiff, who offer diverse perspectives on the shortcomings of the difference principle. By exploring common themes and arguments across these scholars' writings, we aim to provide a comprehensive understanding of the challenges and debates surrounding this central conception of Rawlsian theory.

CHAPTER 3

THE DIFFERENCE PRINCIPLE AND ITS CRITICISMS

Since its first days of publication, *A Theory of Justice* has become a hot topic of scholarly discussion. These discussions were generously used by Rawls as a productive amendment source regarding certain inadequate aspects of the theory. Rawls continuously updated his work in compliance with the criticisms reflected by the several leading scholars with whom he held broad conversations. There are pretty considerable changes between the first 1971 edition of *Theory* and its revised version of 1999. In this thesis, we try to provide an overview of the main criticisms targeting Rawls's theory in general, particularly the difference principle. We will look at specific interpretations of the difference principle asserted respectively by Gerald Allan Cohen, Ronald Dworkin, John Harsanyi, and Mark Reiff.

The reason we choose these names is that they have a relatively common economic perspective regarding the alleged inadequacy of the difference principle, which stresses that the principle is highly inclined to have a reverse effect of being the source of inequalities in society. They all share the idea that the difference principle is straightforwardly open to exploitation, and it includes severe logical flaws which need to be addressed persistently and critically. Their interpretations will compel us to contemplate on the relationship between the difference principle and social and economic inequalities, which is the main focus of the thesis. In the first part of the second chapter, we will look into G. A. Cohen's much-debated critique.

3.1. G. A. Cohen's Critique: Individual Scope, Incentives and Egalitarian Objections to the Difference Principle

Gerald Allan Cohen (1941-2009), a Canadian philosopher, was a prominent Marxist scholar known for his significant contributions to Analytical Marxism. He is regarded among the founders of this branch of Marxist interpretation, which adopts certain

specific methods of analytic philosophy and puts a strong emphasis on scientific norms, logical analysis, and mathematical modelings (Leopold, 2022). Cohen attempted to reconstruct Marxism through the means provided by the analytic philosophy, which were mainly clarity and rigour. Analytical Marxists rejected the mainstream French interpretation of Marxism, specifically by Althusser, and labeled this version as "bullshit Marxism" (Cohen, 2020: xxvi). They prioritized precision in language, critically denied certain orthodox Marxist methods, and provided new commentaries on several basic tenets of Marxism, such as historical materialism and the relations of production. There is a comprehensive discussion in the literature regarding the place of Cohen and analytical Marxism in the 20th century, but the scope of this thesis does not allow us to examine them. It will be sufficient to state that Cohen was a leading Marxist scholar with strong revisionist perspectives which were inspired by analytic political philosophy and left libertarianism.

For our part, we are interested in how Cohen attacked Rawls within such a background. Cohen was an attention-grabbing scholar in the academic environment, and his works were vastly commented on. It is possible to encounter numerous works on Cohen's critique of Rawls and his interpretation of the difference principle. He voiced his criticism not only as a Marxist but as many called as a "Left Rawlsian". His criticism, then, is also regarded as an insider one. Before moving into his criticism of the difference principle, we should have a closer look at Cohen's interpretation of distributive justice which propounds a radically different conception than Rawls's.

Initially, Cohen stresses the problematics deriving from Rawls's distributive justice, which allegedly rules out the individual scope and restricts it only through the means of institutions. Cohen believes this is a substantial mistake that undervalues the role of the individual in any conception of justice (Thomas, 2011: 1112). He points out that the distinction between the impersonal and interpersonal considerations regarding the assessment of the difference principle should be taken into serious account. One cannot simply take the difference principle as an impersonal point that lacks the interpersonal dimension and take it as a purely formal argument. It resembles the communitarian criticism, which mainly puts forward the concept of "unencumbered self" pointing to

the excessively idealized and abstract characterization of the individual within the Rawlsian theory. Many philosophers questioned the position where the individual stands in Rawls's theory. Cohen is undoubtedly one of them. Ones who establish, drive, and function the institutions are the individuals. Without making them the central agents, what would institutions mean by themselves? Do they become stagnant entities formed and perfectly theorized within the vast comfort zone of abstract reasoning?

The difference principle is a regulatory principle that focuses mainly on inequalities and the condition of the worst-off group of a given society. It basically stresses the inequalities in terms of their justifiable characteristics. Certain inequalities are allowed, and others are not within the scope of the application of the difference principle. What Cohen problematizes regarding the difference principle is primarily not the principle itself but the application of it. In a general and principal sense, Cohen accepts the central tenets, purposes, and arguments laid by the difference principle, but strongly criticizes its potential practices. In this subsection, we will delve into how Cohen constructs his criticism against the practical aspect of the difference principle.

In his book, *Rescuing Justice and Equality*, which is our primary source on our quest for his difference principle criticism, Cohen recalls a Tory government practice that made a significant tax cut during the Thatcher era (2011: 28). Nigel Lawson, the then-Chancellor of the Exchequer of the United Kingdom, has decreased the top tax rate from 60 percent to 40 percent aiming to make rich people more prone to investments. Cohen argues, in a controversial way, that this application can be quite consistent with what the difference principle advocates in a specifically practical manner. Within the overall picture, making the better off as more advantageous seems to have a positive effect on the conditions of the worst off, who are obviously in need of particular economic and social support that is supposed to be provided by the capital holder and productive, namely, the better off group. As we will see in the forthcoming discussions, particularly in Reiff's, the difference principle has been questioned on its potential leverage to incentives, which mainly prioritize the wellness of the rich people and allow them to conduct vast inequalities for their own advantages (Smith, 1998:

206). Cohen's main criticism has taken its basic form through such a vision. The incentives supposedly allowed by the difference principle are the epicenter of this critique.

One of the main discussion topics in the egalitarian theory is whether incentives will be allowed for people who might be in advantageous or disadvantageous positions. Rawls employs the incentive argument as a justificatory tool for certain inequalities. He stresses that "the greater returns to the more advantaged serve, among other things, to cover the costs of training and education, to mark positions of responsibility and encourage persons to fill them, and to act as *incentives*" (Rawls, 2001: 63). For instance, numerous occupations would not be characterized as suitable for everyone which we need people get encouraged to occupy them, as Rawls indicates. These occupations must be undertaken by a few members of society, and these members might be awarded for their commitment. Then, the incentives granted to these members are not to be classified as unjust regarding their already existing inequalities. Cohen, in line with Rawls, does not adopt a strict egalitarian view and argues that certain levels of inequality can be inevitably justified. It is not a matter of great controversy in this respect to provide incentives to disadvantaged people who undertake works that not everyone can do but must be done for the general welfare and benefit of the society.

The main debate here is whether these incentives can be given to more advantaged people. Cohen extends this discussion in such a way that his argument is characterized as a logical fallacy dubbed as "slippery-slope", and argues that applying the difference principle would necessarily allocate extensive opportunity and authority for talented people (Thomas, 2011: 1110). In his interpretation, Cohen deduces that it is necessary to provide incentives to disadvantaged people who undertake low-level and physically labour-intensive jobs that not everyone in society is able to assume; similarly, an incentive mechanism can be put in place for some occupations that not everyone may take on and that only a small number of talented people can conduct. As in Lawson's tax cut, if rich people are allowed to pay less taxes due to their potential commitment to the market, which may increase employment and general welfare, an incentive

mechanism might well be operated for them. Through this core point, he blames the principle as radically and potentially favoring the talented.

Cohen argues that the difference principle would not reject incentive inequality. For him, incentive inequality will benefit the worst-off. People who are skillful and undertake responsibilities vital to society generate benefits for the worst-off members. If these people go on strike, the structure of society will highly likely degenerate, and the benefits provided to almost every member of society would disappear. Society accepts providing incentives that are unique to these people (Cohen, 2008: 33-34). He gives another example: the situation of a patient who gets more from health resources by paying more money to the system is compatible with the difference principle because the extra money paid allows the health system to be maintained and the worst off, who obviously cannot pay more, to continue to receive health service, albeit at a minimum level. Lawson's tax cut was also implemented through such reasoning. If tax rates were lowered for the benefit of the capital holders, they would be encouraged to invest and spend more, which would, in turn, secure the development of new lines of business.

Cohen tries to strengthen his argument by providing a further strange analogy. He constructs a relation of similarity between a kidnapper and a rich person who demands extra value irrespective of his/her responsibility. A kidnapper acts morally vilely and demands ransom for the kid he has kidnapped. The only way to save the kid is to pay the kidnapper. As for the society that needs to pay for the rich, the only way to convince, the talented, the needed ones, is to pay them more. Otherwise, we can never be sure of the advantaged one to act by what the welfare of the better off requires (Cohen, 2011: 40). So the difference principle should placate them and give remarkable incentives for ensuring that they do not harm the social and communal balance. Such an establishment would turn the society into a totally different formation in which vast and severe inequalities are unquestionably justified. This is the exact opposite of what Rawls's project assumes. As we will see in other criticisms, the difference principle seems to allow uncontrolled and unbalanced inequalities that any other justice mechanism cannot scrutinize. For the principle, inequality can only be

justified if it is proven useful for the least advantaged. However, anything that seems to work and benefit the least advantaged might, in the long run, evolve into a destructive tool for a radically unjust and unequal social establishment. Our considerations regarding Cohen's critique will be presented in the fourth chapter. Without further delay, let us move on to our second criticism.

3.2. Ronald Dworkin's Critique: Rethinking the Difference Principle through the Lens of Luck and Responsibility

Legal theorist and philosopher Ronald Dworkin (1931-2013) is one of the prominent scholars counted among the major thinkers of liberal egalitarianism. He shares the idea that it is morally unjust to leave people at the hands of the "natural lottery" which would categorically assign them bad or good luck. Although he denies that he is a luck egalitarian; luck, for him, should get central attention, similar to what Rawls also implicitly argues and claims that "the distinction between people's choices and their circumstances is of central importance to justice" (Dworkin, 2003: 192).

There should be certain social and institutional mechanisms preventing the malignant results caused by bad luck, and Dworkin thinks that the difference principle is simply not sufficient and needs to be improved to provide a functioning ground within the society. In this sub-section, we are going to see how he constructs his critical interpretation of the difference principle.

Although he is considered almost an ideological figure in terms of egalitarianism, Dworkin is not a radical egalitarian who believes that each and every social resource should be distributed in fairly balanced equality. He deems the idea of equality as his primary focus and sides with many liberal egalitarians who acknowledge that a certain amount of inequality, especially because of individual additional effort, can be justified. It would not be very sensible to respect a life that is arguably not shaped by one's own choices.

These choices are repercussions of "ambitions" that people should own to pursue good conditions and work hard to reach them. Inequality does not seem strange in this

framework. Resources are fundamentally diverse. Some work smarter and harder, and some are not capable of doing so when using these resources. It is both inevitable and justifiable to have an unequal overview. However, when we come to the "endowments," which may both be the gifts or curses of "nature," the necessary inequality on the table should be questioned and discussed. We cannot just accept it and keep going without any measurements, and reasonings. For Dworkin, a relatively equalizing mechanism in such an environment is a must (Lamont & Favor, 2017).

Natural endowments are, by definition, unequal. They are distributed in a random manner. The differences in genetic heritage, sex, race, language, geography, and many other factors directly affect one's position, which places him/her on the advantageous or disadvantageous side. This makes people naturally advantaged or disadvantaged without their effort or consent. This is, for Dworkin and many other luck egalitarians, a considerably serious social problem and requires a social redress mechanism. Society cannot let people be the vulnerable victims of their own fate. It would be just and fair to compensate them in a way that reduces the effects of the "natural lottery" that they find themselves bound in hand and foot without any voluntary action. There are radically similar themes in Rawls's theory, but Rawls makes a quite clear distinction and says, "difference principle is not a principle of redress" (Rawls, 1971: 101). Luck egalitarians and Dworkin part ways with Rawls on the compensatory aspect that should be incorporated into the difference principle. This criticism was voiced by Dworkin and then later developed by luck egalitarians.

In one of his articles, Dworkin calls the difference principle both "endowment sensitive" and "choice insensitive" (2002: 122). The responsibility that should be assigned to the individuals remains uncertain, and the line of personal choice is indeterminable in the difference principle. There are well-known unfortunate conditions that make people hard to live in peaceful and advantageous environments. Whether these conditions are caused by people's own choices or by natural and unpredictable reasons that are entirely independent of choices points to an important distinction. The difference principle makes no distinction in this regard. Rawls focuses more on the general welfare and the benefit of the worst-off members of society, not

on whether it was their own choices that made them the disadvantageous ones of society. These people are ultimately deprived of the advantages enjoyed by a certain minority of the society, and any inequality would be justified only insofar as it benefits those who are worse off without looking at their potential choice background. For Dworkin, it is "sufficiently fine-tuned" in response to the problem of social inequality and individual responsibility (Dworkin, 1981: 339).

As we have mentioned before, one of the most common critiques of Rawls was his notion of the individual, which is attacked because of its too abstract, unambitious, and unencumbered background. Dworkin's insurance argument tries to bring a more "real" individual into the scene with his/her bounding choices and preferences. He also makes an abstraction exactly like Rawls, and within the hypothetical insurance market he constructs, he defines people who similarly lack information on their basic characteristics except for their ambitions. Rawls was nearly fully covering this information within the veil of ignorance, and the individuals or souls that were included in the original position were beyond the realm of reality. Dworkin gives a broader space for these people and makes them the agents who are capable of knowing which type of risk they should take for the pursued life purposes. Dworkin considers them responsible for the choices they individually make in the hypothetical area.

Dworkin does have a strong sensitivity towards the differences between individual choices and the circumstances of the environment. This is undoubtedly a common theme with Rawls. The core question is, evocative of Cohen, how to have a justifiably equal society that does not only reward the talented and the lucky under the pretext of meritocratic liberal values. He shares the vision that anyone who gets less chance, opportunity, or income because of the natural abilities that s/he is deprived of should be compensated with social and governmental applications. Income cannot be equated to or totally originated from natural talent. Resources cannot be distributed within such an unbalanced establishment (Armstrong, 2005: 455).

Rawls is a fierce advocate of fair and 'deep' equality of opportunity. It is one of the main pillars of his theory as a principle. No matter what is included in people's

backgrounds, such as talent, endowment, inability, unwillingness, bad luck, or natural disadvantage, society needs to provide a fairly balanced system of opportunity distribution among its agents. The outliers of society, such as the naturally talented and the naturally unendowed, need to be addressed. The naturally talented is basically the one who has the ability to get more benefit from the randomly distributed resources. Even if these resources were distributed in a radically equal way, the talent that s/he owns would provide him/her more advantage. Then, inequality remains to dominate society. In egalitarian theory, justice is conceptualized as necessitating compensation (Callinicos, 2000: 39).

The difference principle tries to solve this problem of compensation by prioritizing the condition of the worst-off[3]. The worst-off is desperately recognized through the destitution of talents, opportunities, and resources in an economic framework. Any economic inequality that may exist in any given society has to consider and ensure the benefit of the worst-off. A contrary scenario would make the worst-off as totally subjected to the harsh limits of what the natural lottery brings. Without establishing a system of redress, society has to operate every social and economic action revolving around the condition of the worst-off.

