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ON JOHN RAWLS' THEORY OF JUSTICE AND DAVID GAUTHIER'S MORALS BY AGREEMENT: A COMPARATIVE STUDY

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Abstract:

This paper explores and compares John Rawls' Theory of Justice and David Gauthier's Morals by Agreement to broaden the understanding of Justice. While acknowledging the elusive nature of a unified definition of Justice, this study explores historical justice ideologies, highlighting their complexities and limitations. It introduces the contrasting perspectives of Plato, Hobbes, Locke, and Rousseau, showcasing their impracticalities, moral biases, and narrow scopes in capturing societal fairness. Within this intricate web of divergent ideologies, Rawls' emphasis on fairness and Gauthier's advocacy for morality through rational agreements emerge as contemporary pillars in exploring Justice. The paper employs a structured comparative analysis methodology, drawing data from primary sources and enriching the understanding with secondary resources to conduct a meticulous exploration. The results shed light on Rawls' focus on equal fundamental liberties and controlled inequalities as the foundation of Justice, juxtaposed against Gauthier's concept of morality established through rational agreements and constrained maximization. Beyond highlighting differences, the study aims to reveal nuances, complexities, and potential convergences between these contemporary perspectives. By navigating historical justice theories and dissecting Rawls' and Gauthier's frameworks, this paper aspires to provide a comprehensive analysis, laying a robust foundation for comprehending the diverse landscapes of Justice in contemporary discourse.

Keywords:

Justice, Morality, Agreement, Fairness, Original Position, Veil of Ignorance...

Introduction

The present paper does not intend to avoid grappling with every idea mentioned by Rawls and Gauthier on Justice, nor is it possible for any work to surround the exact manner in which the two thinkers perceive 'justice'. They even admit, as we shall see later in this paper, that Justice escapes a unified definition as they agree that their work is not but an attempt to demonstrate the situation which could be the closest to what can be referred to as 'just'. This paper, however, intends to broaden our understanding of what Justice can be.

The discourse surrounding Justice has been a labyrinth of contrasting ideologies, each presented by philosophers across history. From Plato's idealistic utopia to Hobbes' authoritarian views, Locke's emphasis on property, and Rousseau's critique of societal constructs, these varied perspectives reflect Justice's intricate and multifaceted nature. This paper overviews some of these justice theories' shortcomings: impracticalities, moral biases, authoritarian leanings, and narrow scopes that fail to encapsulate the complexity of societal fairness. By understanding how complex societal fairness and Justice can be defined, Rawls' *Theory of Justice* and David Gauthier's *Morals by Agreement* will be studied to comprehend further how they conceive Justice.

Amidst this intricate web of divergent ideologies, a comparative analysis is imperative— John Rawls' *Theory of Justice* and David Gauthier's *Morals by Agreement* are significant pillars in the contemporary exploration of Justice. Rawls' meticulous focus on fairness, impartiality, and the veil of ignorance presents a framework founded on equality and ethical considerations. In parallel, Gauthier's theory advocates for morality through rational agreements, exemplified through scenarios like the Prisoner's Dilemma, portraying the essence of constrained maximization and cooperative rationality.

This paper seeks to navigate this terrain of philosophical thoughts by conducting a comparative analysis between Rawls' and Gauthier's theories. The methodology employed delineates a structured approach, utilizing a comparative research design that accentuates the differences between these thinkers. Drawing from primary sources like Rawls' *Theory of Justice* and Gauthier's *Morals by Agreement*, this study has to be complemented by secondary resources to enrich the understanding of their conceptual frameworks.

This paper compares Rawls' emphasis on equal fundamental liberties and social and economic inequalities as pillars of Justice and Gauthier's notion of morality established through rational agreements and constrained maximization. Through this exploration, the goal is not just to elucidate differences but to reveal nuances, complexities, and potential convergences between these contemporary perspectives on Justice. By weaving through the tapestry of historical justice theories and focusing on Rawls' and Gauthier's distinct frameworks, this paper endeavours to offer a comprehensive analysis, laying a sturdy foundation for understanding the divergent landscapes of Justice in contemporary discourse.

