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John Rawls' Maximin Principle: Implications for Distributive Justice in the Niger Delta Region

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Abstract:

The thrust of the study is premised on the need to examine John Rawls' Maximin principle and distributive justice with a view to establishing its implication for Niger Delta. The primary objective is to ascertain which basic social structure can best provide a harmonious society within the Nigerian state. The Maximin principle hypothetically requires that the basic structure of a society be organized so that all social and economic inequalities are maximized in favour of the least advantaged members in the society through a procedure guiding the decisions of a social contract negotiator in the original position. The study contends that the perceived disequilibrium coupled with the constant disquiet engulfing the Niger Delta region might perhaps be equilibrated and stilled if Rawls' approach to social justice is innovatively adopted. Accordingly, the study subscribed to the view that the Modus operandi for reaching the kind of social consensus advocated by Rawls may not be achieved in Nigeria by an abstract adherence to democratic majoritarian principle; hence, this study argues that the perceived injustice and disequilibrium in the Nigerian state which seems to adversely affect the Niger delta region could be resolved if a national consensus as to the basic structure of the Nigerian state is arrived at through the notion of the ontological primacy of minority using ethnic representation as a fulcrum for achieving the said national consensus.

Keywords: Maximin principle, ontological primacy, distributive justice, majoritarian principle.

1. Introduction

1.1. Background to the Study

John Rawls lived in a society that was suffering from severe societal conflicts, economic inequalities, and political instability, coupled with the bitterness of the senseless Vietnam War. Thus, the society was in dire need of a practical guide to the restoration of social order and the resolution of civilian conflicts. In fact, even the predominant moral philosophy of that time, Utilitarianism, was obviously unable to meet this demand. For emphasis, Mill's "greatest happiness principle" and other teleological principles, for Rawls, were too obscure to ground civil rights and equal liberties

The above scenario, which Rawls experienced, clearly depicts the situation in Niger Delta in particular and Nigeria in general. The region has been embroiled in series of conflicts with oil multinational corporations operating in the area and the Nigerian Government over the exploitation, marginalization and injustice, as well as the inability of the Oil Multinational Corporations (OMNCs) and the Nigerian Government to fast-track socio-economic development in the area with the proceeds derived from crude oil. These conflicts have led to wanton destruction of lives and property in the region as well as enriching some powerful few over many in the Nigerian state.

Rawls recognized the importance of social utility in constructing a stable and efficient system of justice. Thus the system must be flexible enough to allow the maximization of the general good or happiness in order to satisfy the individuals' expectations toward the society. The system must also be concrete enough to help the society make difficult moral decisions, as well as embracing teleological and deontological elements which are both needed to achieve this goal (Lebacqz, 1986:33). So, Rawls tried to seek a new alternative which combined the social contract theories of John Locke and Jean Jacques Rousseau, and the deontology of Immanuel Kant. His principal purpose is to outline a workable and systematic conception of justice which would constitute the most appropriate moral basis for a democratic society.

It is against this backdrop that the study undertakes a critical appraisal of Rawls Maximin Principle and the issue of Distributive Justice in the Nigerian state, using the Niger Delta as a focal point

1.2. Objectives of the Study

The primary objective of the study is to examine John Rawls political philosophy with particular reference to his conception of the maximin principle as a framework for addressing the issue of distributive justice in the Nigerian state. The specific objective is to identify the factors militating against the development of the Niger Delta and proffer a panacea for overcoming such challenges, as well as to articulate how the maximin principle could serve as a socio-ethical principle for promoting economic justice, equity and fairness in the Nigerian society of which Niger Delta is a part.

1.3. Significance of the Study

The significance of the study is gleaned from its emphasis on distributive justice as a virile instrument not only for the promotion of a harmonious, well-ordered and stable polity but also for accelerating socio-economic development in the Niger Delta as well as good governance in Nigeria,

1.4. Conceptual Clarification of Terms

The clarification of key concepts becomes imperative so as to promote a good understanding of such concepts as used in the context of the thesis. These concepts are as follows

1.4.1. Majoritarian Principle

This refers to the process of allowing individuals partake in any activity based on their population or number. Thus, in any matter of urgency, consideration is given to these individuals to bring more persons because of their large number. For instance, in the last Sovereign National Congress held in the Jonathan's Administration, consideration was given to the North to bring more persons due to their large population and geographical size.

1.4.2. Ontological Primacy

This is a philosophical position of characterizing an individual as a single entity belonging to a distinct group. Thus, in the sharing of societal benefits and burdens, it is expected that the formula be based on the individual as a representative of a distinct group and not as an individual belonging to a particular region.