However, for Dworkin, the system that the difference principle stipulates needs to be transcended because society has remarkable reasons for providing concrete compensation to the worst-off, specifically to the disabled and talentless. Dworkin sees a crucial problem when Rawls does not make any notable mention of naturally handicapped persons. He says: "[the principle] 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 group" (1981: 339).

There are two main parts of Dworkin's dissatisfaction with the difference principle. First, it is ambiguous. The standards and indications that would designate a given

[3] We used this phrase, as Rawls did, to refer to the least advantaged or disadvantaged individuals.

individual as a member of the worst-off group are narrowly and economically presumed. Furthermore, there is no room for individual responsibility in this framing of the worst-off situation. Is it sufficient to have a natural disability or disadvantage to be included among the worst-off? Can the circumstances that are derived from one's own choices, risks, and decisions be a valid ground for joining the club? Rawls does not give too much detail, as Dworkin argues.

The second one is again partially regarding the worst-off ones. They are the ones who are to be compensated. What for they are going to be socially and economically compensated? Why does each and every economic dynamic have to take into consideration their benefit? The difference principle does have a quick and simple answer to this question: "no one should be advantaged or disadvantaged by natural fortune or social circumstances," and if there are nevertheless disadvantaged ones, they should be helped outright (Rawls, 1971: 16). They are the ones whom their expectations are to be maximized. The conditions they are born into do not provide them with too many expectations. Without their personal background, their conditions need to be amended whatever inequality happens in the basic structure of the society. Dworkin says that "the difference principle […] looks to the worst-off group as a whole" (Dworkin, 1981: 341). The difference principle seems uninterested in the distinct individuals within the worst-off group. Dworkin claims that this would not be a fair viewpoint.

Not every member of the so-called worst-off group deserves this entitlement. Because some of them did not become the least advantaged members due to the natural misfortune they encountered, what counts them in this group may easily be their own choices and decisions. Do these people radically abstain from risk-taking? Will every failure to succeed be explained and compensated by the effects of natural circumstances? Would people count as the victims of the "natural lottery" while they apparently misuse the advantages they have because of the unfettered risks they took? These questions might be regarded as Dworkin's. He disagrees with the idea that a compensated group should be taken as a whole without individual designation. It is morally right to classify people to mitigate the effects of bad luck. However, not all

types of luck are the same. The "option luck" and "brute luck" categorization, he asserts, is helpful. Society should compensate the latter. We cannot let people take any risks, then fail utterly and wait to be compensated due to the bad luck that they fall into. Bad luck, which is originated from an optional action, does not make its agent a member of the worst-off group whose benefit is a top priority. However, bad luck, which is irrefutably rooted in accidental conditions, would be a valid excuse for getting compensated. Dworkin believes that the difference principle does not make such differentiation and remains impracticable. The fourth chapter will be providing an assessment on Dworkin's points.

3.3. John Harsanyi's Critique: Grounding the Difference Principle and Bayesian Moral Theory

Hungarian-American economist and Nobel laureate John Harsanyi (1920-2000) was not particularly a philosophical figure. He worked on one of the major problems of utilitarian thought, as formulated by Bentham concerning the definition of happiness and the problematics of the general welfare of society. While working on the problem of the definition of happiness, he proposed an early form of original position, which he called "a potentially very powerful analytical tool" (Harsanyi, 1975: 595).

In his academically famous paper "*Can the Maximin Principle Serve as a Basis for Morality? A Critique of John Rawls's Theory?*", he develops his strong and ardent criticism directed to Rawls's theory. As a fierce utilitarian, he does not believe that Rawls has successfully constructed a viable alternative to utilitarianism, and the prospects laid down in his theory cannot be regarded as a game changer in the context of debates circling around the validity of 20th-century utilitarianism. We are going to see his quite varied and sharp criticisms against Rawls and the difference principle in particular.

Harsayni attacks the maximin principle that Rawls specified as the main decision rule on the original position. The parties of the original position will have a rational background on the basis of the maximin principle and will decide their social and economic basic structure in accordance with what the maximin principle suggests.

This would ensure the Kantian priority of treating individuals not as a means but as an end in themselves: through the maximin principle, it will be taken for granted that the worst-off members of the society would not be sacrificed to a higher utilizing prospect for the general welfare. As an economist who spent a considerable amount of time working on decision theories, Harsanyi believes that this way of argumentation on the decision making process, which is shaped by the maximin principle is an outmoded and crucially irrational one. He stresses that if the maximin principle is not applicable not only in many everyday life scenarios but also in the original position itself, it would be shown that the difference principle is vitally unsound and cannot be practically viable. If the difference principle does not meet such rational and logical criteria, then, he points out, the theory is "fundamentally wrong" (Harsanyi, 1975: 597).

Harsanyi's deduction falls fiercely on the whole theory of justice asserted by Rawls. The difference principle is the keystone and the basic postulate of the theory, the maximin principle is the main functioning tool; and Harsanyi believes both of them are fundamentally flawed and erroneous. Far from being a systematic alternative to utilitarianism, the theory does not seem logically and constructively solid with the difference principle.

The story goes back to the very beginning. The theory is constructed upon the premise that there is an experimental condition, called the original position, and there are parties who have been put under a veil of ignorance which makes them uninformed of their personal and characteristic backgrounds, and these parties will have to jointly decide the main principles that will be implemented within their future society. These uninformed "individuals" are expected to have a common decision. How will they decide? What would be their essential reference point when determining the best laws that would shape the structure of their future society? As we have seen in the first chapter, Rawls believes that the parties of the original position will eventually accept that they should prioritize the condition of the worst-off, the group to which any of them can belong. The fear or judgment regarding the possibility of belonging to the least advantaged group will lead the parties of the original position to widely protect these peculiar unfortunate community. This reasoning is called the "maximin

principle," which stipulates the betterment and the maximization of the condition of the ones who apparently get the minimum. For Harsanyi it is a principle that suggests extremely irrational and impracticable claims as a basic principle of a moral theory. He says, "[T]he maximin principle does have its valuable uses, and we must be grateful to Rawls for calling our attention to it" but it cannot be deemed as a founding principle. His attack on Rawls mainly centers on the critique of maximin principle (Harsanyi, 1975: 606).

First, for Harsanyi, the maximin principle is inarguably old-fashioned. It has been literally abolished in the economic academy circles after the 1950s. Specifically for economists who worked on decision theories, the maximin principle had lost its popularity and validity by the middle of the 20th century. Harsanyi stresses that economists now (1970s, which is the time of the publication) tend to be more involved in the Bayesian school of thought. Harsanyi's primary focus lies in the capacity of Bayesian theory to address numerous challenges that the maximin principle cannot sufficiently answer.

As we briefly mentioned above, the maximin principle evaluates any given social and economic action with its performance whether it maximizes the worst-off's utility. Harsanyi reads this as "evaluating every policy in terms of the worst possibility" (1975: 595). He tries to show the basic repercussions of such reasoning and deduces that crucially irrational outcomes within everyday life will come out if we apply the maximin principle. In his article, one of the instances he gives is as follows: you live in New York, and you get a job offer from Chicago with far better income opportunities. All other things being equal, as a rational agent, what is expected from you is to accept this offer. However, you have to think of the worst possibility, which is basically an airplane crash that might happen when you travel to Chicago. Harsanyi believes that if the agent acts with what the maximin principle prescribes, s/he cannot accept the offer and stay in New York with less income. In this quite direct reading of the maximin principle, Harsanyi says such an irrationality should be totally rejected as a basis of a moral theory. You cannot live while you are spending your hours to reveal what the real worst possibility is and expect them to happen. There is always a risk of

experiencing the worst events. Sitting on a chair, walking around the street, and driving a car can all have destructive and extremely negative possibilities. However, we rationally calculate them as near-zero and continue to live. Harsanyi suggests Bayesian probability theory as the real functioning base for any moral theory.

We are not going into much of the details of Bayesian theory, but we will delve into how it poses a significant challenge to Rawls's theory. In the original position scheme, we know that the parties can only have limited information on their background. The possibilities that they will experience in their post-original-position life are to be evaluated with this limited information. This is the reason why they are "rationally" bound to be highly sensitive to the condition of the worst-off group. However, in Bayesian theory, the possibilities are taken as subjectively. The observer has an impact on the probability and may rationally take highly unlikely events into consideration when deciding and ruling them out. Contrary to the maximin principle, Bayesian theory, as Harsanyi puts forward, does not merely concentrate on the worst possible outcome; rather, by rationally evaluating the preliminary existing information on a given condition, it classifies some of them as having "low probability" and choose the option which anticipates the best utility maximization (Moehler, 2018: 3). This is the most rational and practicable way of argumentation in determining the decision rule. Unless we have to be subjected to "highly unlikely unfavorable contingencies regardless of how little probability" is assigned (Harsanyi, 1975: 595).

Harsanyi offers a systematic change in the general structure of the original position and wants the parties not to think of the worst possible outcome. Instead, they should be entitled to more information, and with this enriched background, they should decide, bearing in mind the possibilities which rationally get low probability. With this critique, Harsanyi invalidates the difference principle and its basic stipulations because of the severe problem within its core pillars.

Harsanyi argues that the parties in Rawls's original position would evaluate every policy by assigning a total probability of being the worst-off member of society. Nothing rational would emerge from such a restricting probability calculation.

The difference principle makes an extremely limited and single-sided interpersonal comparison. The act of comparing does not substantiate reciprocally. Parties only recognize and give weight to the conditions of the worst off. Harsanyi highlights the principal perspective of utilitarian thought and stresses that if the parties do not take average utility into consider average utility, the theory will produce critical irrationalities. Not only the utility of the worst-off but the average utility of the whole society should be concerned. This would ensure that society has a multidimensional reciprocal basis. As Harsanyi remarks, through such a model, each individual would have basic information on "what it would be like to be in the shoes of any other member of the society" (1975: 600). In fact, this is what Rawls tries to achieve in his theory with a strong Kantian and contractarian sentiment.

The difference principle presents a Kantian perspective, as the whole body of the theory does. For Rawls, the canonical prescription for treating individuals not merely as a means but as an end in themselves can only be ensured by the maximin principle in theory and by the difference principle in practice. However, Harsanyi believes that the maximin principle treats the advantaged members of society as mere means who are expected to sacrifice their own well-beings, talents, or entitlements for the sake of the utility of the worst-off group. Another contradiction lies here in the form of an unjust practice. According to Harsanyi's argument, the transfer of capital and distribution of goods and opportunities from the rich to the poor through, for example, higher taxes means that the rich are treated as a "means". An institutional obligation for the rich to share their already advantaged possibilities with those who are not as fortunate is an ethical and principal violation. The principle of treating people as ends rather than means cannot be evaluated and implemented according to the advantages people have. Thus Rawls's theory departs from Kantian principle in this sense. With his words:

> "If society were to give priority to A's interests over B's on the utilitarian grounds that by satisfying A's interests "more good" or "more utility" or "more human satisfaction" would be produced (e.g., because A could derive a greater benefit from medical treatment, or from education, or from whatever

else), this would amount to "treating B as means only, and not as end in himself" (Harsanyi, 1975: 597).

Rawls's theory should be modified with Bayesian methods, and several fundamental concepts and arguments need to be fully reviewed. The maximin principle should be totally abandoned as a moral basis, and the difference principle should also be radically restructured. Parties in the original position should be equipped with wider information that they use in their decision-making process under an interpersonally comparative scheme. The final decision should not be made by the deductions shaped by the worst-off scenario but by the expected-utility maximization.

3.4. Mark Reiff's Critique: Rising Inequalities, Supply-Side Economics and the Role of the Difference Principle

In the first three sub-sections, we analyzed criticisms voiced by the philosophers and economists living in Rawls's own time. In this final part, we will see how American legal and political philosopher Mark Robin Reiff approaches the difference principle as a contemporary to us, not to Rawls.

His detailed article, which was published in 2012, *"The Difference Principle, Rising Inequality, and Supply-Side Economics: How Rawls Got Hijacked by the Right"* will be our primary source as a broad critique and analysis on the application of the difference principle starting from the 1970s. Reiff sees Rawls's theory as a significant contribution to the contextual debates in the United States regarding the severe economic inequalities, which blatantly tended to increase in all branches of life. Rawls presented a recipe that did not necessarily attack the American liberal capitalist establishment and provided a functioning antidote, "an intellectual justification" for having an economically more equal and fair American society without any reference to Marxist or socialist basics (Reiff, 2012: 120). Reiff stresses that there is a simultaneity between the introduction of the difference principle and rising inequalities within the American society. He points out that in the early 1970s economic inequality in American society reached extremely high levels, which could be compared with the numbers of the Great Depression.

He mentions several statistical data showing the rates of poverty, median family income, income of the top % 0.01 compared to the rest, taxation, and many other variables to portray the economic outlook, which was obviously an unbalanced and extremely unequal. Reiff states such an economic outlook in the United States can somehow be regarded as consistent with the difference principle. The difference principle has certain flaws, which make its operational aspect too undetermined, and therefore, it needs to be revised in depth. These flaws caused the principle to be exploited and "hijacked" by the American right-wing policy-making mindset, as Reiff asserts. In the final deduction, Reiff suggests, as Harsanyi does, the complete abandonment of the difference principle. He concludes that the flaws of the difference principle are not curable.

As we have seen in Cohen's critique, benefiting the worst-off as a justification of economic inequalities is seemingly risky. This might be used as a valid excuse for favoring the rich with the ostensible intention of providing more economic growth, employment, and general welfare, which would obviously take advantage of the worst-off. In fact, there are some preventive mechanisms to exploit the potential that lie in the difference principle. However, these mechanisms remained secondary, ineffective, and mostly out of discussion.

Generally speaking, supply-side economics proposes that "low marginal tax rates encourage entrepreneurs and investors to increase their economic efforts, leading to more employment" (Goodwin et al., 2019: 286). This way of economic thinking centralizes the continuation and diversification of the supply chains as the principal target of markets. Through such a vision, a circle of trade, new lines of business, and job growth will be vastly provided and secured, allowing a larger tax base and more public revenue. Therefore, the government should not discourage the ones who own the supply mechanisms and the means of production. They are creating new jobs, helping control inflation, increasing the number of taxpayers, and contributing radically to the general welfare of society. Far from discouraging, the government should incentivize them to invigorate economic activity and abstain from implementing progressive taxes. This viewpoint received wide acceptance in the

United States after the second part of the 20th century, and marginal tax rates were dramatically reduced (Reiff, 2012: 128). Rich and employer groups of society enjoyed broad tax breaks. Whether the intention was to protect and benefit the worst-off or not, the outcome of supply-sider policies was disastrous: an outrageous hike in inequality occurred in the United States after the aforementioned period. Rich has become richer; poor has become poorer.

