

Revisiting John Rawls' Theory of Justice as Fairness in the Twenty-First Century: A Critical Philosophical Examination of Economic Inequality, Welfare Democracy, War, Digital Divide, Gender Justice, and the Indian Constitutional Vision in the Contemporary Global Order

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Abstract:

The 21st-century global order is defined by a series of interconnected challenges. Rather than isolated problems, the contemporary world faces multiple situations where the digital divide, gender injustice, and economic gaps meet. In this complex global environment, the philosophy of John Rawls remains a vital normative framework for evaluating justice within and beyond nation-states. This article revisits Rawls' theory of justice as fairness and critically examines its relevance to contemporary global challenges. By analysing the principles of equal basic liberties and the difference principle, the study explores how Rawls' framework addresses structural inequality, welfare democracy, distributive justice, and institutional legitimacy. The paper further evaluates the applicability of Rawlsian thought to issues such as war and global human rights, digital inequality in the age of technological capitalism, and ongoing debates in gender justice. Rawls conceptualized justice as fairness through two key principles: equal basic liberties for all and the arrangement of social and economic inequalities to benefit the least advantaged. His "original position" and "veil of ignorance" are foundational thought experiments to design impartial principles of justice. Rawls's later work shifted from a comprehensive moral doctrine to a "political conception of justice," accommodating diverse and reasonable worldviews.

Keywords: Justice as Fairness, Economic Inequality, Welfare Democracy, Global Justice, Digital Divide, Gender Justice, Constitutionalism

Introduction

Questions of justice have always been central to political philosophy, particularly in societies characterized by social diversity, economic inequality, and political conflict. In modern political theory, one of the most influential attempts to articulate a systematic conception of justice is the theory of justice as fairness proposed by John Rawls in *A Theory of Justice*. Rawls sought to establish principles that could guide the

basic structure of a just society, ensuring fairness in the distribution of rights, opportunities, and social resources. His famous claim that “justice is the first virtue of social institutions”¹ established justice not merely as an ethical value but as the foundational organizing principle of political society.

Rawls’ philosophical framework is built upon the hypothetical device of the original position, where individuals make decisions about principles of justice from behind a veil of ignorance, unaware of their own social status, wealth, or natural abilities. Under such conditions of impartiality, Rawls argued that rational individuals would choose principles that guarantee equal basic liberties for all and arrange social and economic inequalities in ways that benefit the least advantaged members of society. These ideas have had a profound impact on debates concerning distributive justice, welfare policies, and democratic governance.

However, the social and political realities of the twenty-first century present new challenges that were not fully anticipated within Rawls’ original framework. The intensification of global economic inequality, the expansion of digital technologies and the resulting digital divide, persistent gender inequalities, and recurring geopolitical conflicts have reshaped the landscape of justice in contemporary societies. These developments raise important philosophical questions about whether Rawls’ principles can adequately respond to emerging forms of injustice within an increasingly interconnected and technologically driven world.

The relevance of Rawlsian theory becomes particularly significant when examined in relation to the constitutional vision of India. The ideals of justice—social, economic, and political—enshrined in the Preamble of the Constitution of India reflect a commitment to building a welfare-oriented democratic order that promotes equality and protects the rights of marginalized communities. Examining Rawls’ theory within this context offers valuable insights into how philosophical principles of justice can inform constitutional values and public policy.

This paper therefore aims to critically revisit Rawls’ theory of justice as fairness in the light of contemporary global challenges. By analysing its philosophical foundations and examining its relevance to issues such as economic inequality, welfare democracy, gender justice, and technological inequality, the study seeks to evaluate the continuing significance of Rawlsian justice in shaping a more equitable and inclusive global order.

Justice as Fairness:

Rawls’ project begins with a fundamental question: What principles of justice would free and rational persons choose to govern their society if they were situated fairly? To answer this, he introduces the hypothetical device of the Original Position, where individuals deliberate behind a Veil of Ignorance.

Behind this veil, individuals are completely unknown about their:

- Social class
- Caste or race
- Gender
- Religion
- Economic status
- Natural talents etc.

¹John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971), 3.

This condition ensures impartiality. Since no one knows whether they will be rich or poor, privileged or marginalized, they are likely to choose principles that protect them in the worst possible scenario.