1.4.3. Maximin Principle

This is a principle advocated by John Rawls requiring that the basic structure of society be organized in such a way that all social and economic inequalities are maximized to favour the least advantaged member in the society. This means that the basic structure should be such that everyone in the society no matter your position benefits from it.

2. Literature Review

John Rawls' philosophical work received varied responses from his philosophical colleagues during his lifetime. There were many philosophers who applauded him because they saw his work as a genuine attempt to apply the principles of justice to solving the perennial problems confronting human society in terms of the distribution of social goods and social benefits. Rawls' critics, however, often expressed the opinion that his views were merely hypothetical, confusing than clarifying, since it is incapable of taking socially conditioned and constructed goods into account. Philip Pecorino (2008) posits that the first significant and unique contribution to the study of Ethics by an American has been that of John Rawls. For Pecorino, Rawls developed a Theory of the GOOD as Justice and Justice conceived as Fairness. His theory of the maximin principle was developed to assist a society in ordering its affairs. Lending credence to the usefulness of Rawls' theory, Pecorino avers that his ideas have influenced many lawmakers and Supreme Court decisions, especially in the United States. Among many examples are the laws for providing equal access to opportunities for minorities and the disabled. Pecorino concludes that Rawls remains the only philosopher to have given an in-depth explanation of distributive justice in which 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 and fair equality of opportunity for all.

Joshua Cohen (2003) states that the indispensability of John Rawls cannot be over-emphasized, for him, Rawls made significant contributions that span Ethics and Political Philosophy using the maximin principle. Commenting lucidly on the pivotal impact of Rawls, Cohen asserts; "Rawls' maximin principle as embedded in his theory of justice prompted a remarkable renaissance of political philosophy in the United States and elsewhere, and has provided the foundation for all subsequent discussion about fundamental questions of social justice (2004). He further reiterates that Rawls' proposed reconciliation of liberty and equality is expressed in his two principles of justice. According to the first principle – of equal basic liberties – each citizen has a right to the most extensive system of equal basic personal and political liberties compatible with a similar system of liberties for others. Covering both the liberties of the ancients and of the moderns, this principle requires stringent protection for freedom of thought and conscience; rights to participate in politics; freedom of association and the rights associated with due process of law. From the above views of Cohen, it is clear that Rawls sets out to effect a reconciliation of liberty and equality with the maximin principle. These liberties, Rawls argues, have special priority and are not to be restricted in the name of the community's overall good. He further commends Rawls for being one of the most distinguished political philosophers of the twentieth century, whose arguments give a detailed justification for the redistribution of social wealth,

Roland Bleiker (2002) avers that one of the most influential sources of discussions about distributive justice remains the American philosopher John Rawls. He outlined an insightful treatment of how social and economic goods in a society are to be distributed using his influential work *A Theory of Justice*, which appeared in 1971, and is widely considered to be the most significant philosophical contribution to the reworking of liberalism. Using the notion of the maximin principle, Bleiker asserts that Rawls thinks we would be able to determine the most genuinely fair principles for distributing the goods and benefits in society. Bleiker also concludes that Rawls notion of the maximin principle represents an ideal conception of how best the social and economic benefits inherent in a society can be distributed amicably without rancor and this has the potential of promoting a harmonious society devoid of conflicts and inequality.

Philip Michelbach, John Scott, Richard Matland and Brian Bornstein commence their discussion on the maximin principle by saying that distributive justice has been the focus of normative political theory over the last half of the century, and Rawls' *theory of Justice* is widely seen as the most important attempt during that period to articulate a set of institutions and distributional outcomes that rational individuals would see as legitimate. For them, Rawls' project of constructing a situation in which impartial individuals choose principles of justice, using the maximin principle, may resonate particularly strongly for members of the modern social welfare state because we expect similarly impartial behaviour and fairness in the distribution of social benefits and burdens. They further reveal that Rawls' theory offers society a vantage position from which she can discover the nature of justice and what it requires of all as individual persons and of the social institutions through which we will live together cooperatively.

2.1. Brief Topography of the Niger Delta

The Niger Delta is located in the South-South region of Nigeria. It consists principally of Akwa-Ibom, Bayelsa, Cross-River, Delta, Edo and Rivers State. However, states like Abia, Imo and Ondo have been included today to be part of the Niger Delta. The region occupies a wide expanse of land and has abundance of crude oil deposits as well as other natural resources which combine to make her one of the richest region not only in Africa, but in the world. The Niger Delta houses several of the Oil multinational corporations in Nigeria and contributes greatly to the economy of Nigeria. Giving a lucid topography of the region, Azaiki (2007) posits that the Niger Delta derives its name from the River Niger and is one of the world largest wetlands and African s largest Delta covering some 70, 000km² formed by the accumulation of sedimentary deposits, transported by the Niger and Benue Rivers. Tell Magazine (2008) writes that the Niger Delta is the center of oil and gas production in Nigeria, accounting for about 80% of total Government Revenue, 95% of Foreign Exchange and over 80% of National Wealth.