Right-wing intellectuals and supply-sider economists were aware of the huge economic and social gap formed by the policies they ambitiously pursued. They did not regard this predicament as a moral problem and had their own justifications. For them, this "unintended but unavoidable" result was a mere side-effect to ensure economic growth (Reiff, 2012: 128). Ideally, the process of making the rich wealthier was fine too for their way of argumentation. However, unlike right-wing theoreticians, this harsh conclusion cannot be accepted by Rawlsians and liberal egalitarians. Or can it be? Reiff thinks the opposite and argues that the difference principle is entirely consistent with the claims propounded by the supply-siders. There is no necessary conflict happening between them. He says, "the difference principle seems to directly endorse both the supply-siders' objectives and their way of thinking" (2012: 129). Supply-siders do rely on the theoretical justification provided by the difference principle to cover their excuses for uncontrollably rising inequalities in the American society.

Reiff makes two distinct categorizations regarding the ones who work on the difference principle with various motivations. In an academic matter, the ones in the "moderate left" who do not assume classical Marxist discourse continue to embrace the difference principle with slight modifications. They firmly believe the principle has a strong potential for being a valuable institutional tool to address the problem of economic and social inequalities. Without much critical contribution, they meticulously study Rawls's work and its promising reference points. On the other side, we have the ones who own power. Right intellectuals, in particular, who are capable of affecting the policy-making process, have also their say on the difference principle. Unlike agitated academics, they take a quite insignificant interest in the moral

foundations of the difference principle. It is definitely a useful tool for intellectual and practical grounds but not a moral one. No necessary action was taken against such a malevolent initiative by the academic circles. Reiff reminds the apparent rarity of the works on the potential relationship between supply-side economy and the difference principle (2012: 132).

Reiff mentions Rawls's own words regarding his concession of the ambiguity and practical difficulty mostly because of its application. He discusses several Rawlsian counter-arguments, which generally assert the context of property-owning democracy as an essential amendment of the theory and the subordination of the difference principle over the principles of equal basic liberties and fair equality of opportunity (Reiff, 2012: 133). Clearly dissatisfied, Reiff implies that through all the long pages of the theory and Rawls's other later works, the traces of how superior principles would limit economic inequality are not found. Then, whatever the hierarchical relations established between the principles, the difference principle remains a solid instrument for justifying the implementation of supply-side economics which bears the main responsibility of increasing inequalities.

The difference principle relies on a decision-making process. Parties will decide on economic and social policies mostly in consideration of the benefit of the worst-off group. Each decision comes with a specific type of risk and probability assessment. Even if Rawls did not seemingly discuss it in his work, there would always be a risky condition whether the decision that was allowed by the difference principle as fulfilling the requirement of benefiting the worst-off is functioning or not. Reiff calls this "risk of error" (2012: 157). The difference principle does not also have any mechanisms to distribute this risk of error to both sides of the equation. Reminiscent of the notorious supply-sider arguments, the difference principle holds an unjust basis regarding the distribution of the burden of risk. The cost of the inefficiency of the economic policy which was previously considered as difference-principle-approved needs to be jointly shared. However, in cases where a policy intended to benefit the worst-off individuals leads to economic distress, there is no compensatory mechanism in place. Rawls maintains his silence on the practical dilemmas of the difference

principle on these issues. Reiff concludes his in-depth remarks by underlining that the indeterminacy and practical inapplicability intrinsic to the difference principle makes it incurable for being a valid moral theoretical ground when fighting against economic and social inequalities. These attacks will be discussed and criticized in our following chapter.

3.5. Concluding Remarks

Rawls's claims in his *Theory* have faced many criticisms. These criticisms have sometimes targeted his fundamental principles, sometimes his conception of the individual, and sometimes his widely abstract and idealistic perspective. This third chapter was devoted to a comparative discussion of how certain philosophers, economists, and theorists have taken up the difference principle.

Cohen, Dworkin, Harsanyi, and Reiff argue that while the difference principle seeks to regulate social and economic inequalities in favor of the least advantaged, it leads to more serious problems in the bigger picture. For Cohen, applying the difference principle only to institutional structure is a serious methodological flaw. It ignores the essential role that individuals can play in social and economic inequalities and considers justice only at the level of institutions. Cohen also argues that at the scale of individuals, the differential principle would create an incentive inequality, endorsing a perpetual cycle of incentives for the talented, which would have the opposite effect to that intended by the whole body of the theory. In his critique of the difference principle, Dworkin objects to the criteria used to classify individuals as advantaged and disadvantaged, arguing that this classification should not be made in a way that exempts individuals from responsibility. Harsanyi emphasizes that the maximin principle has a problematic focus through considering the worst possible outcome in any social and economic activity, which makes it an outdated and ineffective way of economic thinking. It provides the basis for the difference principle and cannot be accepted as a decision rule.

Harsanyi is also of the idea that Kantian morality has been deflected in Rawls's argumentation.

The last contemporary critic, Reiff, advocates that the difference principle provides a moral and philosophical justification for the apologists of the supply-side economics. He underlines that this economic view, which justifies inequalities that appear to prioritize the least advantaged individuals, is the basis of the neoliberal policies implemented in the US since the late 1970s. Given that the principle provides direction and moral justification to the supply-siders, it is therefore better to reject it completely, rather than to amend.

In the next chapter, we will look for responses that might be derived from Rawls's texts and we will judge at which points Cohen, Harsanyi, Dworkin and Reiff have perhaps exaggerations or misconceptions with regard to Rawls's difference principle. While Rawls addressed criticisms of his theory of justice in detail, he did not provide direct responses to all of them. However he incorporated these criticisms into his work to refine and enhance his theory. In works such as *Political Liberalism* and *A Restatement: Justice as Fairness*, Rawls is observed to have used criticisms of the principles of justice, making conceptual amendments and changes. Upon such considerations, we aim to develop a responsible defense of Rawls's difference principle.

CHAPTER 4

THE DIFFERENCE PRINCIPLE: A DEFENSE

Rawls was a clear inspiration for the academy. Nearly each and every concept he constructed has received wide attention. He was definitely good at concept creation. There are literally tens of thousands of scholarly works on Rawls's conceptual lexicon. Justice as fairness, original position, reflective equilibrium, fair equality of opportunity, overlapping consensus, property-owning democracy, political liberalism… and many others were among the most favorite topics of academic writing in both political philosophy and political theory departments.

The difference principle did not also fall behind. As we have tried to present some of them in the previous chapter, broad criticisms and acclaims on the difference principle were notably prevalent in the academy. Many of these attacks were not left unanswered. Rawls had a lifelong project of developing his theory; the criticisms were helpful for him to see the dilemmas and logical fallacies that were allegedly included in his argumentation. Before getting into this, it might be useful to have a quick glance at the basic themes that our critics presented against Rawls. After that, we will try to discuss their points separately with a constant reference to what Rawls has really said and what can be deduced from his theory in general.

As we have put forward, Rawls's theory and particularly the difference principle have attracted wide-ranging interest in scholarly discussion. We have chosen and categorized four of them in conjunction with their economic perspectives regarding the application of the difference principle. The first critique comes from a Marxist scholar, G. A. Cohen, who broadly argues that the difference principle is not sufficient and effective in overcoming the problems of inequality because of its, among other reasons, sole focus on being applied only at the institutional level and not being operated in the individual context.

Cohen has also stressed that a problem of incentives would necessarily emerge because of both the institutional context and the condition of the talented people in society. He argues that if a determined extent of inequality is allowed, then the talented people have to be endowed with more sources, that is, more incentives to ensure the satisfaction of the basic requirements of society. Cohen believes, this would result a radically unequal society. Secondly, John Harsanyi harshly criticizes the difference principle in the sense of its direct linkage with maximin principle. Harsanyi emphasizes that maximin principle is an outmoded and logically nonsense way of argumentation and it would definitely disrupt any modern economic model to which it is applied. Therefore, it should not be the decision rule under the original position, rather, Bayesian way of probability distribution should be used. Harsanyi does attack on the very basis of the theory and tries to invalidate the difference principle with all of its other connections. Thirdly, Dworkin points out the ambiguity in the content of the difference principle in terms of the characterization of the worst-off group. He states that the problem of individual responsibility in the worst-off members of the society should be seriously considered. Finally, as we have seen, Reiff indicates that the application of the difference principle will produce the opposite of what it aims to achieve. It will increase the inequalities in an unprecedented manner and provide more opportunities to the advantaged members of the society in line with the view known as supply-side economics.

In this defense chapter, we will not take each of the critics separately but we will present a detailed overview on the structure of the principles of justice. We believe that such an overview will both contain a sufficient defense of the principle and a solid response to its critics. The final conclusion chapter will offer a general overview and commentary on both the difference principle and its critics, providing a comprehensive analysis of the arguments presented throughout the thesis.

4.1. An Initial, Structural and Major Mistake: Considering Difference Principle Isolated

The central argument that we will defend in this final section regarding the misinterpretations of both the theory and the difference principle is that critics have

wrongly isolated the principle from the context of other essential and complementary elements. As we will have a detailed look at its repercussions, the relationship between the difference principle and other principles (the principle of equal basic liberty and the principle of fair equality of opportunity) has to be seriously considered when setting any approach to the former. The difference principle is not independent and unrestrained: certain ridiculous outcomes that may potentially result from its isolated application, -which were voiced by our critics, Cohen, Harsanyi, and specifically Reiff- cannot be directly attributed to the difference principle. As Rawls emphasizes repeatedly, the difference principle is a hierarchically inferior principle, which needs the vital approval of the superior ones for a valid application. As he states: "the first principle is prior to the second; also, in the second principle fair equality of opportunity is prior to the difference principle" (2001: 43).

This is not an ambiguous or obscure argument of the theory: Rawls quite explicitly formulates the system of principles within a hierarchical framework. It does not seem reasonable to think that the critics were unaware of this basic fact. However, the idea of the difference principle is intriguing in itself, so we will assume that the critics have mistakenly regarded the principle as a separate entity within the theory and tried to demonstrate its fundamental failures and inadequacies. Nonetheless, without paying considerable attention to the definitive and substantive characteristics of the difference principle, that is, being totally subjected to the superior principles, not only in practical but also in theoretical senses, critics seem to get stuck in an argumentative drawback.

What does that hierarchical structure mean? How the difference principle is scrutinized and controlled by the prior principles? Why is it necessary to place the difference principle into an inferior position? The answers that we might provide to these questions would also show us the problematic aspects of the critical interpretations that we discussed above. Contrary to Reiff's suggestion, *Theory* and Rawls's other texts are not silent on the mechanisms for checking the implementation of the difference principle. Initially, the difference principle is about differences between agents within a given community. There are inevitable and necessary differences that characterize the basic tenets, prospects, and perceptions that people possess. These

differences distinguish each person from one another. An imperatively unequal scheme would arise from such a fragmented structure. Then, inequality becomes innate to all societies. The question is about its regulation. In Rawls's liberal vision, these inequalities cannot be turned into discriminatory actions that will lead institutions to have unjust grounds.

The prior principles are basically designed to mitigate the potential harmful effects of the difference principle. The inequalities that are allowed by the difference principle are quite limited, and this limitation comes from the authority assigned to the other principles. It is true that Rawls does not give a detailed outlook or an institutional framework on how the prior principles would attack any radically unequal schemes. However, we will argue that, in Rawls's texts, it is possible to get a wider picture of the balancing mechanism between the principles aiming to prevent constrained circumstances, which may derive from the practical aspects. The concepts of reciprocity, equal opportunity, property-owning democracy, self-respect, and basic liberties will broadly help us uncover the substantial elements regarding the defense of the difference principle.

As we will discuss further, the interdependent nature of the difference principle undermines criticisms by Cohen and Reiff. In a property-owning democracy where the difference principle is applied in conjunction with other principles, it would not be possible for inequalities to deepen and for certain advantaged groups to be systematically favoured in violation of the sense of justice. This is because the difference principle can only be applied in an establishment where basic equal liberties are fully recognized, opportunities are distributed fairly and property ownership is not concentrated in one hand.

Therefore, owners of capital who want to add profit to their profits and who abuse the goal of improving the conditions of the least disadvantaged, which is also included in the difference principle, will find individuals who have property, who have political influence, who have no systemic obstacles to access to opportunities, whose freedoms are preserved at least as much as their own.

4.2. The Role of Reciprocity in Substantiating the Difference Principle: Considering the Other in a Fundamental Way

One of the central conceptions that Rawls uses most in a Kantian sense is reciprocity. It might well be argued that the theory is wholly built upon the idea of reciprocity. Rawlsian well-ordered society embraces the idea of reciprocity (Rawls, 1971: 13). He unambiguously stresses that "the difference principle is essentially a principle of reciprocity" (2001: 64). Rawls envisages a society with its members who are willing to cooperate and deeply sensitive to each other. These members are to construct their societies in accordance with the benefit of not only for themselves but also for others in a principal perspective. There is an inherent idea of fraternity that belongs to each individual. Rawls calls this fraternity as "a further merit of the difference principle"(1971: 90). This might also be called radical altruism. Rawls makes several mentions of altruism in that manner. A well-ordered society needs individuals who regard each other as closely and necessarily tied. They constantly scrutinize what they gain from the basic structure of society, and they always have a comparative perspective regarding the situation of others. It would be severe distress for them to see that the basic structure only rewards a specific, fortunate class of society in terms of the ability to reach life expectations. A reciprocal and cooperative way of thinking compels individuals to consider the benefit of others as a basic requirement of justice.

Rawls formulates reciprocity as a fundamental criterion in *Political Liberalism* which justifies the exercise of power and political action as a principle of mutual advantage (1993: xlvi). The idea of reciprocity also assumes a preventive role in certain practical relations among the agents. Reciprocal perception does not let individuals act as whatever they desire to do. There are actual constraints that direct them to find a balance between their desires and the conditions of the others. If their desires can be designed to negatively impact the life conditions for the remaining part of society, they tend to get a critical revision on how they should perform. Reciprocity obligates them to act in such a 'selfless' manner but it does not yield to altruism. Rawlsian society is intrinsically composed of reciprocally acting and constantly cooperating individuals who are collectively sensitive to the condition of the least advantaged. Rawls defines

society as “a fair system of cooperation for reciprocal advantage between free and equal citizens” (2001: 22).

The difference principle is nothing but an obligatory application of the idea of reciprocity. As we have discussed before, the principle admits that social, economic and political establishment necessarily generates inequalities that need to be regulated with a fair system of balance and control. These inequalities, as Rawls stresses, are “chain-connected,” and any change derived from this unequal framework would definitely affect the prospects of the others (1971: 69). In that sense, the difference principle suggests that, as a requirement of reciprocal sensitivity, society has to take the benefit of the worst-off members into serious consideration with its institutions that were designed for this particular purpose. The differences between individuals as a result of not only natural endowments but also personal efforts would necessarily evolve into significant inequalities, and a strong reciprocal framework must (should) regulate their negative repercussions. Rawls suggests that individuals who share this reciprocal perspective will not consent to have a social structure that enables huge gaps between fortunate and unfortunate members.

In terms of reciprocity, it is also important to stress that it is designed as an institutional function, not as a guide for individuals. This is because institutionality would ensure the application of the difference principle without resorting to any arbitrary and peculiar condition belonging to the separate individuals. Compelling agents in society to act in a reciprocal way by way of only individualistic measures would not be effective or sustainable in reaching the goals of a well-ordered society. Instead, an institutional establishment will shape the basic structure of society, and all individuals will necessarily or, in case needed, forcefully follow what this structure requires.