Rawls emphasizes that “each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override.”² This anti-utilitarian commitment remains one of his strongest normative contributions.

From this reasoning, Rawls derives two fundamental principles:

1. The Equal Liberty Principle

Each person is to have an equal right to the most extensive scheme of basic liberties compatible with a similar scheme for others. These liberties include freedom of speech, conscience, political participation, and rule of law.

2. The Difference Principle

Social and economic inequalities are permissible only if:

- They are attached to offices and positions open to all under conditions of fair equality of opportunity; and
- They are to the greatest benefit of the least advantaged members of society.

This second principle distinguishes Rawls from both strict egalitarianism and laissez-faire capitalism. Inequality is not automatically unjust, but it must work to improve the condition of the most vulnerable.

Economic Inequality and Global Capitalism:

In contemporary societies such as United States and India, wealth concentration has intensified. Corporate expansion, technological monopolies, and financial capitalism have generated immense fortunes, while large populations continue to struggle with unemployment, inadequate healthcare, and educational inequality.

From a Rawlsian standpoint, the key question is not whether inequality exists, but whether it benefits the least advantaged. If economic growth fails to uplift marginalized communities, then such inequality cannot be justified. Rising GDP alone does not meet the standard of justice; distributional impact matters. Rawls permits inequality only if it benefits the least advantaged.³

In India, affirmative action policies for historically disadvantaged communities reflect the logic of the Difference Principle. These measures aim to correct structural injustice and create genuine equality of opportunity. However, persistent rural poverty, urban slums, and educational disparities demonstrate that the realization of Rawlsian justice remains incomplete.

Thomas Piketty’s empirical work demonstrates that when returns on capital exceed growth rates, inequality structurally increases. Such inequality rarely benefits the least advantaged; instead, it amplifies political capture.

From a Rawlsian standpoint, when inequality distorts political institutions, it violates the requirement that the basic structure be just and publicly justifiable.

Thomas Pogge argues that global institutional arrangements actively contribute to poverty.⁴ If this is correct, then Rawls’ limited global “duty of assistance” in *The Law of Peoples* is insufficient.

² Rawls, *A Theory of Justice*, 3.

³ Rawls, *A Theory of Justice*, 72.

⁴ Thomas Pogge, *World Poverty and Human Rights* (Cambridge: Polity Press, 2002), 2.

Rawls writes that well-ordered peoples must assist “burdened societies” to establish just institutions.⁵ However, he rejects global egalitarian redistribution. Critics argue that this stance underestimates structural global injustice.

A reconstructed Difference Principle must therefore:

- Address global tax justice.
- Regulate transnational corporate power.
- Integrate climate justice into distributive fairness.
- Recognize digital capital accumulation.

Without structural global reform, domestic justice is increasingly constrained.

Welfare Democracy and Constitutional Morality:

Rawls strongly supports a constitutional democratic framework in which institutions are structured to protect equal liberty and fair opportunity. Welfare schemes, social security systems, and public education are not acts of charity; they are institutional requirements of justice.

The Indian constitutional vision, emphasizing social, economic, and political justice, parallels Rawls’ normative commitments. Fundamental Rights ensure equal liberty, while Directive Principles aim at distributive fairness. Yet the gap between constitutional ideals and administrative practice remains a pressing challenge.

Rawls would argue that institutions must be continuously evaluated through the lens of fairness. Justice is not a static achievement but an ongoing institutional responsibility.

War, Global Justice, and the Law of Peoples:

Rawls extended his theory internationally in *The Law of Peoples*. He proposes a “Society of Peoples” governed by principles of non-aggression, respect for human rights, and duty of assistance.

Rawls asserts:

“The only peoples we may not tolerate are those that violate human rights.”⁶

Yet his global framework remains modest. It does not advocate global egalitarian redistribution but merely assistance to “burdened societies.” Critics argue that this approach underestimates the structural roots of global inequality and conflict.

Contemporary wars, refugee crises, and geopolitical tensions reveal the fragility of international norms. A reconstructed Rawlsian framework must integrate human security, humanitarian intervention debates, and global justice beyond sovereignty-centered models.

In *The Law of Peoples*, Rawls extends his theory to international relations. He argues that well-ordered societies should respect human rights and avoid aggressive war. Wars are justified only in self-defence and must protect civilian life.