From the above, one can clearly see that the Niger Delta is rich by all standard having over 700 oil fields, a plethora of oil wells that can be located both on and off-shores, three functional refineries (2 in Rivers State) and (1 in Delta State). The region also boasts of several rivulets, arable land and forest, which enable some of its inhabitants to engage in fishing, farming, lumbering, hunting and palm wine tapping.

3. Oil Exploration and Underdevelopment in Niger Delta

Oil exploration in the Niger Delta region commenced before 1950, but full blown oil exploration started in 1958 when oil was discovered in huge commercial quantity at Oloibiri in Bayelsa State. The joy and excitement which greeted several of the inhabitants of the region at the discovery of crude oil knew no bounds. Their excitement was premised on the belief that oil exploration and exploitation will transform the region positively in terms of provision of functional social and infrastructural facilities as well as facilitate the creation of employment opportunities. However, the reality of the discovery of oil in the region and its accompanying prospect for the people is clearly interpreted by Inokoba and Imbua (2008) when they assert that; the discovery of oil seemed to be a curse to the people of the Niger Delta. Its exploration and exploitation since 1958 has set in political, ecological and socio-economical conditions that generate abject poverty, misery and backwardness in the region. The region has over the years been deprived of peace, progress, justice and its resources that were expected to bring about good life to its inhabitants. Okonta and Oronto (2001) maintains that the discovery of oil in the Niger Delta has not only distorted the economic life of the people through destruction of their farmlands and rivers, but it has also infected them with sickness and diseases.

Elsewhere, Okonta (2005) reiterates that oil has brought poverty, state violence and a dying ecosystem in the Niger Delta. Worse still, the multiplicity of oil multinational corporations operating in the region seem not to be moved or bothered by the loss suffered by the inhabitants as a result of oil exploratory activities. Instead, attempts by the people to protest the injustice and neglect meted to them by the activities of the oil multinational corporations has attracted molestations and severe beatings from forces attached to these oil multinational corporations. This was the case in Choba, Umuechem, Ogoni, just to mention a few. Therefore, the resultant effect of the neglect, abandonment and ill-treated given to the people by the oil multinational corporations operating in the Niger Delta is captured succinctly by these words; dissatisfied with the conditions under which they live... it is not surprising that the consciousness of exploitation, marginalization and disempowerment has made the Niger Delta a region of deep rooted frustration, hence the escalating oil agitations in the region wrapped in militancy, youth restiveness and the likes (Kimiebi and Paki, 2008).

Similarly, oil exploration in Niger Delta has brought about stupendous underdevelopment as evident in bad roads which characterize most of the rural communities in the Niger Delta, ill-equipped schools and health centres, excruciating poverty and alarming unemployment. Yet, proceed from the revenue generated from oil on the soil of the Niger Delta is used to maintain the economy of Nigeria and to develop other region, which constitute the bane of distributive justice.

3.1. John Rawls Maximin Principle

John Rawls maximin principle requires that we maximize economic expectations for the least advantaged social group. This striking principle requires that we limit the extent to which some people are economically better off than others simply because they happen to have been born with a scarce talent and also regulates the distribution of wealth and income. The maximin or difference principle further requires that social institutions be arranged so that any inequalities of wealth and income work to the advantage of those who will be worst off. The maximin or difference principle requires, that is, that financial inequalities be to everyone's advantage, and specifically to the greatest advantage of those advantaged least.

The maximin principle gives expression to the idea that natural endowments are undeserved. A citizen does not merit more of the social product simply because she was lucky enough to be born with gifts that are in great demand. Yet this does not mean that everyone must get the same shares. The fact that citizens have different talents and abilities can be used to make everyone better off. In a society governed by the maximin or difference principle citizens regard the distribution of natural endowments as an asset that can benefit all. Those better endowed are welcome to use their gifts to make themselves better off, so long as their doing so also contributes to the good of those less well endowed. Rawls equally opines that the maximin principle is necessary to complement the difference and equal liberty principle, and this would be justice practiced in the spirit of fairness. Shedding light on Rawls' maximin or difference principle, Stumpf (1994) argues;

- The maximin or difference principle applies, in the first approximation, to the distribution of income and wealth to the design of organization that make use of differences in authority and responsibility, or chains of command, While the distribution of wealth and income need to be equal, it must be to everyone's advantage, and at the same time, positions of authority and offices of command must be acceptable to all (Stumpf, 1994).