Rawls’s “public conception of justice” which is the ultimate guide of the well-ordered society, can only impose its direct rules by way of an institutional framework (2001: 54). Institutions are obliged and able to assign rights and duties to individuals. Since Rawls is interested in how these rights and duties can be formulated as an output of a well-ordered and just society, his focus is solely on the institutional structure.

Cohen's criticism of the difference principle as fitting only to the institutional scheme does not seem convincing in light of the points discussed above. Since the difference principle is realized through institutions shaped by individuals with a distinct sense of justice, it is impossible to conceive of a structure devoid of individual agency. Besides, the principle requires specific institutional practices within a political structure to effectively guide a well-ordered society. With these in mind, Rawls seems methodologically right on insisting the institutional establishment as the basic implementation mechanism of the principles of justice.

4.3. Locating Equal Opportunity into its Proper Place

Rawls locates the principle of fair equality of opportunity at the very heart of the theory. With a specific emphasis on educational background, a well-ordered society has a distinct feature of having a fair distribution of opportunities. Rawls highlights two primary elements of the fair equality of opportunity: "preventing excessive accumulations of property and wealth and of maintaining equal opportunities of education for all" (1971: 63). Through these elements, society aims to disable the marginalization of any of its dignified members regarding their potential to realize life prospects. The ability to have and pursue life prospects cannot only be assigned to the fortunate, rich, and educated ones. This suggestion is derived from the thin sense of justice assumed in the original position.

The principle of fair equality of opportunity is, as reiterated by Rawls, superior to the difference principle. This means that if the conditions required by the principle of equal opportunity are not satisfied, the difference principle becomes invalid. A social policy that seems to be consistent with the difference principle might not provide fair opportunity distribution. This policy might benefit the worst-off group in a relative manner, but it might also allow uncontrolled concentration of the capital at the hands of a privileged, advantaged segment of society that has been enjoying a vast monopoly of opportunities. Some critics, such as Reiff, argue that Rawls does not give a detailed explanation of how equal opportunity is applied as a controlling mechanism of the difference principle.

We believe that this critique is partially true, and Rawls is surprisingly not very interested in the institutional aspect of the opportunity principle. However, we will still argue that valuable insights into Rawls's interpretation, especially the notion of property-owning democracy, which he added to the theory later on and discussed briefly earlier, regarding the proper actualization of a fair distribution of opportunities can be found. Indeed, institutional application is mainly related to the basic structure of society. What makes the principle institutionally concrete is its application to this very structure.

In defense of the principles of justice, Rawls underlines the importance of education, as an institution and the ability to reach the offices and positions. No one should be constrained into naturally given conditions in which no voluntary action can be taken against. The scheme that makes the advantaged more advantaged and vice versa (the less advantaged, further less advantaged), through an inherited line, is a severe problem that needs to be handled by political institutions. Concentration of the advantages and opportunities at the hands of the minority of fortunate members of the society is, needless to say, against the basic principles of justice. Rawls's suggestion is that all inequalities that might arise from social and economic activity must consider the condition of the least advantaged, and the opportunities must be distributed in such a reciprocal sense. This will enable institutions to set necessary measures for preventing natural elements from solely determining the life prospects of the agents, particularly the least advantaged ones. In this framework, for example, the progress to be achieved by expanding educational institutions in favour of the least advantaged will make their access to opportunities easier, fairer and more equal.

How do we define the least advantaged ones? Every reader probably has an intuitive sense regarding the definition of the worst-off members of society. It might be possible to know them with just a bare first impression. They belong to the lowest income group; they usually do not have educated parents or grandparents; they live in the peripheral areas of the cities; they are deprived of significant endowments and chances that would make them use of their natural talents, and so on and so forth. In Rawls's words, they are the "unskilled workers" who earn "less than half of the median income

and wealth" (1971: 84). The reason why they are classified as "unskilled" is not only about their laziness or about voluntary preferences. They are, from the very beginning, destined to become unskilled by the specifically designed mechanisms of society that do not let them act out of the box. So, opportunities are for the club of the fortunate, not for the unskilled. A well-ordered society is categorically and structurally against such an unbalanced system of opportunity distribution. The extreme inequalities that originated in this initial scheme are to be rejected. This ensures all the parties within society are treated as politically and socially equals without paying attention to their skills, incomes, and classes.

To sum up, the principle of equal opportunity acts as a restraint and control mechanism on the difference principle, forming the basis for its priority. A socioeconomic regulation cannot be solely justified by how it benefits the least advantaged. The difference principle cannot be realized (operationalized) alone. The regulation has to consider a balanced framework in which no overly differentiated opportunity distribution is allowed.

Any policy that does not aim to enhance not only the socioeconomic conditions but also the educational backgrounds of the worst-off members is to be rejected by the equal opportunity principle. A well-ordered society regards its members as a whole; it would not be sufficient to support them only in allegedly economic concerns, but rather, the elements that would encourage them to see the beyond, that would let them think outside of the given are the primary attributions that are assigned to the citizens. The core instrument that ensures this very principal target is equal opportunity.

While it may not be possible to ensure absolute equality of opportunity, even in an ideal sense, a solid public concern for improving the opportunities of the least advantaged will go a long way toward a Rawlsian, well-ordered society. Therefore, contrary to what many of our critics ignore, the difference principle is totally contingent upon the fair equality of opportunity principle and the so-called ridiculous conclusions stem from the sole application of the difference principle cannot be attributed to the theory in general.

4.4. The Heart of the Theory: The Vital Importance of Basic Liberties

The basic liberties are the primary and often overlooked principle in Rawls's framework of justice. It is the essential and the most superior one. The other principles are designed to satisfy the first principle of justice. Any justification of a given policy and application should be initiated with a check mechanism in compliance with the first principle. The difference principle and the principle of fair equality of opportunity are thus secondary. We cannot make any mention of justice without an uncompromising practice of basic equal liberties. This is the keystone of the whole body of the theory.

Rawls stresses several types of liberties that might be counted among the basic ones, such as political liberty, freedom of speech and assembly, liberty of conscience, and many others (1971: 53). Political liberties ensure citizens experience democratic equality in which any peculiar class is not allowed to concentrate the capital and the advantages. Concentrated capital leads to concentrated political environment in which the voices of the least advantaged cannot be heard. The political arena turns into an assembly of the advantaged members of society. Political liberties are primarily against such a possibility that would make democratic politics dysfunctional. Rawls summarizes: "political liberties ensures that citizens similarly gifted and motivated have roughly an equal chance of influencing the government's policy and of attaining positions of authority irrespective of their economic and social class" (2001: 46). In this regard, no matter the socioeconomic benefits a policy may provide to agents, it cannot be justified within the principles of justice unless it ensures basic political liberties. This includes establishing a radically democratic system that safeguards the political influence of the worst-off members.

A satisfactory minimum is not merely an economic term. It should also be politically applied. Agents in society should have strong confidence regarding their ability to affect the ongoing political agenda. If politics is only determined by the concerns of the fortunate group, it cannot be argued that political liberties are preserved and respected there.

This central theme is indispensable for Rawls's conception of democratic equality. Equal parties have to be equipped and assigned with the potential to affect politics. This might be ensured by the principles of fair equality of opportunity and basic liberties by providing necessary tools for distinct individuals, which will make it possible to get their voices heard through institutional and systematic establishments. This is the minimum of what a well-ordered society offers to its members.

Before looking into what the difference principle leads or might lead, we have to cross-check the validity of the application in terms of its compliance with the superior principles. It is not a task as challenging as it seems to be. We have first to consider the political spectrum: can the political agenda only be shaped by the interests of the capital holders, highly educated ones, and hereditarily fortunates? Are there any political and social mechanisms that would allow citizens who do not belong to these "privileged" groups to affect the course of political discourse and practice? If not, if, politics remains within the sphere of the wealthy and educated minority, then we have to argue that the first principle and the first part of the second principle are clearly violated. Under such a violation, the difference principle becomes totally pointless. Its first and foremost requirement to be applied is to ensure the validity of the binding principles. Rawls emphasizes that "the difference principle […] assumes the operation of other principles" (1971: 137). This means that without satisfying basic political liberties with a specific reference to the ability to affect political agenda and fair distribution of opportunities, the difference principle cannot be achieved.

This provides a response to Reiff's and Cohen's criticisms. In a well-ordered society where the political agenda is not concentrated in one hand of the advantageous group, any practice that would deepen inequalities would be blocked by certain political mechanisms that enforce basic equal liberties. Reiff and Cohen separately pointed out that the greater inequalities that might be derived by implementing the difference principle through applications that are seemingly favoring the least advantaged group, such as tax cuts and other types of incentives. This is, in fact, directly related to the permanent influence of one group on the political agenda. The theory tries to prevent such an unbalanced, monopolized political establishment with the principles of justice.

4.5. A Methodological Mistake: Understanding Maximin Principle Correctly and the Sense of Justice

As we have seen in Harsanyi's fierce critique, the difference principle is blamed for focusing solely on the worst scenario by way of adapting maximin principle as its primary decision-making tool. Rawls gives a short and unheeding answer to Harsanyi and argues that maximin principle, which he calls as a "heuristic device" is not designed as a complete and "general principle of rational decision in all cases of risk and uncertainty"(2001: 99). It is a comparative tool that allows agents in the original position to evaluate their potential subsequent circumstances in the real world. It also provides the most widened ground for parties regarding their rights and liberties. Maximin principle focuses on the condition of the ones who own the minimum: they are at the lowest possible position, and if they get the relative maximum according to their contexts, a fair system of balance would be assured. This does not mean that parties should always think of the worst possible outcome; instead, it offers a ground of discussion for the sake of reaching the broadest possible consensus over the principles that will rule the future society. Parties are not asked to construct their community only by way of deliberating the worst scenario. Still, they are compelled to have an inclusive perspective that prioritizes explicitly the rights and liberties of the least advantaged members. Once they agree on protecting or putting it in differently, maximizing the potential prospects of the worst-off members, their future society becomes radically close to being well-ordered. Upon this solid basis, they are now ready to discuss further socioeconomic and political issues that concern the principles of justice. In this sphere, parties are not expected to make decisions in compliance with the maximin principle.

Harsanyi's critique derives from both a faulty attempt to insulate some aspects of the theory from its general context and equating the maximin principle with the difference principle. The theory does not merely seek to maximize the conditions and prospects of the least advantaged: the theory tries to establish a balance mechanism that does not let the advantaged ones to maximally and unilaterally benefit from the social and economic inequalities.

They need to ensure that a vicious cycle of disadvantageous conditions cannot be burdened on the worst-off members. It has to be shared, and it needs to be regulated. It is not about contemplating the worst possible outcome. Agents in the original position are compelled to prepare for the worst because it is inevitable. Some will inevitably encounter the worst-case scenario. With Harsanyi's words, some will die in the airplane crash during the flight heading to Chicago. Some will most definitely belong to the worst group without any relative and comparative advantage that may include them among the socially and politically active subjects of society. Under such a compulsory distribution, justice cannot overlook the ones who fell down into the swirl of chaos and uncertainty. Therefore, we need to keep in mind that the maximin principle is not a principal element of the theory; it is not imposed on any agent, and it is not an indispensable tool of decision-making under the original position. The difference principle is not related to maximizing the conditions of the ones who get the minimum. It is about regulating the social and economic inequalities without compelling the worst-off members to remain where they are destined to be. Maximin is barely a way of reasoning and argumentation, not an essential principle that parties have to follow strictly. Through that way, society functionalizes its basic structure to protect the rights, liberties and the future of its members from being directly affected by accidental conditions and troubled eventualities.

Harsanyi offers Bayesian probability theory as the more proper and contemporary decision rule option, which assigns in advance information to the probability equation and constructs a subjective possibility scheme. Harsanyi thinks that the original position wrongly calculates the possibilities from the very outset because the agents are deprived of crucial background information. However, the experiment that Rawls makes is not a probabilistic one. It is a constructive and consultative way of determining the principles of a future society.

Parties cannot obtain preliminary information on their background because of the vital concern of establishing an impartial ground of deliberation. This balance would ensure a radical comprehensiveness that does not exclude anyone's rights, liberties, and opportunities.

Another key aspect of this framework is that Rawls conceptualized the individual in the original position as "capable of a sense of justice" (1971: 17). This is a conception freed from some of the ambitions of the rational individual assumed mostly by economics, one that necessarily takes others into consideration. According to Rawls, the sense of justice compels individuals to fit their judgments with reflective equilibrium (1971: 47). In other words, individuals harmonize their judgments with the principles of justice through an innate sense of justice. In such a case, the approach is not to consider the worst-case scenario and determine the principles of justice accordingly, as claimed by Harsanyi. The sense of justice rejects the notion of allowing the least advantaged to remain permanently in their worst-off condition indefinitely and instead it embraces principles of justice that prioritize them. Hence, Rawls's depiction of the rational choice of individuals in the original position is imbued with a sense of justice. It could be argued that Harsanyi overlooks this fundamental aspect.

Harsanyi's criticism of the difference principle through the maximin principle attacks the very foundation of the theory. Harsanyi thinks that an original position structure with uncertainties cannot be a decision rule in any way. At least for a rational and self-interested individual, it would be senseless to make decisions in an environment where only the worst risks are calculated. Rawls made it clear that it would be a false assertion to claim that the maximin principle is all about "very high risk aversion" in the context of the original position (1971: 72-73). The risk aversion, indeed, is one of the main concerns. The logic of the original position basically advises the parties to make decisions based on the possibility that they may find themselves in circumstances they never wanted. In such an uncertain environment, parties would decide that those with the least should be compensated with the most. If we have no prior knowledge about the probabilities, if no information is provided about who will belong to which class after the original position experiment, if we are trying to decide in absolute uncertainty, then the maximin principle is a reasonable option. Although Harsanyi says that one should have prior knowledge of the possibilities and that the whole set-up should be made accordingly, the original position was designed in precisely the opposite way, and the theory was built on this peculiar design. Therefore, Harsanyi's criticism of the difference principle is not directly based on the attributes of this principle but on the

more fundamental basis of the whole theory. In this respect, Harsanyi does not offer a strong criticism of the difference principle. Rawls, too, almost glossed over Harsanyi's criticism by responding to it in a few undetailed paragraphs in the *Restatement*.

4.6. The Importance of Institutionality and Self-Respect

We have discussed this topic briefly above and in connection with other principles. This section offers more detail. Rawls's strong emphasis on the institutional mechanisms regarding the application of the principles of justice has been criticized because of its alleged lack of individual scope and its abstract, "unencumbered" definition of the self. Cohen's critique has been designed with such a specific focus. He thinks Rawls's equation of justice with only institutions trivializes the individual effort. Can justice merely be upheld by institutions? Are individuals deprived of any ability to act in accordance with what justice requires outside of institutional enforcement? Do the principles of justice solely aim to affect the institutional framework? Is individuality out of scope?

Rawls responds: initially, principles of justice are applied explicitly to the basic structure of society. They are not applied within a micro level of distinct individuals. Rather, principles are reached after a consensus that provides a solid objectivity for the institutional design after the original position. In that sense, Rawls can be regarded as an institutionalist. Except for the difference principle, the first principle (basic equal liberties) and the first part of the second principle (fair equality of opportunity) are mainly constitutional requirements (Rawls, 2001: 48). They are the outputs of what parties have agreed upon.

