

Can Liberty and Equality Co-Exist?

A jurisprudential study based on the principles of Rawls and Nozick

Raajdwip Vardhan

National Law University and Judicial Academy
Assam, India

ABSTRACT:

John Rawls and Robert Nozick were both colleagues, however, despite their professional similarities, the theories that the two of them developed were contradictory to each other. Rawls had argued that a principle of justice that worked on two basic lexical principles of providing the basic liberties to all, and striving for achieving social equality, although not absolute equality, in a social contract setting, can accommodate the two principles together. However, Nozick put forth the argument that the coexistence of both of these abstract entities is not possible due to their incompatibility, and any attempt to achieve equality in society by means of distributive justice shall lead to the curtailment and limitations of the liberty of the people.

I. INTRODUCTION

Equality and Liberty are two of the most basic aspects of a democratic society in our modern times. These have been dealt with by multiple scholars and philosophers over the years, and they have had an endearing effect on how society is perceived and how society functions today.

Generally considered as an ideal of uniformity in the treatment to all the people, 'equality', derived from the Latin word 'aequalis'. Equality is basically defined in two different ways; the first being formal equality and the second being substantive equality. While the former states of a doctrine wherein everyone is equal before the law, irrespective of the social, political and economic status that they enjoy in a society, the second notion of equality factors in the disadvantages that are present in society and treats those who are unequal in an unequal manner so that their position in society is improved.

Liberty on the other hand is basically concerned with the removal of restraints on how a person may act or function in society. Liberty, just like equality, has two forms i.e. positive liberty and negative liberty.

The two philosophers that are going to be analyzed in this paper, John Rawls and Robert Nozick have written diametrically opposite views regarding the two institutions of equality and liberty respectively, with Rawls being an egalitarian and Nozick being a libertarian. While Rawls argued and put forth his ideas of equality in his seminal work '*A Theory of Justice*', putting forth the concepts of '*veil of ignorance*' and highlighting his two principles of social justice, Nozick's book '*Anarchy, State and Utopia*' came out a couple of years later and functioned as the chief critique of Rawls' theories. Rawls initially argued that liberty and equality are concepts that can go hand in hand, and he highlighted this in his theories, as I shall argue later on. Nozick however contended that these are doctrines that cannot co-exist, and giving importance to one shall inevitably lead to the demise of the other. This, thus formed the basic question of 'can liberty and equality co-exist in society?'

Keeping this in view, the aim of this paper shall be to analyse the two respective theories of John Rawls and Robert Nozick, pertaining to equality and liberty, and address the basic question of whether equality and liberty can coexist in society.

II. JOHN RAWL'S THEORY OF SOCIAL JUSTICE

The theory of social justice that John Rawls propounds in his seminal book 'A Theory of Justice' is basically based on a hypothetical scenario that is called as the '*original position*'. The original position as highlighted by Rawls is a form of the social contract theory. Rawls considers 'justice' as 'fairness', and for him, the two concepts of equality and liberty are supportive of each other, and can coexist in a given society, provided certain conditions are fulfilled. Rawls thus examines the situation in which the two concepts can coexist, and delineates the initial starting point of the hypothetical position as the '*original position*'.

The basic aim of John Rawls' theory is as he addresses it "*a deep disagreement exists as to how the values of liberty and equality are best realized in the basic structure of society.*"¹ Since Rawls considers his conception of justice as fairness, the basic aim regarding the determination of the original position is to hypothesise a situation that is fair to all the involved parties. Being a sort of social contract, the hypothetical original situation that Rawls puts forth is a relationship between the ruling class in the form of the state and the people.

Rawl's original position is intrinsically linked to another one of his concepts, the one of 'veil of ignorance'. Here, the people are unaware of their social situation and thus there is no biasness on the basis of gender, race, class etc. Since people are unaware of their social status, it becomes imperative that everyone works for the benefit of the people who are a part of the lowest strata of society. An example that is often cited regarding the veil of ignorance and its implications in a society is that of a social system wherein a particular percentage of the population is forced to be slaves. In such a scenario, upon entering this new society, a new person will have a probability of said percentage of being a slave. Thus, since he is ignorant of his social position, he shall strive to improve the social position of the slaves. This, therefore, puts the people of the state in a situation of fairness and non-arbitrariness. John Rawls puts up the basic conceptions regarding the veil of ignorance by saying "*no one knows his place in society, his class position or social status; nor does he know his fortune in the distribution of natural assets and abilities, his intelligence and strength, and the like*".² This so called hypothetical scenario wherein the original concept and veil of ignorance are present was used by Rawls to explain his two principles of social justice that formed the basic tenet of his philosophies. These two principles will be used to organise society in a way that everyone will agree to.