The Concept of Justice

Even nowadays, when contributions to different concepts are immense, Justice remains « a complex and fuzzy term » that must be more easily defined. What Justice is or means has yet to be fixed or determined, notwithstanding the efforts of all the philosophers, thinkers and scholars throughout history. What seems just for someone would be different for someone else. In recent international events such as the Russian-Ukrainian or the Palestinian-Israeli wars,

different opinions from all corners of the world conflicted over who has the right and whose rights are violated ; in other words, the world controverted over who is acting justly and who is being unjust. Russia thought the West's military infrastructure approaching its border was unjust. In contrast, some opinions, mainly in the West, thought that Ukraine, being under the Russian attack, is the party that is treated unjustly by the Russians. In the Palestinian-Israeli case, Western leaders rose, saying that 'Israel has the right to defend itself'. They presumptuously considered that the Israelis have the right to commit collective punishment against the Palestinians, including the children. In contrast to them, other leaders and voices all over the world rose to condemn the Israeli atrocities. The world perceives Justice differently.

What does 'justice' mean? Is it possible to define 'justice'? Can human words contain the meaning of Justice? No work can satisfactorily answer what 'justice' can be. Nonetheless, revisiting some definitions might be helpful to constitute an idea of what Justice is. It can be "a state of affairs where actors obtain what they are entitled to." Is it about receiving what is deserved? Can Justice be associated with 'fair and equitable treatment of all people'? Gilbert et al. cite that "social justice supports the fair and equitable treatment of all people and aims to protect them from discrimination because of race, gender, age and ability." Would Justice, on this basis, be about stopping discrimination? Justice cannot be confined to a single definition. Justice could indicate respecting "rights and duties." In defining Justice, rights and duties can be decisive; in a just world, people are expected to do their duties and enjoy their rights.

The meaning of Justice can be elicited from knowing what it means to treat others justly. Treating people may be the equal treatment for everyone. It can also be the affirmative action of, for example, giving an advantage to a disabled person in the form of a parking space. Being can also mean being neutral with all parties. Respecting others and their right may also be a just behaviour.

Searching for a meaning of Justice in dictionaries gives the concept that Justice is due. However, dictionaries could associate Justice with terms like fairness, respecting the rights of others, equality, equity, impartiality and other similar meanings. Sometimes, Justice can be about doing the right thing, but what does it mean to do the right thing? What might seem right for someone might not be so for someone else. With that considered, Justice's meaning cannot be taken from dictionaries but from the dynamic discussions of scholars like Rawls, Gauthier and others.

Discussing and theorizing about 'justice' goes back to antiquity when Greek philosophers raised its importance for society. In significant words, Plato referred to justice "as a state of an individual's soul or psyche where each part of the soul performs its proper function, with the result that the individual attains psychological harmony." Justice would be achieved once the individual experiences psychological harmony resulting from the soul functioning correctly. For him, Justice is about "giving every man his due." Alternatively, "rendering each his due." Justice would be served once individuals get what they deserve. Thus, Plato's understanding of Justice would make it more than a "mere adherence to laws." However, as a quality "based on the inner nature of the human spirit" Sanders et al. confirm, "Plato thinks that justice (dikaiosune) is important for the citizens of his Republic (351d) because it creates concord (homonoia) and friendly feeling (philia)." On this foundation, Platonian Justice would be the internal harmony felt when given what is deserved.

Since Plato paved the way for this discussion about Justice, further explanation of his ideas would be necessary to lead the way to John Rawls' theory of Justice. Plato's concept of Justice encompasses a harmonious societal structure where individuals fulfil their inherent roles without obstructing others. For him, Justice goes beyond mere legal compliance; it is deeply rooted in the human spirit and forms the moral fabric that binds society together. It involves a balance of power, where the stronger prevails, influencing the structure of the community. Every member contributes and benefits in this balanced society, nurturing an ideal state. In Plato's view, Justice is not merely a set of rules but a universal and spiritual connection tied intimately to the soul. It embodies both individual virtues and the collective harmony of society, serving as a virtuous equilibrium that harmonizes the human essence's rational, spiritual, and appetitive facets.

Suppose Plato's concept of Justice pertains to psychological harmony and emanates from the soul. In that case, Thomas Hobbes conceives Justice as "nothing more than man-made laws." He states that Justice is "necessarily connected to civil law." Moreover, "in the absence of law, there can be no justice," which makes the natural state of human beings anarchic and chaotic; therefore, "justice is not natural, for Hobbes." He considers it as "an artificial phenomenon". He believes that "justice is predicated on obligation, and there can be no obligation other than through an act of human will."