The whole body of theory has been built upon the premise that parties are to determine how their society's basic structure, which they are required to follow and obey, will be shaped in accordance with their joint will through principles of justice. From that sense, individuals decide cooperatively and build their institutions. They functionalize institutions as paths for operationalizing justice, which does not allow any one of them to be the victims of contingencies.

This is an intertwined structure: institutions are constitutionally necessary and directly regulate socioeconomic life. However, they also carry direct traces from each and every individual within society. One of the primary objectives of the principles of justice is to be as inclusive and broad as possible. Neither the advantaged ones nor the unfortunates are excluded. The institutional design does ensure this: first, basic liberties have to be protected; second, opportunities have to be distributed fairly; and finally yet importantly, any socioeconomic inequality arising from such establishment needs to be the benefit of the least advantaged. The institution aims for the individual, and the individual constructs the institution. Within such context, Cohen's critique regarding the essential lack of the individual aspect in theory might be responded by further adding one other dimension: self-respect.

The theory can also be regarded as a motivating effort for the individual to gain his or her self-respect as a dignified member of society. No one can be conceived as doomed to the contingencies that he/she has been exposed to. These contingencies sometimes harshly attack one's own image as a considerable subject. Language, educational background of parents, race, several inherited health problems, familial financial incapacity, and many other accidental factors might easily and despitefully affect one's perception of the self. However, as Kantian creed suggests, individuals are ends in themselves. They have their unique worth directly stemming from their own beings. No other element should distract this worth. This worth "implies a confidence in one's ability, so far as it is within one's power, to fulfill one's intentions"(Rawls, 1971: 386). It is a political and ethical duty to raise institutions that would uphold justice and assign people their innate self-respect, which Rawls categorizes as "perhaps the most important primary good(1971: 348). The theory provides remarkable tools to discharge such responsibility: the basic liberties are initially secured, so people enjoy rights that allow them to exert effort to affect the political agenda; opportunities are not cumulated at the hands of the lucky minority and they are fairly distributed; the least fortunate members are justly prioritized.

Agents in the original position have a tendency towards securing the self-respect of each member in the post-experimental reality. Institutions are structured in compliance

with such a central tenet. Principles of justice are applied through institutions to fairly assign a solid value of the self to each member of society.

4.7. Misconceiving Incentives: Not for the Few but for the All

A superficial reading of the difference principle would suggest that society needs to provide particular incentives to talented people, while considering their talent as a common asset, to maintain the ordinary operation of daily life. For instance, surgeons have to be paid much above the average, because what they do can be done by very few. They have to be encouraged to continue to do what they are doing. It would benefit all, not only for the talented but for the rest of society, particularly for the least advantaged ones. If talented people change their minds and stop working, society will experience severe setbacks and social unrest.

The difference principle, therefore, advises us that they should be rewarded with some incentives to ensure that they continue to benefit both society and the less fortunate members. Cohen offers a harsh critique of the difference principle, arguing that such a framework that is greenlighted by the principle, would radically increase inequalities, contrary to what is desired, and that a talented minority would always gain more advantages and become richer and that the gaps between different socioeconomic classes of society could never be closed. For him, there are serious problems with the implementation of the difference principle that need to be addressed, and the principle, as it stands, serves to deepen inequalities, let alone mitigate them. The idea of favoring the least advantaged who has been the victim of several misfortunate eventualities and contingencies might evolve into a directly opposite result. The advantaged members become extremely privileged and needed. Society has to prioritize them and establish an absolute inequality among agents. As we have reiteratedly emphasized before, it should be stressed that, the theory does not aim to have a fully equal society. Rather, it acknowledges that human society is intrinsically, and ontologically fragmented, and unequal. Rawls rather seeks fairness, instead of full equality. It is impossible to equate the initial conditions. Some will start the journey with highly developed, advanced vehicles, some will try to cover the same ground with torn boots. This is unchangeable.

However, society may intend to provide better boots to the least advantaged members by regulating the already large share of opportunity of the vehicle owners. Theory asks people "to develop their different and complementary talents and engage in mutually advantageous schemes of cooperation" (Rawls, 2001: 145).

Rawls's theory tries to reach a well-ordered society with the essential conception of justice of fairness. The distinguishing characteristic of this society is to let its citizens think beyond the limits that their conditions imposed on them. With its specific mechanisms, Rawlsian well-ordered society gets involved in the construction process of the life prospects of the citizens and strives to instill them with the idea that unchangeable conditions are not the sole and absolute determinant of how they live. It is true that nature has its own way of ordering things; however, the agents who are reciprocally eager to cooperate in society have the capacity to establish a distinct and fairly balanced social formation that does not leave themselves at the brute hands of luck.

The issue of incentives might be considered from this perspective. There is inherent inequality in society; some groups are naturally favored, are more advantaged, use their advantages well, and advantage themselves and their descendants, but this is no excuse to regulate existing social and economic inequalities to benefit the disadvantaged. Another essential characteristic of a well-ordered society is to free individuals from the vicious circle that keeps them struggling in initial and ongoing disadvantaged conditions. Therefore, people given more rewards and incentives to ensure the continuation of social order cannot incorporate these incentives into a systemic framework that disadvantages others. Every incentive given, every additional contribution that keeps these people in an advantageous position, and every necessary inequality that sustains the functioning of society is also transferred to the benefit of the disadvantaged with specifically designed measures. This prevents the concentration of incentives at the hands of the advantaged and the stratification of society with a rigid class distinction that undermines the reciprocal essence of society. Rawls formulates the role of the additional contribution coming from the talented and says that "premiums earned by scarce natural talents […] are to cover the costs of

training and to encourage the efforts of learning, as well as to direct ability to where it best furthers the common interest" (1971: 274).

Let us continue with our example. Society needs doctors to work. It allows doctors to earn above-average incomes. It does not object to doctors enjoying a high level of welfare. As Cohen argues, it makes concessions and creates incentives to ensure that doctors do not stop working. A cycle emerges that permanently incorporates doctors into the advantaged group they are already in. But a well-ordered society does not make this only single-sided. Doctors do not use these incentives to remain within the advantaged group in a perennial period. This is because they recognize that they are responsible to others as members of society willing to cooperate. Doctors transfer their widespread prosperity and advantage as resources to the opportunity-distributing mechanisms of the well-ordered society. For example, educational institutions are built on these resources to provide opportunities to disadvantaged groups. In this way, doctors instrumentalize the incentives they have to distribute advantages downwards. This confirms the structure that the difference principle builds: inequalities in society are permissible only if they benefit the least advantaged.

4.8. Boundaries of Brute Luck and the Difference Principle

Rawls's theory problematizes the disadvantaged members of society, sees the absolute continuity of their disadvantaged status as contradictory to justice, and argues that this framework should be addressed through specific social and political means. *Theory* compels its readers to think as widely as possible regarding the definition of being disadvantaged. In a sense, justice is shaped by how the disadvantaged are treated. Principles of justice firmly reject indifference to the conditions of disadvantaged people, making a radical distinction between the advantaged and the disadvantaged in society and ensuring the transitivity between them is consistent with the requirements of justice.

It is, therefore, crucial to identify who the disadvantaged and advantaged ones really are. A part of Dworkin's criticism is precisely about this identification and its relation to the difference principle.

As we discussed in chapter two, Dworkin sees significant problems with Rawls's categorization of individuals as advantaged and the least advantaged. In fact, Rawls is unusually clear on the definition of the least advantaged: they are unskilled workers; they are those who receive less than half of the median income and wealth. No additional effort is needed to identify them. They are immediately recognizable. Their hallmark is the minimum share they receive from the wealth produced by society.

Where is the point that we should use as a reference to define people as disadvantaged? Dworkin and Rawls diverge on this issue. Rawls points to a more ontological and original starting point. Individuals are disadvantaged at birth: "each person finds himself placed at birth in some particular position in some particular society, and the nature of this position materially affects his life prospects" (Rawls, 1971: 12). Everything starts from the very beginning. If society does not prevent this starting point from permeating all of life, there can be no justice. Members simply live in an already determined social structure, an order designed to ensure that the advantaged continue to be advantaged, without being able to take any voluntary action pursuing to become more advantaged. Rawls stresses that "since inequalities of birth and natural endowment are undeserved, these inequalities are to be somehow compensated for" (1971: 86). In such a context, it is not essential to focus on what individuals are currently doing. The challenge is to prevent the reproduction of disadvantegous positions. This is what a well-ordered society primarily aims for with its political and social tools. Therefore, Rawls focuses on structural elements rather than the actions of individuals and recognizes the binding effect of structure on individuals. The structure must be constructed and designed according to what the principles of justice prescribe. In Rawls's account, the choices of individuals are not considered a primary political agenda. As a matter of fact, his whole project is a constitutional establishment that aims to design the very basics of the institutions, not the particular attitudes and actions of individuals.

However, for Dworkin, Rawls wrongly assumes that what makes individuals disadvantaged is only related to contingent and accidental factors. In his distinction between "option luck" and "brute luck", Dworkin tries to show that not all evils that

happen to a person derive from initial, unchangeable conditions. People take risks, make serious mistakes and wrong calculations, choose to be lazy, and consequently pay the price of what they actively and voluntarily do. It is not fair to expect institutions to cover up these failures. Rawls assigns an extraordinary responsibility and burden on the institutional establishment. The framework that he provides does not hold people accountable for their actions. In this case, institutions become more dysfunctional; they can be blamed for every unfavorable circumstance, and the notion of justice becomes thus critically ambiguous. However, justice cannot be conceived solely in terms of the initially determined conditions of individuals, completely isolated from the individual scheme and reduced to a purely institutional scale. This is, for Dworkin, a major mistake that the difference principle falls into.

Dworkin agrees with Rawls and many luck egalitarians and argues that inequalities in society are caused, to a non-negligible extent, by luck-based differences in initial conditions between individuals. There is no dispute about that. However, this does not exempt people from responsibility. Not every circumstance over which no control or voluntary action can be exercised can be explained with luck and attributed to institutional recovery. Certain decisions people make lead to specific outcomes, some of which are unpredictable and coincidental. A person who takes a considerable risk and invests all his money in a piece of land is not a victim of bad luck if the money he makes from the appreciation of that land brings him completely unrelated disasters. It would not be a requirement of justice for institutions to identify this person as the least advantaged and adjust existing inequalities in his favor; on the contrary, it would be a pure violation of justice.

Let us now turn to the defense of Rawls's perspective. First of all, as mentioned above, it should be noted that Rawls is quite clear and direct in his definition of the least advantaged. Unskilled workers who rely solely on physical labor for their livelihoods are the primary least advantaged ones. A well-ordered society is less concerned with how and why they become unskilled than preventing this status from remaining fixed and absolute. If being an unskilled worker is made an insurmountable fate by the institutions and principles of society, if the roles of these workers are defined without

any social and political opportunities, then that society can be regarded as involved in a type of caste system, divided by thick walls and it is not fair. Similarly, those who are least able to exert political influence in society, those who have the most minor share of opportunities, and those who try to survive on below-average incomes are undoubtedly the least advantaged ones. An investigation into why these people lack these capabilities could conclude that they are responsible for what they have or have not done. However, the constitutional and contractual establishment treats individuals beyond their responsibilities. By definition, it does not apply exclusively to individuals, but to a society as a whole. Individuals accept and follow the principles determined by the constitution without any relation to their actions and responsibilities. It is given. Individuals also expect the institutional establishment to support them within a given context. It should be unquestionable whatever the voluntary action leads to.

It is not always easy to attribute a disadvantageous situation directly to people's choices. Let us consider the initial conditions, as Rawls suggests. Is it entirely voluntary for a person growing up in extreme deprivation and poverty to engage in a risky investment that offers the expectancy that he or she can get rid of this disadvantaged situation? This person perceives the world, calculates the risks, and takes steps according to the initial conditions in which he or she is already and involuntarily included in.

As a result of these actions, the person may advance to an advantageous position or be stuck in a disadvantageous status. Still, in the end, it all comes back to the accidental initial conditions. The institutional establishment is therefore not concerned with why any given member of society is least advantaged or advantaged, but focuses on regulating the existing inequalities to benefit the least advantaged and to provide them a relatively more comprehensive life prospect.

In fact, the theory also raises the issue of compensation for the conditions that are out of people's volition and that they cannot choose. This is why we call it "initial conditions". These conditions happen to agents at the very beginning, suddenly, and

in an entirely binding manner. Society must recognize the extreme imbalances that may arise in these initial conditions as a problem. These imbalances grant some individuals extremely advantageous positions, while punishing others with unfortunate accidents. They divide society according to purely random factors. In this framework, people who act entirely of their own volition, although it is not quite possible to claim that they can, and pay the price for the risks they take are only partially covered by the difference principle. The difference principle is more concerned with those who are at the very beginning to prevent unfair predetermination and rigid class inequality.

In sum, Dworkin misses this focus on initial conditions, extends his criticism to later (inlife) choices. This is a narrow-minded view on justice. On the contrary, Rawls does not extend the category of the least advantaged to the later-on choices individuals make.

4.9. Property-Owning Democracy: A Vital Update of Rawls's Theory as a Response to the Critics

As some commentators have argued, property-owning democracy is the way to address the systemic deficiencies in Rawls's difference principle that could lead to further inequality and to answer Cohen's and Reiff's criticisms. Freeman briefly explains property-owning democracy as follows:

> "Concentrations of wealth have been dissolved or mitigated so that '[s]ociety is not so divided that one fairly small sector controls the preponderance of productive resources.' With the wide dispersion of property in income and wealth, there are no longer distortions of democratic government typical of capitalist democracies" (2021: 139).

The issue turns back to the scrutiny and supervision of the difference principle and considering the theory as a whole. Property-owning democracy regards the dispersion of property as a fundamental political problem. Such a dispersion would be a radical blow to the inequalities caused by the initial conditions. It would also ensure that

political power and ability to affect the regulatory mechanisms would not be handed over only to those who have more property and more productive resources and are, therefore, more fortunate.

This new tool, which Rawls mentions both in the revised edition of *Theory* and in the *Restatement*, can significantly overcome the argumentative shortcomings which still attract a wide range of criticisms. There is a growing interest in the literature on the property-owning democracy, which Rawls lists as one of the two political systems in which the difference principle can be implemented. The critics we have discussed in this thesis, especially Reiff, have not shown any interest in how this instrument transforms the difference principle.

Rawls's concept of property-owning democracy underscores the pivotal role of property ownership in shaping the initial conditions of individuals within society. He highlights that one's ownership of property significantly influences their initial conditions in life. Rawls goes beyond recognizing the importance of improving initial conditions and acknowledges that mere enhancements in this regard may not suffice to make individuals' condition better from the least favorable positions they may find themselves in. To address this concern, Rawls introduces a new set of imperatives that complement the difference principle.

With the addition of property-owning democracy to the 1999 revised edition of *Theory*, Rawls emphasizes how property ownership can play a decisive role in people's initial conditions. In light of the criticisms, Rawls recognized that merely improving initial conditions would not save people from being permanently in the least advantaged group, and he added a number of new mechanisms which will work in harmony with the principles of justice. Property-owning democracy is portrayed as one of the establishments that would perfectly fit for the implementation of the difference principle.