In the first principle, Rawls argues "*each person is to have an equal right to the most extensive scheme of equal*

¹ John Rawls, *Justice as Fairness: Political not Metaphysical*, 14, *Philosophy and Public Affairs Journal*, 241 (1985).

² John Rawls. '*A Theory of Justice*'. (1999) Oxford University Press P-118.

basic liberties compatible with a similar scheme of liberties for others.”³ This principle is commonly known as the liberty principle. It is a basic idea that states that everyone should be forwarded a level of liberty and freedom that is basic in nature, and can be enjoyed without constraining the liberty and freedom of others. In other words, this principle states that everyone should be awarded basic liberties without hampering the liberties of others. Absolute freedom and liberty are impossible in the modern civilised world, because that would lead to curtailment of the liberties of other people. For example, if one is given the absolute liberty to practice football in a bar, then the other people’s liberty to drink alcohol peacefully without any hindrance whatsoever will be severally hampered. Thus, it must be noted that the basic liberties are to be forwarded to all the people, however, it must be done by keeping in mind certain limitations so that the liberty of others are not affected.

Thus, according to the meaning of this particular principle, basic liberties which have been given to the people are limited in nature, and one’s liberty can be curtailed only if it is curtailed for all other people, thus ensuring and maintaining the principle of equality of liberty. Hence, it can be contended that the goal of the first principle of Rawls is not absolute liberty, but equal liberty.

The second principle is a bit trickier. It states:

Social and economic inequalities are to be arranged so that they are both:

- To the greatest benefit of the least advantaged, consistent with the *just savings principle*; and
- Attached to offices and positions open to all under conditions of fair equality of opportunity.⁴

The second principle has as its basic tenet that social inequalities are permanent and shall exist in society. Thus, it is impossible to ensure the equal distribution of social and economic goods in a proper manner so that everything is available in an equal manner to everyone. Rawls justifies this inequality by citing two supporting arguments; firstly, be of the greatest benefit to the least advantaged; and secondly, to provide a fair equality of opportunity to all to gain ‘offices and positions’.⁵

Thus, to elaborate, the resultant inequality in society should lead to the greatest benefit of the least well off people of society. Since people are under the veil of ignorance, and they are ignorant about the social positions, it is imperative that they shall work for the benefit of the least advantaged people of society.

Regarding the fair equality of opportunity, Rawls argued that everyone should get a fair equality of opportunity regarding chances to appear for the public offices. The fair equality of opportunity has been highlighted by Rawls by using something that he contends as a system of natural liberty. Under this system, all the systems of

³ Ibid. P-53.

⁴ Supra Note 2. P-266.

⁵ Suri Ratnapala *‘Jurisprudence’* Cambridge University Press (2009) P-340.

entitlements are eliminated and hence the legal barriers, and moreover, no positions are reserved for the people with certain entitlements given to them on the basis of name or position. The veil of ignorance thus highlights the fact that people at the top of the social strata cannot improve their so called social status by hampering the position of those who least well off and reducing their social status. The difference principle thus argues that the basic goal of the social order is not to improve the conditions of the better off people unless doing so shall ultimately lead to the betterment of the people who are present in the lowest strata of society.⁶

Despite all this, however, Rawls had given a greater priority to the first lexical principle and stated that is was of more important than the second principle. This basically means that if the goals of the principle are fully and wholly realised, only then shall efforts be made to realise the principles of the second principle. Thus, in other words, the first principle wherein the basic liberties of people shall be equally granted to all irrespective of their status. Thus, according to what Rawls believed, the people shall give a greater importance to the fulfilment of the basic liberties, and only once these are fulfilled shall one look to ensure that equal opportunity is provided to people.