With that, Justice would be artificial, and humans would be obliged to abide by specific laws to have Justice. Other studies confirm that "Justice is socially constructed and deliberately chosen for Hobbes. Conversely, injustice is not violating a universal natural moral rule, 'it is no other than the not performance of the covenant'." Interesting as it seems, Hobbes' analysis of the concept of Justice begins with digging deep into humans' animalistic instinct to establish that Justice must be sought in terms of agreement by members of a particular social group. To elaborate, Hobbes believes that the state of nature is the war of all against all. For him, injustice and different kinds of violations take place in such a state because people are instinctively animalistic. Hobbes believes that the state should be like a Leviathan led by a powerful sovereign to maintain order, and only then can Justice occur.

In contrast to Plato and Hobbes' concepts of Justice, John Locke looks at Justice from a different standpoint. For him, "justice is at the bottom of the property." According to Locke, denying or depriving someone of his or her property is an act of injustice. He considers that "justice is respect for the rights of individuals, especially their property rights." Locke elaborates more on how he conceives Justice by saying that "justice consists in respecting another's natural rights and the government's protection of those individual rights." Succinctly, Lockean Justice protects personal property and ensures that the law guards individuals' property.

Jean-Jacques Rousseau, however, contributes to the concept of Justice by considering it as a matter of general will; individuals willingly accept to be just or not. According to him, "justice cannot be imposed from outside a state – it must be willed into existence by a people, and without that, it disappears." As far as Rousseau is concerned, any form of law or rules imposed on the individual is regarded as a form of injustice. Restraining the individual's freedom by subjecting him to behave in a certain way is considered a violation of Justice by Rousseau. In addition, Rousseau expounds on his idea of Justice, saying that it is more than "crude equality"; it is, instead, "the correct placing of individuals according to their talents and abilities –

according to their merit." For him, if individuals are allowed to be free to do whatever they want, they are not necessarily going to cause harm to others, as Hobbes thinks; instead, they may find freedom to express their talents and abilities without offending others. Rousseau believes Justice can be "achieved when our natural propensities are permitted to develop without social distortion." From these ideas, Jean-Jacques Rousseau posits that Justice hinges on the general will, where individuals voluntarily decide to be just or not. He asserts that Justice cannot be forced upon a society but must be embraced by its people, or it vanishes. He contends that genuine Justice emerges when natural inclinations develop free from societal interference.

Whether Justice is a matter of respecting freedoms or abiding by laws remains a discussion among philosophers, namely Rousseau and Kant. If Rousseau believed that absolute freedom is what people should be entitled to, Kant had a different idea about Justice. For him, it is about adhering to what is considered proper or lawful (Recht in German). Thus, everyone must perform lawful actions and refrain from committing any unlawful actions. Kant's "justice requires an outward conformity with Recht, and so we must have the ability to do or forbear from doing whatever Recht requires." He further elaborates on the concept of Justice as a way "to distinguish rightful from lawless external freedom and to determine the conditions that make rightful freedom possible." The frequently used expression 'no crimen sine lege' is significant in this regard as it signifies that there can be no crime without a legislated law. In other words, the law determines what act to criminalize or not. According to Kant, drawing this line between what is lawful or not constitutes the difference between Justice and injustice. In this regard, Kant holds, "Justice would cease to be justice if it were bartered away for any consideration whatever." This statement means that if Justice is given up or exchanged for any form of compensation, it no longer retains its essence or true nature as Justice. If Justice is traded off or compromised for personal gain or benefit, it loses its integrity and meaning.

Another understanding of Justice arises from Jeremy Bentham's perspective on Justice, which his utilitarian philosophy encapsulates. His "utilitarian views of how international law should operate among the nations have a necessary human rights perspective, which is to promote the greatest happiness over the greatest harm to the greatest number of people." Making the essence of Justice of Utilitarianism, as Bentham conceives it, about providing "the greatest happiness" for "the greatest number" of people, and "that is the measure of right and wrong." Always from a utilitarian view but in a different way, "J. S. Mill attempted to improve Bentham's utilitarian moral philosophy by arguing that utility as a moral criterion is qualitative, and not of a quantitative one." For Mill, a just action would be any action that creates happiness for people. John Stuart Mill says, "The creed which accepts as the foundation of morals, Utility, or the Greatest Happiness Principle, holds that actions are right in proportion as they tend to promote happiness, wrong as they tend to produce the reverse of happiness." In other words, actions are right if they make people happy and wrong if they make people unhappy.