Another requirement that can be read within the framework of the principle of fair equality of opportunity is the generalization of the right to own property and the facilitation of the acquisition of property in favor of the least advantaged. As property

can be inherited between generations, it may provide an individual to permanently remain in its advantageous condition. A person acquiring property will be in an advantageous position in terms of having the necessary marketable skills to move out of the least advantaged group. This implies that by reducing vital housing expenses or generating potential rental income, individuals can gain a level of protection against being trapped in the least advantaged situation. Of course, making use of these opportunities is a separate ability, and some people may not be able to capitalize this positive contribution provided by property. However, it could be argued that property categorically makes a significant difference in the formation of social status.

Reiff contends that prioritizing the least advantaged through institutional means, such as applying the difference principle, may exacerbate existing inequalities. We argue that it would not be possible for inequalities to worsen in the case of joint implementation of the principles of basic equal liberty and fair equality of opportunity. Besides, in a property-owning democracy, it would be evident that institutional support to the least advantaged individuals within the framework of property rights serves to prevent the monopolization of property ownership by a limited minority, ensuring that the opportunities provided by property rights are extended to the general public, including the least advantaged ones. In this regard, it is essential to consider the difference principle in conjunction with property-owning democracy, recognizing individual property ownership as a fundamental condition of democracy. In this way, Rawls seems to have considerably strengthened the difference principle. Although the difference principle seems to be besieged from all sides, it actually reaches the theoretical perfection to meet all the criticisms that can be directed against it with these new tools. Property-owning democracy perfectly systematizes the two prior principles that Rawls puts forward to check the difference principle.

Thus, the difference principle should be assigned with a critical role in combating inequalities within the theoretical structure stipulated by *justice as fairness*. Instead of deepening inequalities, it provides additional benefits to individuals who are most adversely affected by them.

The concept of property-owning democracy draws clear inspiration from Marxist theory. Rawls points out how the unequal distribution of property makes individuals belong to different social groups in a permanent way. In this framework, it can be argued that Cohen's criticism is also answered. Taken separately, his criticism is based both on a misleading interpretation of the difference principle and on an evaluation that is detached from the whole body of the theory. Nevertheless, Cohen was one of the first to stress that the difference principle could produce results opposite to those intended. This prompted Rawls to revise the difference principle. Cohen's persistent and harsh criticisms were quite remarkable in Rawls's revisions. What Cohen is dissatisfied with Rawls is probably his distance with the left. Rawls, for him, should not abstain from getting further close to the left tradition. Cohen favors a more micro and effective difference principle to be applied not only to institutions but also to individuals. He says: "if they were disposed, as a result, to call me a left-Rawlsian, I would neither disavow nor dislike the description" (2008: 12). We believe that Cohen's critical approach to the difference principle can be mostly satisfied with property-owning democracy and an extensive reading of the superior principles. They will invalidate the problem of incentives by both assigning property to the least advantaged and institutionally protecting the principle of fair opportunity.

4.10. The Power of Theory in Practice: the Difference Principle and Its Capacity

Reiff seems to hold the difference principle directly responsible for the socioeconomic inequalities that have been on the rise in the world since the 1970s. This is a ridiculous argument. Of course, it is impossible to say that Rawls was independent of the spirit, the *geist* of his time. Many Rawls commentators point out that the post-war period in which his theory of justice was constructed was characterized by neoliberal policies that affected the world and the statistically recorded rising inequalities. Rawls, following the typical behavior of a philosopher seeking a solution to the problems of his time, believes that some new and valid alternatives should be presented against the existing course of events which imply serious increase in inequalities. He developed his work based on this belief. However, no work can influence a period in such a short time and radically change the paradigm. Even Marx did not have such an extraordinary

effect. Reiff attributes an abnormal capability for justifying what was going on socio-economic reality to the difference principle.

Right-wing politics, in a very traditional way, has a populist agenda of providing relative welfare for the masses. For this agenda, it protects the owners of capital with goals such as creating employment, maintaining economic vitality, and creating new business lines. Capital owners benefit from tax cuts and the power to set the political agenda with the limited benefit they provide to the working class. In this way, they get more affluent and more prosperous. The working class, for whom employment is created, experiences very marginal progress in the sense of benefits. In this case, regulations that appear to be in favor of the less advantaged ones both immobilize them and increase their distance to the capital owners at an unreachable level.

This is a common scenario not only in the United States but in many countries dominated by right-wing politics, and the difference principle is not to blame. The difference principle is designed against such injustices and extravagancies. Rawls has bound the principle with mechanisms to temper these populist motives. As long as the difference principle is kept in check by higher principles and applied in a political order that embraces property-owning democracy or liberal socialism, there is no way inequalities can deepen and worsen. Not only this type of politics but all forms of injustice cannot be fought by applying the difference principle alone. Rawls has actually constructed a beneficial body of tools with his recipe to control the difference principle. Before the difference principle, first and foremost, the basic equal liberties will be subjected to strict scrutiny: they have to be ensured no matter what.

Suppose these liberties, classified namely by Rawls as the "right to vote and to hold public offices, freedom of speech, liberty of conscience, freedom of thought, right to hold personal property…" cannot be satisfied by the given establishment (1971: 53). In that case, time should not be wasted investigating the applicability of the difference principle. Once the basic liberties are somehow satisfied, it is necessary to look at the distribution of opportunities to ensure that there are no huge gaps between the educational advantages of individuals and that only a lucky few do not have access to

certain privileged professions and offices. Only in this case can the difference principle be implemented.

4.11. Concluding Remarks

In this fourth chapter, we presented arguments deriving from Rawls's text as a response to the critics we discussed in the third chapter and we mainly emphasized that the theory should be taken as a whole. Rawls did not think of the difference principle in isolation. He placed the difference principle after the preliminary principles that control it and are set as a prerequisite for its application. In this respect, the difference principle should be considered with these binding prior principles which are the principles of equal basic liberty and fair equality of opportunity.

The difference principle is equipped with a number of essential features. For example, the principle attaches great importance to reciprocity among individuals and even makes it obligatory in practice. This was conceived as a bond of fraternity. There is no indifference directed to the conditions of other members of society. The well-ordered society organizes its institutions in such a way that people who live within the rules and systems set by these institutions recognize and care for each other's conditions. Therefore, this relationship of reciprocity among members plays a key role in the application of the difference principle. Although inequalities are partially permitted, this is on condition that the least advantaged receive a permanent, compensatory benefit from the resources and opportunities produced by society.

The difference principle can only be considered after the basic equal liberties and fair distribution of opportunities are institutionally satisfied. If certain groups monopolize these basic liberties, if they define political influence exclusively for themselves, and if they share opportunities among themselves in a perpetual and vicious cycle, the difference principle cannot be applied there. If only the rich benefit abnormally and unjustly from a tax cut, while the poor receive only a small "trickle", if the possibilities for the political and social struggle to change such an unbalanced and unfair structure are deliberately blocked, then the difference principle becomes completely irrelevant.

Supply-siders cannot rely on the difference principle because they fundamentally violate the principles of both basic liberties and fair equality of opportunity.

They do so by destroying reciprocity and altruism among individuals and placing the profit motive at the very center of the socioeconomic establishment. They categorically prioritize the capital owners and are inspired by the idea that the source of all welfare lies in the satisfaction of the advantaged group. These specific perspectives and motives contradict the difference principle and the whole body of the theory of justice. Overall, Rawls remains distinguished from such justifications of existing institutional regulations of status-quo.

Contrary to some critics, the difference principle does not exempt the least advantaged members of society from responsibility out of a sense of mercy. Rather, it does oppose the perpetuation of adverse conditions in which these people find themselves without their direct or indirect voluntary actions and the monopolization of the educational and economic opportunities to fight against these conditions by other privileged, fortunate members. Initial conditions are at the core focus of Rawls's theory. Through these central themes and remarks we tried to present a defense on the theoretical soundness and practical effectiveness of the difference principle.

In the final conclusion chapter, we will give an overview of what we tried to achieve throughout our thesis. Drawing on Rawls' text and delving into the critiques of the difference principle that we've explored in our discussions, we aim to underscore the pivotal significance of "initial conditions" in comprehending social and economic inequalities. Our contention is that political theory should allocate greater attention to this aspect.

CHAPTER 5

CONCLUSION

The difference principle is the cornerstone of Rawls's project. Although it is not mentioned with the expected frequency among the incredibly detailed chapters in *Theory*, the difference principle is a canonical and instrumental concept, especially in its contribution to the literature of liberal egalitarianism. The principle implicitly emphasizes the relation of social stratification which has been considered a field of study of sociology, to the issue of justice. It offers an essential perspective on the political grounds regarding the conditions in which individuals find themselves from the very beginning. In this respect, the difference principle embraces the egalitarian idea that luck should not be entirely decisive in people's lives. Luck or misfortune, which happens to each individual in different manifestations and on a purely random basis, must be filtered through the vision of justice. With this filtering, justice will take sides with the least advantaged or the unlucky ones and require the social structure to be designed according to the benefit of this group. The notion of a sense of justice, presumed within a hypothetical scenario, serves as an auxiliary concept for deriving the two principles of justice. No one, in principle, should be held responsible for the conditions they did not choose. Society should not impose additional stress on people already oppressed by misfortune. On the contrary, society, if it is to be characterized as well-ordered, must radically adjust the inequalities that are necessarily or voluntarily generated by contingent circumstances in favor of the less fortunate.

Such a view, which tries to understand inequalities through initial conditions, is not found in the utilitarian liberal interpretation. Rawls challenges the unquestionable dominance of utilitarianism in liberal theory. He aims to develop an alternative to utilitarianism by adopting the philosophical methods used by Anglo-Saxon academic tradition. In pursuit of this goal, Rawls employed the tools of the contractarian tradition represented by Locke, Rousseau, and Kant.

He critiqued the liberal principles of justice proposed by utilitarianism as part of this endeavor. He maintains that utilitarianism lacks the capacity to establish a moral, principled foundation for a well-ordered society. Utilitarianism condones certain practices that compromise individual rights and freedoms in the interest of maximizing the general welfare and therefore cannot be accepted in a liberal framework. Utilitarianism disregards the significance of initial conditions resulting from luck in individuals' interactions with justice, viewing them as contextless, competitive entities whose primary objective is to attain greater utility. However, the means to achieve this objective appear uncertain within utilitarian viewpoint. No mechanism exists to prevent certain individuals from being sacrificed for the sake of practices that would benefit the general population. Rawls posits that these significant shortcomings of utilitarianism amount to not merely criticism but complete abandonment, advocating instead for the development of an alternative to liberal theory that would be shaped by the principles of *justice as fairness*.

Rawls appeals to the constructivism of liberal theory with excessive elaboration and proposes an ideal alternative to actual conditions. This is the recognized course of action of a tradition beginning with Kant and Locke. Here, compliance with the logical framework is emphasized rather than applicability. Rawls's aim in all theory, as in the difference principle, is not simply to apply it. Rawls instead targets a new way of thinking about the concept of justice, a paradigm shift. This is a shift in which considerations regarding people's initial conditions are included in the political sphere. This also includes the claim that socioeconomic inequalities are not only structural but also linked to contingent circumstances that are able to have a long and lasting impact on one's life by forming self-image and life prospects.

Through the original position, Rawls implies that there are absolute dark points in people's lives. Points that cannot be known, cannot be chosen, and cannot be preferred. These cannot be approached from a Bayesian point of view; nothing can be predicted in advance. People find themselves in a family, a country, a language, and a socio-economic environment. To allow this contingency to determine the life prospects of individuals is to design society entirely in favor of the lucky few. Overall, this will establish a permanent game of injustice. More importantly, such design will be against

our sense of justice. Monopolization of the capital, and opportunities of society in the hands of the privileged class will occur through this. It is a tyranny in which the political is only shaped by the concerns and further demands of these fortunate group. The most direct way to fight against such tyranny is to redistribute society's resources and opportunities in a new and fairer way. The principles of justice that Rawls offers are, therefore, distributive. Society needs to redistribute and disseminate not only capital, but also skills, education, knowledge and luck. With the specific mechanisms, society invalidates the concentration of opportunities for preventing an abnormal and destructive imbalance.

Throughout the thesis, we have analysed the difference principle in detail, scrutinized some of Rawls's updates to the principle in his later texts, and approached our analysis from a comparative standpoint, taking into account the criticisms of the scholars we have chosen. The criticisms leveled against the difference principle in this thesis have centered on its applicability and its potential to exacerbate inequalities. We have posited that these criticisms can be effectively addressed by referencing Rawls's texts and the framework of justice principles he establishes. Additionally, we have contended that the difference principle stands on a more robust theoretical and practical ground than these criticisms imply.

All the principles of basic liberties, equal opportunity, and difference have clear and distinct intentions and boundaries. Their concerns are quite straightforward. These theoretical tools have a unique potential to illuminate the ongoing problems of radically stratified and excessively unequal structures of modern societies. Although their applicability will always remain a matter of discussion, these principles, especially the difference principle, which we have concentrated on throughout this thesis, should be seen as an invitation for a new and transformative political perspective. Rawls's optimism, ambiguity, abstractness, and excessive idealism should not prevent us from using this perspective. Considering socioeconomic inequalities within the framework provided by the difference principle may produce unpredictably effective results. In this respect, we believe that further studies on the difference principle, taking into account the criticisms we have examined and compared in this thesis, will fulfill an important responsibility to fill the conceptual

gaps regarding justice, with regard to the political establishment, institutional structure, inequality and the individual.

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APPENDICES

A. TURKISH SUMMARY / TÜRKÇE ÖZET

ABD, Birleşik Krallık, Kanada ve Avustralya'da bulunan, daha genel tabiriyle Anglosakson ülkelerdeki üniversitelerde benimsenen analitik felsefe yapma biçimi dil, mantık, söz dizimi, zihin gibi bilimsel yönü daha belirgin konularla ilgilenmektedir. Analitik felsefenin felsefeyi yalnızca bilimsel bir çerçevede ele alma ve felsefi ilkeleri pozitif esaslarla belirleme eğilimi birtakım sonuçlar doğurmuştur. Bu sonuçlardan biri de, siyaset felsefesinin odaklandığı soruların önemsizleştirilmesi ve felsefe alanından dışlanmasıdır. Bu çerçevede analitik felsefeciler siyaset felsefesini artık modası geçmiş bir uğraş olarak telakki etmiş, kimileri ise siyaset felsefesinin ömrünü tamamladığını iddia etmiştir. Bütün akademik üretimin analitik felsefe tarzından onay almış konulara hasredildiği bu dönemde siyaset felsefesinin sorunsallaştırdığı adalet, toplumsal eşitsizlikler, fırsat dağıtımı, anayasal düzen gibi meseleler, Anglosakson üniversitelerinde ciddi bir ilgisizlikle karşılanmıştır. Yüksek bir eğitim sermayesi elinde bulunduran ve dünyada en fazla bütçeye sahip olan bu üniversitelerin akademik çevreler üzerindeki etkisi haliyle hissedilir olmuş, siyaset felsefesi terk edilmeye yüz tutmuştur. Siyaset felsefesini çağ dışı ve zamanın ruhuyla bağdaşmayan bir mesai olarak kabul eden bu tutum siyaset teorisini de etkilemiş, siyaset bilimi kürsülerindeki teorik üretimde de ciddi bir düşüş görülmüştür.