However, one question that now arises is why does Rawls give more importance to the liberty principle instead of the equality principle in his hierarchical distribution? Rawls himself addresses this question, and puts it as *“the basis for self-esteem in a just society is not one’s income share but the publicly affirmed distribution of fundamental rights and liberties”*.⁷ This means that, for Rawls, the fair and just distribution of liberty is something that is of utmost and extreme necessity in a society for people to maintain their self-esteem, far more important than one’s income share. Thus, he places liberty on a higher pedestal than equality when the question arises that which one of them is of more importance in ensuring the availability of self-esteem for people.

Thus, after careful analysis of his principle, it can be witnessed that John Rawls basically gave importance to the provision of equality, and is hence considered an egalitarian solely due to the fact that his end goal in society is to eliminate inequality to the utmost achievable level, although he does put forth a notion that achieving absolute equality is definitely impossible. It must also be hereby noted that the arguments put forth by Rawls in both of his principles cite his belief that equality and liberty can co-exist without interference.

III. ROBERT NOZICK’S CRITICISM OF RAWLS

John Rawls had tried to present a picture wherein he had conceptualised a situation that was to accommodate both equality and liberty in a society without any conflict. However, Robert Nozick was a libertarian, and gave more importance to the notion of liberty, all the while arguing that the coexistence of equality and liberty is basically not possible due to the simple fact that they are incompatible. Basically put, when the notion of

⁶ John Rawls, *A Theory of Justice*, (1999) Oxford University Press P-65

⁷ Ibid, 344.

equality is utilised to make up for the various deficiencies among people by providing them outside help, it restricts certain people from acting in a particular way or doing something that they wish to do. Thus, the libertarians argue that equality is, in essence, contradictory to liberty, and the coexistence of both of them in a society is not possible.

In order to critique what Rawls had argued, Nozick formed his own theory that is known as the theory of Entitlement. According to Rawls, the definitive form of state that would uphold the greatest possible degree of liberty is that of minimalist state. Unlike the hypothetical social contract that Rawls had devised, Nozick's state would not take up any distributive functions, thus leaving people to fend for their own without making up for their deficiencies by using outside help. Thus, he severely constricts the dimension of equality in his model. Nozick argued in his entitlement theory that no one in a society is entitled to any sort of distribution to uphold the notion of equality.

Nozick argues that in a free society, no one is entitled to get anything from anyone unless he gives something in return, or unless that particular thing is given to him as a gift. In such a scenario, there is no single person or group of persons or any other authority that will determine the process of distribution. Nozick highlighted the following three rules of distribution that must be followed in order to justify the holdings of people:

- A holding that has been acquired by a person after keeping the principles of *justice in acquisition* in line is entitled to that holding.
- A holding that has been acquired by a person by keeping in line with the principles of *justice in transfer* is entitled to that particular holding.
- No other form of acquisition except the two highlighted above shall be acceptable.

Thus, these principles basically look at how the person in question came to acquire that particular property, and it must be noted that distribution by any authority to ensure the betterment of equality is not any acceptable. Nozick also added a provision that he called as Lockean Proviso wherein it was postulated by Locke that the only way to acquire a previously un-acquired property is to mix the element of labour with the so called property. Regarding his criticism of Rawl's theories, Nozick argued that the principles used to determine the original position are not necessarily just and fair. The basic principle of Rawl's theory was that under the veil of ignorance, and in the original position, the people who are unaware of their social standing will by default try to minimise their risks of ever being a part of the least well of strata of society by working for its betterment. However, Nozick posed the question that 'how can the unanimity of people in seeking to curb social inequalities be equated with the principles of justice?'⁸

⁸Supra Note 5, P-347.

To further his arguments, Nozick presents us with a hypothetical class wherein 10 students are present. They are given marks in such a way that the total marks that these people got are 60. However, they are unaware of the preparation that each of them undertook, nor are they aware of their own capabilities in the academic field. This resembles Rawls's original position and veil of ignorance. The students are then asked to assign each other marks in such a manner that the only criterion is that the total number of marks assigned to each student must be 60. This is in consonance with the principles highlighted by Rawls. However, Nozick provides a further modified version of this, wherein, the students are told their marks but they are also given the option of changing their marks, the only condition being that the sum total should end up as 60. Nozick here argues that if self-interest is the one and only sole point, then the students themselves will follow nothing else except equality while making their decision.⁹

It was also argued by Nozick in his criticism of Rawls that the difference principle, even though it is borne out of a contract, limits the freedom of the people to contract further, with the sole purpose behind any further contracting being the welfare of the least well of sections. This, hence, limits the liberty of the people, even though Rawls himself puts liberty on a higher pedestal than the difference principle. Hence, in pursuit of equality, liberty is curtailed. Rawls also held the position that the distribution of natural assets of a person such as intelligence, talent etc is arbitrary, and this was harshly criticized by Nozick since he did not argue with this argument.