Justice was associated with other concepts, such as equality and fairness. Paul Ricoeur discusses the idea of Justice, associating it with the principle of equality. He opines that "in its broadest sense, justice is the virtue of a social practice that distributes all social goods and burdens in society according to the requirement of equality." Nelson Mandela links it to protecting people's fundamental rights. He declares, "Overcoming poverty is not a gesture of charity. It is an act of Justice which protects a fundamental human right, the right to dignity and a decent life." For him, combating poverty is an act of Justice and protecting other civil rights.

Various philosophers present differing perspectives on Justice. Plato posits Justice as internal harmony derived from the soul's proper function and the deserving nature of individuals. Hobbes asserts that Justice stems from artificial laws, requiring societal obligations for its existence. Locke emphasizes Justice as centred on safeguarding individual property rights. Rousseau ties Justice to the general will, emphasizing voluntary acceptance and merit-based positioning. Kant defines Justice as aligning actions with rightful laws, stressing the significance of lawful freedom and integrity. Finally, Bentham and Mill advocate utilitarian Justice, aiming to maximize happiness for most people.

In his *Theory of Justice* (1972), John Rawls explains "justice as fairness." His idea of Justice could be "connected with the Kantian interpretation of justice as fairness." He believes in people's "capacity for a sense of justice and their capacity for a conception of the good." Before embarking on what 'justice' is or should be, he recognizes people's ability to spectate impartially and sympathetically as he continuously refers to the role of the "impartial sympathetic spectator." He adds that his discussions with Thomas Nagel, who published *The View from nowhere*, have contributed to how he conceives 'justice.' Rawls insists on defining "impartiality from the standpoint of the litigants themselves" as this is going to be the foundation of his concept of Justice.

Two discover the principles for Justice as fairness; Rawls suggests that the person thinks about these principles to take hypothetical positions, which he calls 'the Original Position'. He "emphasized that this original position is purely hypothetical" because the person taking this position should be impartial and free from biases. Rawls says, "The persons in the original position have no information as to which generation they belong ", which could mean that the Original Position taker should forget about himself, his age, gender, ethnicity, etc. and think of principles that will apply to everyone, including him. Only then can impartiality be achieved. Rawls was attentive enough to use this idea of the Original Position to reach "an original agreement on principles of justice." Rawls does not consider the social contract a contract with which one enters society as "Locke, Rousseau and Kant" do; instead, he thinks of the original agreement that should be saying, "The guiding idea is that the principles of justice for the basic structure of society are the object of the original agreement." From this idea, he theorized the Original Position, which he believes is the gateway for finding principles of Justice.

For Justice to be as fair as possible, the original position is reinforced by another idea: 'the Veil of Ignorance'. Rawls says, "The veil of ignorance excludes all knowledge of likelihoods." He theorizes a hypothetical veil between the impartial, sympathetic, and rational person in the original position from one side and the persons for whom the principles of Justice will be chosen on the other side. Any principles that Justice should stand for would be chosen behind this veil of ignorance. In his words, "the principles of justice are chosen behind a veil of ignorance." Rawls' idea of the veil of ignorance consolidates that "no one knows his place in society, his class position or social status, nor does anyone know his fortune in the distribution of natural assets and abilities, his intelligence, strength, and the like." Thus, "the veil of ignorance prevents us from shaping our moral view to accord with our particular attachments and interests." Therefore, The veil of ignorance leads the principles to be chosen with no regard to the particularities of people because it conceals them. Rawls thinks that "the veil of ignorance makes possible a unanimous choice of a particular conception of Justice" thereby making it as fair as possible.

Before explicating the two principles Rawls suggests for Justice as fairness, it is crucial to know how he conceives Justice. He points out the difficulty of defining Justice, declaring that "if we can characterize (educated) person's sense of justice, we might have a good beginning toward a theory of justice", which insinuates that he is aware that his work is not but a 'beginning' or a tip of the iceberg of Justice. Rawls begins his conception with "the first objective of justice as fairness", which is to ensure "basic rights and liberties, and of their priority." As Rawls sees it, Justice is defined by "its principles in assigning rights and duties and defining the appropriate division of social advantages." These principles are what constitute Justice for Rawls.

The two principles that determine the meaning of Rawls' Justice are stated as follows:

First, each person is to have an equal right to the most extensive scheme of equal fundamental liberties compatible with a similar scheme for others.