Stumpf explains that the maximin cum difference principle as outlined by Rawls, entails holding positions open, and arranging social and economic inequalities that everyone benefits. Importantly, Rawls does not equate maximizing the position of the least well-off with maximizing their incomes and wealth, but rather maximizing an index of the broader bundle of primary goods that affect one's sense of self-respect and overall life chances. This shows that Rawls accords absolute or "lexical" priority to the liberty principle and, within the equality principle, to the guarantee of fair equality of opportunity over the enactment of the difference principle. Thus, subject to the satisfaction of the liberty principle and the other parts of the equality principle, political-economic arrangements must be organized so as to *maximize* the position of the least well off relative to any other possible arrangement.

The "maximin cum difference principle" therefore, can be seen as having a dual function. On the one hand, it sets a limit (however vaguely) on the scope of acceptable inequalities. On the other hand, given plausible assumptions about the role of incentives in stimulating productivity, it effectively *mandates* inequalities, so long as such inequalities maximally benefit those at the bottom of society. Rawls, in effect, endorses an affluent society with inequality and a high standard of living for the worst off as superior to a poorer society with little inequality. Here Rawls accepts the standard economist's view that there is a trade-off between strict equality and efficiency, and that material inequalities provide incentives for spurring the effort of economic producers, potentially to the benefit of all. Notably, Rawls (1971) also rejects the notion that inequality *in itself* is an overriding moral bad; what is bad are inequalities which cement the superior position of the most well-off, or which generate social harms, such as the domination of one part of society by another, or the loss of self-respect among the badly off.

Given this set of principles, the task for Rawls is to specify a political economy that would be consistent with basic individual liberties (such as the liberty to choose one's employment and important liberties of political participation); that would provide substantially equal opportunities to all citizens; and that would limit runaway inequalities that create permanent classes or that undermine the notion that society is a joint system of cooperation aimed at a common end.

3.2. Maximin Principle and the Niger Delta

In view of the foregoing, it is clear that the indispensability of the maximin principle for ushering socio-economic development in the Niger Delta cannot be over-emphasized. Adopting impartial principles of justice in distributing the revenues derived from oil as advocated by Rawls is crucial for restoring peace and overcoming the development problems in the region. Thus, if the sharing formula is made behind the veil of ignorance, then there will be even development where all parties would smile at the end and none would feel marginalized or short-changed. Herein lies the justification of the use of ontological primacy of ethnic representation as the mediating structure for achieving a true democracy. Here, the principle stipulates that at the bargaining table, a representative each of all the ethnic groups in Nigeria would be invited to deliberate on the best way to distribute resources for the good of all. This implies that at the bargaining table (national conference), an ijaw man will be there, an itsekiri, an ogoni, an annang, an ikwerre, a kalabari, a fulani, a yoruba, an ibo, a hausa, etc. Thus, the outcome of such a bargaining would be fair and just to all. But in a situation where at the bargaining table, you have ten persons from the North, two from the East, three from the West and two from the South, the outcome will always tilt in favour of the North as the negotiation will be based on majoritarian principles, seen to be the bane of the problems of marginalization in Nigeria.

4. Conclusion

The maximin principle as propounded by John Rawls constitutes a significant contribution to Ethics or moral philosophy. His maximin principle provided a blue-print by which a society can be ordered so as to promote the happiness of all via the attainment of potentials and enhancement of the well-being of all. The principle provides equal access to the sharing of society's benefits and opportunities to minorities and the disabled. Rawls wants to use reasoning which all humans have to arrive at the principle of the

good. He wants to avoid providing any justification for morally outrageous actions which could be justified on utilitarian principles. Therefore, we can decipher that his approach places humans in a position wherein they view the moral dilemma or problem without knowing who they are in the situation. In so doing, they would arrive at the principle of justice that is not only fair, but is necessary to promote a harmonious, peaceful and stable polity devoid of chaos.

5. Recommendations

- There should be a deliberative attempt to re-organize the basic structure of the Nigerian State.
- This could be achieved through the calling of a Sovereign National Conference of ethnic minority where the basic structure of the Nigerian state can be arrived at through the notion of ontological primacy of ethnic representation.
- Government should adopt proactive measures for correcting the lopsided nature of economic relationships in the Nigerian society.
- Government should also ensure that oil multinational corporations perform their corporate social responsibility to their host communities. This would go a long way in fostering a harmonious relationship between the company (ies) and their host communities. They should also plough back little of the profit made in these areas to development programmes.

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