Esasen, siyaset felsefesinin, anılan üniversitelerde, tamamlanmış ve tarihe karışmış bir alan olarak kabul edilmesinde, faydacılığın (*utilitarianism*) alternatifsiz bir ahlak teorisi olarak benimsenmesi de rol oynamıştır. Faydacılık, Anglosakson akademi için, yalnızca teorik olarak değil, pratik olarak da işlevini ve geçerliliğini kanıtlamış, liberal dünya görüşüne sarsılmaz bir temel sağlayarak yerini sağlamlaştırmıştır. Faydacılığa atfedilen bu abartılı otorite ile siyaset felsefesinin eleştirel ve itiraz eden boyutu köreltilmiştir.

Amerikalı filozof John Rawls'ın *Bir Adalet Teorisi* adlı eseri faydacılığın liberal teorideki bu anormal baskınlığına bir meydan okumadır. Rawls, Anglosakson akademinin felsefe yapma biçimini benimseyerek faydacılığa karşı bir alternatif geliştirmeyi hedeflemiştir. Bu hedef doğrultusunda Locke, Rousseau ve Kant tarafından temsil edilen sözleşmeci geleneğin araçlarını kullanmış, faydacılığın ortaya koyduğu liberal adalet ilkelerini eleştirmiştir. Rawls faydacılığın ahlaki bir ilkesel zemin sunamayacağı görüşündedir. Ona göre faydacı düşünce, genelin faydasını maksimize etme hedefi uğruna bireysel hakların ve özgürlüklerin ihlal edileceği, dolayısıyla liberal bir çerçevede kabul edilemeyecek kimi uygulamalara cevaz verir. Faydacılık, kişilerin adaletle ilişkilerinde rastlantısal başlangıç koşullarının rolünü göz ardı eder, onları bağlamsız, nihai amacı daha fazla fayda elde etmek olan ancak bu hedefe nasıl ulaşacağı belirsiz görünen rekabetçi bireyler olarak düşünür. Bu varlıklardan kimisinin daha genele fayda sağlayacak bir pratik için feda edilmesini engelleyecek bir düzen de yoktur. Rawls faydacılığın sahip olduğu bu ciddi eksiklerin yalnızca eleştiriye tabi tutulmasını değil, tümüyle terk edilmesini ve liberal teoriye başka bir alternatif sağlanmasını önerir.

Rawls için, Locke'un metinlerinde ortaya çıkan, Kant ve Rousseau ile daha ileri noktalara taşınan ve derinleştirilen toplumsal sözleşmeci gelenek liberal teorinin beslenmesi gereken esas kaynaktır. Rawls, bu teorilerin, bireyi bir başlangıç noktası, doğal hâl üzerinden tasavvur eden yönteminden esinlenerek "başlangıç konumu" (*original position*) adını verdiği deneysel bir mekanizma kurgular. Başlangıç konumunda bulunan bireyler ileride içinde yaşanacak toplumun adalet ilkelerini belirleyeceklerdir. İlkelerin belirlenmesinde koşulsal etkileri ve taraflılığı en aza indirmek hedefiyle bireyler kendilerine dair pek çok niteleyici özellikten mahrum bırakılır, nereden geldiklerini, hangi dili konuştuklarını, nelerden hoşlandıklarını ve daha pek çok şeyi özellikle bilmezler. Bir bilgisizlik peçesinin (*veil of ignorance*) ardında ilkeleri belirlemeye koyulurlar.

Böyle bir ortamda, Rawls'a göre, tarafların kabul edeceği adalet ilkelerinde başlangıç koşullarının öncelenmesi beklenecektir, nitekim ilkeleri belirleyen taraflar aynı zamanda deneysel kurgunun dışında kalan "gerçek" dünyadaki konumlarından da

bihaberdirler. Dolayısıyla toplumsal yapının başlangıç koşulları düşünülerek düzenlenmesi rasyonel bir endişenin de gereği olacaktır.

Rawls, iyi düzenlenmiş bir toplum (*well-ordered society*) olarak tanımladığı bu toplumun bireylerine en önce eşit temel özgürlükler (*equal basic liberties*) sağladığını zikreder. Bunlar liberal teoride de kabul edilmiş temel ilkelerdir: siyasal özgürlükler, ifade, toplanma, vicdan ve düşünce hürriyeti ve diğer özgürlük biçimleri. Bunlar anayasal ilkeler olarak kabul edilir, adalet yapısının en tepesinde, "birinci ilke" şeklinde yer alır ve hiçbir şekilde ihlal edilemez. Bu özgürlüklerde ortaya çıkan herhangi bir ihlal, toplumun geneline tartışılmaz bir fayda sağlasa bile hoş görülemez. Rawls bu özgürlükleri liberal (modern) toplumlarda verili olarak görür, bu itibarla da üzerinde fazla durmaz, genel bir çerçeve sunduktan sonra diğer ilkelere geçer. İkinci ilkenin, birbirine hiyerarşik üstünlük bağıyla sıralanmış iki alt ilkesi vardır: birincisi bireylerin eğitim ve ekonomik fırsatlara erişimlerini radikal biçimde düzenleyen adil fırsat eşitliği (*fair equality of opportunity*) ikincisi ise toplumdaki sosyal ve ekonomik eşitsizlikleri ancak en az avantajlıların faydasına olması şartıyla kabul edilebilir gören fark ilkesidir (*difference principle*). Fark ilkesi adil fırsat eşitliği ilkesine, bu iki alt ilke de eşit temel özgürlükler ilkesine bağlıdır. Bunlar arasındaki hiyerarşik yapı oldukça hayati bir önem taşımaktadır.

Rawls, başlangıç durumundaki öznelerin bu iki adalet ilkesinde karar kılacaklarını, bunu da halihazırda sahip oldukları adalet duygusuna istinaden yapacaklarını savunur. Bu ilkeler, başlangıç koşullarını olabilecek en kapsayıcı şekilde ele almakta, insanların ellerinde olmayan rastlantısal şartlara göre mahkûm edilmesinin önüne geçmeye çabalamaktadır. Siyasal özgürlüklerin temin edildiği, fırsatların yalnızca şanslı azınlığın nesilleri arasında dağıtılmadığı, her türden sosyal ve ekonomik eşitsizliğin önce dezavantajlılar düşünülerek düzenlendiği bir toplum Rawls için iyi düzenlenmiştir. Yapı taşlarının "hakkaniyet olarak adalet" ilkeleriyle örüldüğü bu toplumda bireylerin nasıl bir ortamda, hangi sınıfın içinde doğacaklarından endişe duymalarına gerek kalmaz.

Adalet tam olarak böylesi bir başlangıç konforunu temin etmelidir.

Yukarıda da değindiğimiz üzere, siyaset felsefesinin ve teorisinin Anglosakson akademide uzun yıllar süren durgunluğu, Rawls'ın inşa ettiği adalet kurgusuyla değişmiştir. 1974'te yayımlanan *Bir Adalet Teorisi*'ne sırayla pek çok akademisyen yanıt vermiş, Rawls'ın eseri zaman içinde kanonik bir yapıt haline gelmiştir. Nitekim 20. yüzyılın sonlarından bugüne liberal kuram içindeki felsefi tartışmaların Rawls'ın eserlerinde çizilen çerçeveyi mutlak surette göz önünde bulundurduğu söylenebilir. Rawls'ın kavramsallaştırdığı pek çok sorun farklı şekillerde incelenmiş, tartışılmış ve eleştirilmiştir. Rawls bu katkıları yakından takip etmiş, teoriyi yıllar içinde literatürden gelen eleştirilere göre güncelleyerek canlı tutmaya uğraşmıştır.

Bu tezde, her biri özel ilgi görmüş ve pek çok çalışmaya konu olmuş adalet ilkelerinden fark ilkesi ele alınmış, bu ilkeye dört ayrı akademisyen tarafından yöneltilen eleştirilere yer verilmiş, Rawls metinlerinden bu eleştirilere cevaben ortaya konabilecek karşı argümanlar tartışılmıştır. Bu akademisyenlerin ilki olan Kanadalı Marksist filozof G. A. Cohen (1941-2009), Kıta Avrupası, daha çok Fransa merkezli ve Althusser'de temsil edilen Marksist yorumu "saçmalık" olarak nitelendiren ve Marksist yöntemin analitik felsefe araçlarıyla donatılması gerektiğini öneren, Rawls'ın eserlerinden fazlaca etkilenmekle birlikte onda ciddi eksiklerin olduğu kanısını taşıyan bir düşünürdür. Cohen, Rawls'ın sosyal ve ekonomik eşitsizliklere hakkaniyetli bir çözüm önerisi olarak sunduğu fark ilkesi çözümünün kaydadeğer bir çaba olduğunu takdir etmekte ancak bu ilkenin amaçladığının aksine bir sonuç doğurmasının oldukça mümkün olduğunu savunmaktadır. En az avantajlıların koşullarının iyileştirilmesine dönük atılacak ve fark ilkesinin onayını alacak adımların kolaylıkla suistimal edilebileceğini savunan Cohen, aynı zamanda, fark ilkesinin sonu gelmeyecek bir teşvik eşitsizliği döngüsü de yaratacağına inanmaktadır. Cohen'e göre, hem İngiltere'de hem ABD'de, sermaye sahiplerini daha fazla yatırım yapmaya yöneltmek için uygulanan vergi indirimlerinin fark ilkesiyle bağdaşmayacağını söylemek zordur. Nitekim fark ilkesi uyarınca, en az avantajı olanların, ki bu grubun en belirgin üyelerinden biri vasıfsız işçilerdir, elde ettiği faydayı artıran bir girişim adalet ilkeleriyle uyumludur. Sermaye sahibi olan ve dolayısıyla avantajlı sosyoekonomik koşullardan istifade eden bu sınıfın üzerindeki mali yükü daha da azaltmak, bu kişileri, sırf daha az avantajlılara imkân sağlayacağı kanısıyla açıkça

kayırmak fark ilkesinin yol açabileceği ve dahası onaylayabileceği bir sonuçtur. Cohen, böylesi bir toplumsal zeminde, daha az avantajlıların faydasını gözetmek şartını sağlayan her türlü eylem ve düzenlemenin adalet ilkelerince onaylanmasının absürt bir noktaya varabileceği konusunda uyarıda bulunmaktadır. Cohen'in teşvik eşitsizliği olarak adlandırdığı eleştiride ise, toplumun gündelik işleyişini sürdürmek üzere bazı kilit ve herkesin yapamayacağı görevler üstlenen, bu görevleri neticesinde de avantajı bir konuma yükselen kişilerin, daimi bir teşvik döngüsü içinde tatmin edilmelerinin gerekeceği vurgulanmaktadır. Bir doktor, daha fazla maaş almadığı takdirde işini bırakmakla ve toplumun olağan işleyişini aksatabilmekle toplumu tehdit eder, bu tehditten çekinen toplum daha fazla maaşla doktoru tatmin etmek üzere taviz verirse bu içinden çıkılamaz bir döngü haline gelir. Yetenekli kişilerin fark ilkesini böyle yorumlayarak daimi bir ilave fayda sağlamalarının, toplumdaki eşitsizlikleri daha da derinleştirmelerinin önünde bir engel görünmemektedir. Cohen, Rawls'ın, fark ilkesini ve diğer adalet ilkelerini yalnızca kurumsal yapıya uygulayarak kişilerin bireysel tercih ve eylemlerinin dışında tutmasının da böyle bir suistimalin önüne geçilmesine engel teşkil edeceği kanaatindedir.

Tezde incelediğimiz ikinci fark ilkesi eleştirisinde, Amerikalı hukuk felsefecisi Ronald Dworkin'in (1931-2013) yorumları ele alınmıştır. Dworkin, Rawls'ın, rastlantısal başlangıç koşullarına yaptığı vurguyu önceden kabul etmiş, sorunsallaştırmış ve eşitlikçi (*egalitarian*) teorideki tartışmalara bu minvalde önemli katkılar sağlamıştır. Dworkin, fark ilkesinde öncelenen en az avantajlılar grubunun yalnızca şans faktörü ile düşünülemeyeceğini savunmakta, böyle bir tanımlamanın kişileri hukuki sorumluluktan beri tutma tehlikesi içerdiğine işaret etmektedir. Dworkin, şans faktörünün, dezavantajlıların tanımlanmasında başat bir rol oynadığını kabul etmekle birlikte, bu faktörün farklı kategoriler içinde yeniden değerlendirilmesini önermektedir. Ona göre, insanları içlerinde bulundukları dezavantajlı ya da avantajlı koşullara yekpare bir şans etkisiyle ulaşmazlar. Şansın bireylerin bilerek, isteyerek yaptıklarıyla şekillendiği tercihe dayalı bir yönü (*option*) olduğu gibi, bireyleri bütünüyle teslim alan ve onlara hiçbir hareket alanı bırakmayan kaba (*brute*) bir sureti de vardır. Belirli riskleri göze alarak bir yatırım yapan, ellerinde olmayan nedenlerden ötürü bu yatırımdan büyük bir kayba uğrayan ve muhtaç hâle gelen kişiler fark

ilkesinin gözetmesi gereken dezavantajlılar arasında mıdır? Anne babalarından kalıtsal rahatsızlıklar, toplumun genelince kabul görmemiş bir konuşma dili, ömür boyunca türlü imkânsızlık ve mahrumiyetle boğuşmayı gerektirecek bir sermayesizlik miras alanlar ile yatırımından beklediği faydayı göremeyenler aynı kategoride değerlendirilebilir mi? Dworkin bu soruyu sormak suretiyle fark ilkesinin önemli bir eksiğinin bulunduğunu vurgulamıştır.