Second: social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all."

The first principle is based on equality so that everyone would enjoy the same share of liberties as everyone else. According to the second, however, social and economic inequalities are permitted, provided that everyone is entitled to them; in other words, everyone should have the right to access social and economic benefits in the same one as everyone else. These inequalities should not be confined to only some persons; others cannot have them no matter what they try. A counter-example of this second principle would be a job offered only to a specific family, race or person. In contrast, others cannot get that job because of their race, gender, skin colour or other personal characteristics. Rawls orders these two principles in the sense that the first should be achieved before the second, as he believes people should not be deprived of their civil liberties to have more social and economic advantages.

Rawls's expectations of his theory of Justice aspire to give Justice a sense that is "reasonable and useful, even if not fully convincing, to a wide range of people." This expectation seems reasonable as Rawls knows that no theory of Justice can seem just for everyone. However, he admits that some injustice can be accepted and endured "when it is necessary to avoid an even greater injustice." The way to do so, for Rawls, was to establish "a theory of justice that generalized carries to a higher level of abstraction the traditional conception of the social contract" by founding the previous two principles for Justice, which apply to all people equally, even if they result in inequalities.

Gauthier's chosen title, *Moral by Agreement*, suggests that agreement can achieve morality. This view is said to be inspired by social contract theories which call for agreement such as the Hobbesian philosophy. Gauthier admits, "In Hobbes, we find the true ancestor of the theory of morality that we shall present." Gauthier understands "the rationale for agreement on society as a cooperative venture", which means that people tend to live their lives co-operatively, benefiting from one another. Unlike Hobbes' agreement, which requires a sovereign with 'leviathan' powers to ensure order and agreement, Gauthier believes that rationality and cooperation between individuals are sufficient for individuals to reach an agreement.

In his book *Morals by Agreement*, Gauthier suggests several hypothetical situations wherein people live on separate islands. Moreover, some islands sometimes need more resources. In contrast, others may have a plenitude of resources. The author says that the inhabitants of these

islands would be, in one way or another, moving to cooperate and "benefit from trade with each other" if they find that the other party possesses something they are interested in. He makes that a condition for the success of any possible agreement as he mentions, "a necessary condition of such agreement is that its outcome be mutually advantageous." Both parties would accept such a condition if they were rational humans.

To argue that morality can be achieved by agreement and cooperation between rational people driven by self-interest, Gauthier uses the Prisoner's Dilemma to prove that self-interest and cooperation can go hand in hand. According to the Prisoner's Dilemma, the police hold two suspects for two crimes: one is a minor crime for which they have evidence that can imprison the two suspects for two years, whereas the other is a significant crime which can imprison the two suspects for ten years, but the police have no evidence for this significant crime. The police try to turn each suspect on the other by the 'stick or the carrot'; the police tempt each suspect that if he testifies against the other, his two years will be reduced to one year of prison for the minor crime, and the major crime will be a charge against the other party. In addition, if the other testifies, his sentence will be reduced, and the first suspect will be charged for the primary crime. If the two suspects are not in a situation that allows them to communicate and negotiate, each will be looking at only his interest. Both would consider testifying and if they do, both would be sentenced to one year for the minor crime and five years for the major one. However, if they had any opportunity to negotiate and cooperate, they would agree not to testify against each other to be sentenced to only two years for the minor crime, and the major crime would drop for having no evidence to support it.

Since the others sometimes decide the fate of people to the extent that people are sometimes "at the other's mercy," cooperation and agreement resulting from negotiations appeared necessary for Gauthier to establish morality. According to the Prisoner's Dilemma, one's action can impact the other's interests and vice versa. Thus, the prisoners would not only think of themselves, but they would think of the interest of the other party. Thus, they would try to maximize interest with consideration of the other party. This is what Gauthier calls "constrained maximization Gauthier". Moreover, it is this type of maximization that he tries to promote as a fairground on which parties should interact. He, however, provides instances where straightforward maximization consumes one party at the expense of the other. He says, "Straightforward maximizers, on occasion, exploit unwary constrained maximizers." He does not deny that the world contains both types of maximizers; he argues that constrained maximizers can be fair. He says, "a constrained maximizer ready to cooperate in ways that, if followed by all, would yield outcomes that [the constrained maximizer] would find beneficial and not unfair." Hence, *fairness* for Gauthier can be defined as the constrained maximization benefiting from cooperation between individuals.