Hence, to conclude, Nozick was highly critical of Rawls' difference principle because its provisions were somewhat arbitrary in their nature in the division of goods in society, and according to Nozick, the natural liberty of persons were being curtailed in the pursuit of equality, thus, concluding that equality and liberty are incompatible with each other.

IV. ANALYSIS OF WHETHER LIBERTY AND EQUALITY CAN ACTUALLY CO-EXIST IN A SOCIETY

The pertinent question in hand that needs to be addressed now is whether equality and liberty can actually coexist in society. While Rawls argues for a social contract wherein he has tried to accommodate both liberty and equality, and has actually given more importance to liberty in his order of implementing the two principles.

Nozick on the other hand argues that the notion of ensuring equality leads to a process of distribution that aims to make up the innate deficiencies among people in society by distributing the assets and goods available, and this curtails the liberty of people. Thus, he wishes for a minimal state that only performs the most basic functions.

⁹Robert Nozick, '*State Anarchy and Utopia*' (1974) P-200.

At this moment, it must be highlighted that complete and absolute equality is something that is unachievable owing to the various innate differences among people. If complete equality is strived, then it will lead to severe constraints of the other rights and freedoms that people are endowed with. Hence, the idea of complete and absolute equality is one that is utopian and unachievable.

Thus, in my opinion, the opposing ideals of liberty and equality cannot exist together. In any situation wherein equality will be the end goal, the state will have to interfere in the natural process to try and reduce the inequalities. However, in doing so, it must put forth certain limitations in order to ensure the proper distribution of resources.

This however does not mean that Rawls and Nozick's theories can be devoid of any criticisms. Rawls' original position is a purely hypothetical one that is not practically achievable, and hence it becomes difficult to judge actually how much impact his two principles will have on the modern societies. Moreover, his argument that liberty can be extended to people while at the same time valuing equality too is flawed due to the fact that liberty shall always be curtailed if equality is the end goal of the state.

Nozick's entitlement theory is purely capitalistic and runs on the assumption that natural forces are enough to regulate the social scenarios. However, Nozick doesn't take into account the fact that if society is left to the natural forces without any limitations on the liberties, the powerful ones shall always continue exploitation, and the rich shall remain rich and the poor will remain poor. He presumed that the domain of distributive justice will only be a voluntary affair where the state doesn't have to play any role whatsoever.

At this point, it must also be noted that the famous thinker Ronald Dworkin also believed in the co-existability of equality and liberty. The principles of socialism that were developed by Karl Marx also deal with the notion that equality and liberty are compatible.

In today's scenario, however, i.e. in a capitalistic setting where the generation and accumulation of wealth is one of the major factors of social construction, a limit is necessary on the liberty of how much wealth an individual can possess. This is due to the fact that the people in power shall always exploit the people who have been deprived of power, status, and position in a minimal state to achieve their end goal of capital accumulation. Any limitation on the liberty exercised in this field can be easily done by distributive mechanisms adopted by a welfare state. One basic example on the incompatibility of equality and liberty can be given by citing the domain of taxation. If taxes are taken from the wealthy and well off, in order to work for the development of the poorer sections in such a manner that they are given the pedestal to compete equally with the poor, then the liberty of the wealthy people to utilise that portion of money that was paid to the state as taxes will be curtailed and limited. Thus, to elaborate, the institution of taxing the rich so that their wealth and

property can be utilized to benefit the poor and provide them equality shall simply end up limiting the liberty of the wealthy to utilize their wealth

V. CONCLUSION

To conclude, both Rawls and Nozick present opposing views regarding the coexistence of equality and liberty in a society. While Rawls argues that both can be accommodated in a manner that is justified, Nozick argues that such a system will not work because any goal of establishing social equality shall only be fulfilled by distributive justice if the liberties are curtailed of people, and their choices are limited.

However, the coexistence of the two may not be possible in today's capitalistic social strata wherein ensuring equality will lead to curtailment of liberty and vice versa. Availing the one to the masses shall only fuel to the limitation of the other.