Fark ilkesine yöneltilen ve tezimizde incelediğimiz üçüncü eleştiri ise Nobel ödüllü Amerikalı ekonomist John Harsanyi'den gelmiştir. Harsanyi oyun teorisine katkıları ve ekonomi temelli argümanları siyaset ve ahlak felsefesine dercetmesiyle tanınmıştır. Rawls'ı oldukça erken bir dönemde, akademik nezaket kurallarını bir hayli esneten bir üslupla eleştirmiş, adalet teorisinin genel çerçevesinin, ekonomi biliminin çoktan terk ettiği yöntemlere başvurarak iddialarını temellendirdiğini öne sürmüştür. Harsanyi'nin fark ilkesi eleştirisi, fark ilkesine içkin olarak düşünülebilecek maximin ilkesi üzerinden şekillenmiştir. Maximin ilkesi, minimum seviyede bulunanların dağıtımdaki payını maksimuma çıkarmayı önermekte, bu itibarla da, fark ilkesinin en az avantajlılara göre toplumsal ve ekonomik eşitsizliklerin düzenlenmesi şartına zemin oluşturmaktadır. Harsanyi, başlangıç konumunda bulunan deneklerin böyle bir akıl yürütmeyle hareket etmelerinin son derece anlamsız sonuçlara yol açacağını, bunun uygun ve bilimsel literatürdeki ilerlemeyle bağdaşan bir yönünün olmadığını savunmaktadır. Harsanyi için, başlangıç konumundakilerin maksimin ilkesini kabul etmeleri, en kötü sonuca göre muhakemede bulunmakla eşdeğedir. Olasılıksal değerlendirmelerin ön koşullar hiçbir şekilde bilinmeden yapılması ekonomi bilimince artık terk edilmiştir. Rawls bunun yerine Bayesçi teoriyi göz önünde bulundurmalı, başlangıç konumu kurgusunu baştan sona değiştirmeli ve fark ilkesini de bu çerçevede güncellemelidir. Başlangıç konumu esasen bir olasılıksal hesaplama olarak görülebilir. Burada bireyler, kendi akıbetleri hakkında bilgi sahibi olmadıkları ancak herkes için en iyi sonucun ortaya çıkarılmaya çalışıldığı bir oyunun içinde gibidirler. Bu oyunda, Rawls, oyuncuların varacakları sonucun adalet ilkeleriyle ortaya konan yapı olduğu kanısındadır. Çünkü bu yapı kimseyi dışlamamakta, avantajlı olanların haklarını zaten anayasal koruma altına almakta, daha az avantajlı olanların koşullarının ise kurumsal bir denge ve kontrol mekanizmasıyla iyileştirilmesi ve güçlendirilmesini

hedeflemektedir. Harsanyi, bütün kurgunun, en az avantajlı olanlar etrafında düşünülmesinin bir hata olduğu kanısındadır. Ona göre sosyal ve toplumsal düzenlemeler en kötü olanın durumu göz önünde bulundurularak değil, genelin faydası gözetilerek değerlendirilmelidir. Aksi halde her daim var olacak olan kötü ve şanssız ihtimaller bir karar kuralı olarak addedilebilir. Harsanyi için fark ilkesi böyle bir temel üzere inşa edildiğinden reddedilmelidir. Sosyal ve ekonomik eşitsizliklerin çözümü modası geçmiş ve verimsizliği ispat edilmiş yöntemlerle aranamaz.

Tezde yer verdiğimiz son ve daha çağdaş bir isim olan Mark Reiff ise fark ilkesini detaylı bir incelemeye tabi tutmuş, nihayet, Cohen'in sonuçlarına benzer biçimde, bu ilkenin, ABD'de 1970'li yıllardan sonra sağ popülist siyasetin benimsediği arz yönlü ekonomi politikalarıyla uyumlu olduğu sonucuna varmıştır. Reiff, vergi yükü azaltılan sermaye sahiplerinin istihdam yaratma ve ekonomik canlılığı sağlama şartlarıyla kayırılması ve bu proje ile toplumun fırsatlarından daha az yararlanan dezavantajlıların fayda sağlaması fikrinin fark ilkesiyle çatışan bir yönünün olmadığını düşünmektedir. Söz konusu ekonomi politikası ABD'de uygulanmasıyla ve marjinal vergi oranları düşürülerek zenginlerden daha az vergi alınmasıyla görülmemiş boyutlarda sosyal ve ekonomik eşitsizliğe yol açmış, Amerikan toplumundaki gelir dengesizliği artan seviyelere ulaşmış, servetin ve sermayenin küçük bir azınlığın elinde toplanması süreci hız kazanmıştır. Reiff fark ilkesini doğrudan böylesi bir tablonun sorumlusu olarak yansıtmasa da, Rawls'ın inşa ettiği ve faydacılığa esaslı bir alternatif olarak sunduğu adalet teorisinin faydacılıkla aynı çizgide sonuçlar ürettiğini, sosyoekonomik eşitsizlikleri daha da kötüleştirdiğini, sermaye sahiplerini kollama arzusuyla siyaset yapan sağ ideolojiye ihtiyaç duyduğu ahlaki temeli sağladığını vurgulamakta, fark ilkesinin arz yanlı ekonomiyi yalnızca onaylamadığını, aynı zamanda gerektirdiğini savunmaktadır. Reiff, Rawls'ın fark ilkesinin böyle tehlikeli bir potansiyel barındırdığının farkında olduğuna işaret etmektedir. Rawls bu endişeyle fark ilkesini iki farklı ilke ile denetlemeye tabi tutmuş, bu ilkeler arasında hiyerarşik bir konumlandırma tesis etmiştir. Fark ilkesinin uygulanabilmesi için önce eşit özgürlükler ilkesinin, ardından da adil fırsat eşitliği ilkesinin sağlanmış olması gerekir. Reiff adalet teorisinde açıkça ortaya konan bu yapıyı kabul etmekte ancak üst ilkelerin fark ilkesini nasıl denetleyeceğine dair somut bir düzen önerilmediğini öne

sürmektedir. Reiff fark ilkesinin arz yanlı ve damlama (*trickle-down*) ekonomilerine zorunlu olarak temel sağlayacağını, bu ekonomi uygulamalarının neoliberal ve bütünüyle sermaye yanlısı bir mahiyetle toplumu telafi edilmesi zor adaletsizliklere mahkum ettiğini, dolayısıyla reddedilmesi gerektiğini savunmuştur.

Tezde, bu dört akademisyenin fark ilkesi eleştirileri sunulduktan sonra, Rawls'ın metninden bu eleştirilere cevaben çıkarılabilecek sonuçlar tartışılmıştır. Burada savunulan esas görüş, fark ilkesinin ve teoride sunulan diğer pek çok unsurun müstakil değil bir bütün olarak ele alınması gerektiğidir. Nitekim Rawls, fark ilkesini ayrı bir yapı olarak görmemiş, bütünün içindeki hayati parçalardan biri olarak kabul etmiştir. Fark ilkesi, onu kontrol eden ve hiyerarşik olarak üstün diğer ilkelerden sonra gelir ve bunlara tamamen bağlıdır. Ayrıca, fark ilkesinin yalnızca dezavantajlıların durumunu iyileştirmek gibi bir endişesi yoktur: ilke, aynı zamanda, işbirliği içinde olan, aralarında bir karşılıklılık ilişkisi bulunan, birbirlerini kardeşlik bağına varacak seviyede önemseyen bireyler olduğunu varsayar. Karşılıklılık (*reciprocity*) ilkesi bir zorunluluk olarak dahi görülür. Bu bireyler arasında oluşabilecek sosyal ve ekonomik eşitsizliklere kısmen izin verilse de bu, en az avantajlı olanların toplumun ürettiği kaynak ve fırsatlardan kalıcı bir fayda sağlaması koşuluna bağlıdır. Fark ilkesi ancak temel özgürlükler ve fırsatların adil dağılımı kurumsal olarak sağlandıktan sonra gündem edilebilir. Eğer belirli gruplar bu temel özgürlükleri tekellerine almışlarsa, siyasi nüfuzu sadece kendileri için tanımlıyorlarsa ve fırsatları kendi aralarında sürekli ve kısır bir döngü içinde paylaşıyorlarsa, orada farklılık ilkesi uygulanamaz, çözülmesi gereken daha acil sorunlar vardır. Bir vergi indiriminden sadece zenginler anormal bir şekilde faydalanırken, yoksullar sadece küçük bir "damlama" ile yetinmek zorunda bırakılıyorsa, böylesine dengesiz ve adaletsiz bir yapıyı değiştirmek için siyasi ve sosyal mücadele olanakları kasıtlı olarak engelleniyorsa, o zaman fark ilkesi tamamen önemsiz hâle gelir. Arz yanlıları fark ilkesine dayanamazlar çünkü hem temel özgürlükler hem de adil fırsat eşitliği ilkelerini temelden ihlal ederler. Bunu da bireyler arasındaki karşılıklılık ve fedakârlığı yok ederek, kâr güdüsünü sosyoekonomik düzenin tam merkezine yerleştirerek yaparlar. Kategorik olarak sermaye sahiplerine öncelik verirler ve tüm refahın kaynağının avantajlı grubun memnuniyetinde yattığı fikrinden ilham alırlar. Bu bakış açısı fark ilkesiyle ve adalet teorisinin bütünüyle

çelişmektedir. Bazı eleştirmenlerin aksine, farklılık ilkesi toplumun en az avantajlı üyelerini merhamet duygusuyla sorumluluktan muaf tutmaz. Aksine, bu insanların doğrudan ya da dolaylı gönüllü eylemleri olmaksızın kendilerini içinde buldukları olumsuz koşulların sürdürülmesine ve bu koşullarla mücadele etmek için gerekli eğitim ve ekonomik fırsatların diğer ayrıcalıklı, şanslı üyeler tarafından tekelleştirilmesine karşı çıkar.

Tezin son ve sonuç bölümünde ise Rawls'ın teorisi, ona yöneltilen eleştirilerle birlikte tartışılmıştır. Rawls'ın projesi naif bir girişim olarak telakki edilebilir. Fazla sayıda varsayıma, bir siyaset felsefesi metninin sınırlarını zorlayacak boyutlarda soyutluğa ve önceden belirlenmiş, pek çok özelliği karanlık içinde kalmış bir birey tasavvuruna dayanması Rawls'ın girişimini fazla idealist yapmaktadır. Ancak Rawls'ın araçlarından çok sorunsallaştırdığı hususların akademik tartışmalara olağanüstü bir canlılık sağladığında şüphe yoktur. Bu tezde de sıklıkla öne çıkarmaya çalıştığımız gibi, Rawls'ın, bireylerin tesadüfi başlangıç koşullarını siyasi ve ahlaki bir mesele olarak öne çıkarması kendisinden sonraki tartışmaları mutlak surette etkilemiştir. Onun bu çabasıyla liberal teori daha önce hiç ilgilenmediği sorunlarla ilgilenmek zorunda kalmıştır. Bu açıdan, Rawls'ın en ağır eleştirmenleri bile onun hakkını teslim etmiş, projesine hatırı sayılır bir saygı göstermişlerdir. Öte yandan, fark ilkesi Rawls'ın projesinin mihenk taşı mahiyetindedir. Bu ilke, sahip olduğu bütün eksiklere ve çıkmazlara rağmen araçsal açıdan son derece verimlidir ve geniş bir perspektif sunar.

İlke, talihin insanların yaşamlarında tümüyle belirleyici olmaması gerektiğini savunan eşitlikçi düşünceye kusursuz bir zemin sağlar. Ancak fark ilkesine yöneltilen eleştirilerin de haklı birtakım noktalara işaret ettiği göz önünde bulundurulmalıdır. Örneğin, Reiff'in vurguladığı gibi, fark ilkesinin hiyerarşik olarak üstün ilkeler tarafından nasıl denetleneceği ve inceleneceği konusu Rawls tarafından yeterince detaylandırılmamıştır. Rawls'ın sessiz kaldığı bu konu asılında fark ilkesinin geçerliliğini temin edecek veya edemeyecek en önemli konulardan biridir. Rawls ilginç bir şekilde burada, genelde yaptığının aksine, detay sunmamış, argümanını yalnızca sunuş seviyesinde bırakmıştır.

Ancak, Rawls'ın hem *Bir Adalet Teorisi*'nin gözden geçirilmiş 1999 baskısında hem de *Restatement*'te geliştirdiği mülk sahibi demokrasinin bu açığı kapatabileceği söylenebilir. Mülk sahibi demokrasi, mülkiyetin kitleler içinde dağılmasını temel bir siyasal sorun haline getirir: nitekim böyle bir dağılım, başlangıç koşullarının neden olduğu eşitsizliklere radikal bir darbe vuracak, siyasal gücün ve düzenleyici mekanizmaları etkileme imkânının sadece daha fazla mülke ve daha fazla üretim sermayesine sahip olanlara, dolayısıyla daha şanslı olanlara verilmemesini sağlayacaktır. Bu katkı, Rawls'ın teoride sunduğu genel çerçeveyi oldukça sağlamlaştırmaktadır. Nitekim, Cohen'in fark ilkesine yönelik eleştirel yaklaşımının, mülkiyet sahibi demokrasi ve üstün ilkelerin kapsamlı bir okuması ile büyük ölçüde tatmin edilebileceğini savunuyoruz. Bu ilkeler, hem en az avantajlı olanlara mülk tahsis ederek hem de adil fırsat ilkesini kurumsal olarak koruyarak teşvik eşitsizliği sorununu da geçersiz kılacaktır. Harsanyi'nin fark ilkesine yönelttiği eleştiri, yine, bütünüyle bir yanlış anlamadan ve ekonomi biliminin kendine özgü araçlarıyla siyaset felsefesine müdahale etme çabasından kaynaklanmıştır. Ne Rawls başlangıç konumundaki bireylerin bir riskten kaçınma davranışı sergilediklerini söyler ne de maksimin ilkesi olabilecek en kötü sonuçlara odaklanmayı salık verir. Dworkin'in tercihe dayalı ve kaba şans arasında yaptığı ayrım, fark ilkesini tamamen determinist bir çizgiye girmekten kurtarmıştır denebilir. Teorinin bireylerin hukuki sorumluluk kapasitesi konusundaki kayıtsızlığı da kritik bir eksiklik olarak görülebilir. İnsanları başlangıç koşullarına göre düşünmek ve adalet ilkelerini böyle bir bağlama uyarlamak çok önemli bir adımdır ancak Rawls hangi eylemin başlangıç koşulları açısından tanımlanabileceğine açıklık getirmez. Kurumsal desteğin insanları ne ölçüde kapsayabileceği, adalet ilkelerinin belirlenmesi kadar hayati önemdedir. Dworkin'in sistemik eleştirisi bu açıdan haklı ve gerekçelendirilmiş görünmektedir. Reiff ise, farklılık ilkesini 1970'lerden bu yana dünyada artışa geçen sosyoekonomik eşitsizliklerden doğrudan sorumlu tutuyor gibi görünmektedir. Bu oldukça temelsiz ve radikal bir argümandır. Hiçbir eser böylesi kısa bir sürede bütün bir dönemi etkileyemez ve paradigmayı değiştiremez. Sadece ABD'de değil, sağ siyasetin egemen olduğu pek çok ülkede sıkça rastlanan arz yanlısı ekonominin neden olduğu sosyal adaletsizliklerin sorumlusu fark ilkesi değildir. Aksine, ilke, bu tür adaletsizliklere ve aşırılıklara karşı bir mekanizma olarak tasarlanmıştır. Fark ilkesi

bağlayıcı diğer ilkeler tarafından kontrol altında tutulduğu ve mülk sahibi demokrasiyi veya liberal sosyalizmi benimseyen bir siyasi düzende uygulandığı sürece, eşitsizliklerin derinleşmesi ve kötüleşmesi, servetin ve siyasal etkinin azınlık bir grubun elinde toplanması mümkün değildir. Fark ilkesi, yeni bir siyasi perspektif için bir davet olarak görülmelidir. Rawls'un iyimserliği, muğlaklığı, soyutluğu ve aşırı idealizmi bu perspektifin benimsenmesine engel olmamalıdır. Sosyoekonomik eşitsizlikleri fark ilkesinin sağladığı çerçevede ele almak liberal teoriyi oldukça zenginleştirecek ve derinleştirecek bir etki yaratabilir.

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