Shortcomings of Justice Theories

Flaws and imperfections of the justice theories emerge as soon as profound analysis is applied. Plato's vision of a perfectly harmonious society ruled by philosopher-kings could be seen as impractical and impossible to achieve. Plato's concept of Justice can be considered passive and criticized for "being primarily individual and moral, it cannot be the basis of jural regulation." This statement suggests that Plato's concept of Justice is primarily concerned with individual morality and lacks practical applicability to legal regulation and resolving conflicts within society. Plato's emphasis on internal virtue and harmony within the soul is seen as passive and insufficient for addressing the complexities of jural regulation and reconciling

conflicting desires and duties. Critics argue that while Plato's philosophical ideas are influential, they may need to provide adequate guidance for establishing and governing just societies due to their focus on individual moral development rather than practical legal frameworks and social organization. Since theories of Justice are supposed to "provide a sound basis for law" Thus, Plato's Justice was inclined towards morality and was "based upon personal conscience" instead of solid principles and norms to distinguish Justice from injustice. While Plato's vision of Justice offers profound insights into individual morality, its applicability to broader legal frameworks and societal governance is questioned. Critics argue that Plato's emphasis on personal conscience over concrete principles may render his concept of Justice impractical for guiding the establishment and maintenance of just societies. Thus, pursuing Justice requires a balance between moral ideals and pragmatic considerations to address the complexities of law and governance effectively.

Hobbes can be criticized for making his concept of Justice authoritarian. For example, « Kant rejected Hobbes's authoritarian view of sovereignty as a black box. » Hobbes claims Justice cannot be achieved unless an authoritative body or figure is allotted more power to maintain social order. In addition, his Justice lacks any moral dimension as he restricts it to artificial laws. John Locke sees that Hobbes was mistaken « for holding that in the state of nature there was anarchy and chaos and life was solitary, poor, nasty and short. » Hobbes may be looking at human nature from a narrow view as he focuses on humans' selfish, competitive nature but neglects the potential for cooperation and altruism as characteristics of human beings. John Plamenatz hits Hobbes with his weapon as he criticizes him on the ground that » if his description of the state of nature were accurate, then people would be too nasty to stick to any agreement ; » Thus, as Hobbes sees it, the state of nature would prevail no matter what. Hobbes may also be forgetting that having a solid sovereign cannot always guarantee social order because there are cases in which people revolted against their sovereigns notwithstanding their power.

Under no circumstances could Justice be defined in a sense that makes it an ideal justice. In other words, Justice, in whichever way it is defined, may be subject to criticism as no definition could determine what Justice is. John Locke's idea of Justice, for instance, that it is about protecting one's property, receives harsh obloquy from the Marxists. Justice for Marx would be the opposite of Locke's idea of Justice. "The theory of the Communists may be summed up in a single sentence: Abolition of private property." If all that Lockean Justice seeks about is "to preserve rights to our 'Lives, Liberty and Estates,' more is needed to represent all cases where Justice goes beyond the three elements Locke emphasizes. This narrow understanding of Justice is a subject of criticism. Studies indicate that "for one who is committed to justice in the classical sense or the contemporary ideological sense, Lockean justice is cold comfort", indicating the myopic view of Locke to Justice.

If Rousseau's concept of Justice emanates from his idea that « Man is born free, and everywhere he is in chains », any rule or law imposed on an individual would be unjust. By this, Justice takes the meaning of being the absolute freedom of people to behave as they please. Rousseau confronts the Lockean notion of property as a basis for Justice as his Justice is founded on criticism of private property. Rousseau says,

The first person who, having enclosed a plot of land, took it into his head to say, 'This is mine,' and found people simple enough to believe he was the true founder of civil society. What

crimes, wars, murders, what miseries and horrors would the human race have been spared had someone pulled up the stakes or filled in the ditch and cried out to his fellow men: 'Do not listen to this impostor? You are lost if you forget that the fruits of the earth belong to all and the earth to no one!

Rousseau condemns the hypothetical 'first person' ever to claim a piece of property, holding him accountable for all the misery occurring in the world. He also convicts the people who believed him because if they had not believed his claim, their claims would be pointless ; the property system would not have had its birth with that 'first person'. He suggests a hypothetical situation where the earth belongs to all the earthlings, considering that as the natural life. On this idea, Justice is liberation from all manufactured rules and laws. Rousseau was criticized for this because what he was thinking about was hypothetical and not based on real situations. Matthew Simpson says, « When Rousseau says the state of nature is a matter of hypothesis only, he does so not simply because his facts contradict the biblical facts, but also because the state of nature could probably never be a matter of fact. » This is a point of departure from which Rousseau could be criticized because his ideas would be founded on something other than real-life situations. Simpson asserts that Rousseau's concept of the state of nature « could never exist in history for the reasons Hall adduces. Hall is correct about why the state of nature fails as history. » Hence, many critics do not advocate the unlikelihood of the inexistent state of nature about which Rousseau romanticizes.

In conclusion, philosophers have grappled with defining Justice throughout the past centuries, offering intricate theories and elaborate systems to unravel its essence. However, despite their depth of thought and elaborate constructs, Justice must still be explored and open to interpretation. The multifaceted nature of Justice, intertwined with societal, cultural, and individual perspectives, renders it inherently ambiguous. While shedding light on different facets of Justice, each philosophical perspective contributes to its complexity rather than providing a definitive resolution. This on-going philosophical discourse attests to Justice's perpetual ambiguity, illustrating that its nature transcends a singular, universally agreed-upon definition.

In *A Theory of Justice*, John Rawls posits Justice as fairness through his original position and the veil of ignorance. His framework revolves around two principles: the principle of equal fundamental liberties and the difference principle. The former emphasizes fundamental rights and freedoms for all, while the latter permits social and economic inequalities only if they benefit the least advantaged in society. Rawls seeks to establish a just society by prioritizing equality and ensuring that disparities serve the disadvantaged.

In *Morals by Agreement*, David Gauthier advocates for a 'contractualist' view of Justice rooted in rational choice theory. Gauthier contends that moral principles stem from rational self-interest and cooperation among self-interested agents. His approach emphasizes the moral legitimacy of agreements formed under conditions of mutual benefit and voluntary contracts. Gauthier underscores respecting property rights and voluntary exchanges as essential elements in achieving Justice through mutually advantageous agreements among individuals. While Rawls emphasizes fairness as a pillar of Justice, Gauthier's perspective centres on rational self-interest and voluntary agreements among individuals as the foundation of just interactions.

This comparative study does not aim to support one side over the other. Instead, its purpose is to investigate the meaning of Justice in a broader sense that does not have to be fixed to a single viewpoint. In other words, both ways in which Justice is defined, through this comparative study, seem complementary to each other for the ultimate purpose of knowing what 'justice' can mean.

The previous analysis shows that both Rawls and "Gauthier appeal to the idea of a social contract," but in different ways. Timmerman compares the two scholars, asserting that "unlike Rawls, Gauthier sets out to defend not only a political contract theory but also an ethical theory." This pursuit of establishing an ethical and political contract theory can be inferred from the previous analysis. Rawls suggests that Justice must be based on principles chosen from the Original Position behind the Veil of Ignorance to be applied to all individuals. In that case, the author recommends seeking moral grounds based on mutual respect for the other's self-interests without interference from external power to coerce individuals to do so.

Rawls and Gauthier stand on hypothetical grounds to define 'justice', which makes them critiqued for this point. Freeman states, "Both Rawls's and Gauthier's agreements are hypothetical. However, unlike Gauthier, Rawls's is also non historical." He believes that, at least, Gauthier's argument attempts to find historical evidence upon which to stand. In addition, he says that Gauthier critiqued Rawls' argument that "no genuine social agreements" would be consensual despite having people stand in the hypothetical Original Position behind the hypothetical Veil of Ignorance. A critical difference between the two theories is that "Gauthier does not deprive choosing parties of the knowledge of their social positions" in contrast to Rawls' Veil of Ignorance. An intense controversy may emerge from this discussion: whether knowledge about individuals should be considered while trying to serve Justice. To exemplify this dilemma, should the naturally disadvantaged people, such as people with disabilities, be given some advantage, or must Justice discard everyone's situation? Moreover, where would this end if some social groups were favoured?

Rawls defends the idea of fairness and places it before anything else. So, if "for Gauthier, the parameters of that reciprocity are defined purely by mutual self-interest; for Rawls, there is an additional requirement that the reciprocity be 'fair'." Thus, more is needed for Rawls to reach an agreement between individuals. The agreement must be 'fair', and for it to be fair, it must be compatible with two principles he established.

The discourse between John Rawls and David Gauthier presents contrasting yet complementary perspectives on Justice. Rawls focuses on Justice as fairness, prioritizing equality and fairness through the principles derived from the Original Position behind the Veil of Ignorance. Conversely, Gauthier's contractual view centres on rational self-interest and voluntary agreements among self-interested agents as the basis of Justice. The comparative study does not seek to champion one viewpoint over the other but instead examines the broader implications of Justice. Both Rawls and Gauthier propose theories rooted in social contracts but diverge in their emphasis—Rawls underscores fairness through principles chosen hypothetically. At the same time, Gauthier emphasizes reciprocal agreements based on mutual self-interest without historical detachment.

Critiques arise from the hypothetical nature of both theories, with Gauthier's approach being more historically grounded than Rawls'. The controversy extends to whether individual

knowledge should factor into justice considerations, particularly concerning naturally disadvantaged groups. Rawls accentuates fairness as a prerequisite, necessitating agreements based on mutual self-interest and meeting the criteria of fairness outlined by his principles. Ultimately, the debate between Rawls and Gauthier underscores the complexities of defining Justice, encompassing considerations of fairness, self-interest, historical context, and the treatment of disadvantaged groups. Both theories offer valuable insights into understanding Justice, contributing to a more comprehensive examination of its multifaceted nature.

Conclusion

As shown in the folds of this paper, the quest to define Justice has been a perennial pursuit among philosophers, each weaving intricate theories and systems to unravel its essence. The shortcomings and imperfections of these theories become apparent upon deeper scrutiny. Plato's vision of a harmonious society ruled by philosopher-kings seems impractical. It needs a foundation for jural regulation, focusing more on individual morality than solid societal governance principles. Hobbes' authoritarian concept of Justice, reliant on a powerful sovereign, overlooks the moral dimension and oversimplifies human nature, neglecting aspects of cooperation and altruism.

Locke's emphasis on property as the crux of Justice faces criticism from Marxists, highlighting the narrowness of Locke's perspective. Conversely, Rousseau envisions Justice as absolute freedom from imposed laws and property, yet his hypothetical state of nature draws scepticism for being detached from reality.

This historical backdrop is a preamble to the on-going philosophical discourse on Justice. Despite the depth of thought and complex constructs offered by various philosophers, Justice still needs to be explored and open to interpretation. It weaves through societal, cultural, and individual perspectives, evading a singular, universally agreed-upon definition. While shedding light on different facets of Justice, each philosophical perspective contributes to its complexity rather than providing a definitive resolution.

The methodological approach is pivotal in comparing John Rawls' Theory of Justice and David Gauthier's *Morals by Agreement*. Employing a comparative research design offers a lens to scrutinize differences between these contemporary perspectives. This structured methodology delves into primary sources like Rawls' and Gauthier's works while drawing from a spectrum of secondary resources to enrich the understanding of their conceptual frameworks. The breakdown of Rawls' emphasis on fairness, impartiality, and the original position versus Gauthier's morality through rational agreements and constrained maximization underlines the depth of their theories. Rawls constructs Justice around equal fundamental liberties and control of social and economic inequalities, whereas Gauthier advocates for morality through rational agreements and cooperation.

Rawls' theoretical framework, rooted in the original position and the veil of ignorance, seeks to establish principles that cater to the impartial, sympathetic, and rational observer. His two principles—equal fundamental liberties and controlled inequalities—outline a structure of Justice based on fairness and access. In contrast, Gauthier's *Morals by Agreement* centres on morality achieved through rational agreements and constrained maximization. Using the Prisoner's Dilemma highlights the potential synergy between self-interest and cooperation, emphasizing fairness through negotiated agreements. The juxtaposition of Rawls and Gauthier

illuminates divergent yet thought-provoking perspectives on Justice. Rawls' foundation on fairness and equal liberties contrasts with Gauthier's emphasis on rational agreements and constrained maximization, showcasing the intricate tapestry of Justice in contemporary discourse.

As this comparative analysis concludes, it becomes evident that pursuing Justice is a dynamic, multifaceted journey rather than a destination. The discourse continues to evolve, fuelled by philosophical thinkers' diverse viewpoints and insights. In this ongoing quest to comprehend Justice, these theories serve as guiding lights, illuminating different facets of a concept that defies singular definitions.

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