The ongoing conflict between Russia and Ukraine raises serious questions about sovereignty, aggression, and humanitarian protection. War disproportionately harms civilians, refugees, and economically vulnerable populations—the very groups Rawls’ Difference Principle seeks to protect.

⁵ John Rawls, *The Law of Peoples* (Cambridge, MA: Harvard University Press, 1999), 106.

⁶ Rawls, *A Theory of Justice*, p. 18.

From a Rawlsian perspective, international justice requires cooperation among peoples, respect for human rights, and moral limits on warfare. Global institutions must function not merely as power-balancing mechanisms but as guardians of fairness and dignity.

Jürgen Habermas argues that democratic legitimacy requires communicative rationality within a public sphere. When digital platforms privatize public discourse, democratic equality is threatened.

Rawls insists that fair equality of opportunity must be substantive, not merely formal.⁷ If wealth concentration shapes political influence, then democratic opportunity is no longer fair.

Thus, justice as fairness today must regulate:

- Campaign finance structures
- Digital political advertising
- Algorithmic amplification
- Corporate lobbying

Democracy under digital capitalism demands institutional innovation consistent with Rawlsian fairness.

Digital Divide and Technological Justice

The digital revolution has profoundly reshaped economic systems, governance structures, and social interactions. However, access to digital technologies remains deeply unequal. Rural populations, economically disadvantaged communities, and marginalized groups often lack reliable internet connectivity, digital literacy, and adequate technological infrastructure.

As opportunities in education, employment, and political participation increasingly depend on digital access, the digital divide emerges as a critical issue of justice. John Rawls' principle of *fair equality of opportunity* implies that social and institutional arrangements—including technological systems—must not reinforce existing inequalities. Instead, public policy must ensure that the benefits of technological progress are distributed in ways that improve the condition of the least advantaged.

Furthermore, the rise of algorithmic decision-making and data-driven governance introduces new challenges to the principle of equal liberty. Algorithmic bias, data exploitation, and opaque digital platforms can distort public discourse and reinforce systemic discrimination, thereby undermining democratic fairness.

Although Rawls did not anticipate developments such as artificial intelligence, algorithmic governance, or surveillance capitalism, his concept of *primary goods* offers a flexible framework for addressing these challenges. Primary goods are “things that every rational man is presumed to want.”⁸ as they are necessary for pursuing a conception of the good life. In the context of a digital society, primary goods must be expanded to include:

- Access to affordable and reliable internet
- Digital literacy and technological skills
- Protection of personal data and privacy
- Transparency and accountability in algorithmic systems

Without access to these digital goods, individuals are effectively excluded from educational opportunities, economic mobility, and meaningful political participation.

Moreover, algorithmic bias can replicate and intensify existing inequalities based on race, caste, gender, and class, thereby directly violating the principle of fair equality of opportunity.

⁷ Rawls, *A Theory of Justice*, 73.

A Rawlsian reconstruction of justice in the digital age would therefore require:

1. Universal broadband access recognized as a fundamental social good
2. Robust data protection and privacy frameworks
3. Democratic oversight and regulation of artificial intelligence systems
4. Development of public or non-profit alternatives to private digital monopolies

In conclusion, justice as fairness must evolve to operate within digitally networked institutional structures. Ensuring equitable access to technology and safeguarding digital rights are now essential to maintaining both liberty and equality in contemporary society.

Gender Justice and Expanding Rawlsian Theory:

Feminist scholars critique Rawls for insufficient attention to family structures and unpaid domestic labor. Since inequality often begins within the family, ignoring private power dynamics limits the scope of justice.

Some feminists like Okin highlights the inequalities faced by women in the family due to assumptions of patriarchal structures. Rawls acknowledges the arbitrary nature of sex but fails to incorporate gender concerns adequately in his theory. Okin argues that Rawls's male-centric perspective overlooks the inequalities faced by women in the family, such as unequal division of labor and economic dependence. She also points out the ambiguity of Rawls's view on the rational persons in the original position are to be treated as the head of the families or representatives of families for the welfare of the upcoming generations, whereas those persons are mutually disinterested. She points out that Rawls's focus on "heads of families" in his original position neglects the perspectives of women and justice within the family.

Michel Walzer believes in a '*sphere of justice*' within the family, addressing power imbalances and discrimination, especially against women. He argues for women's liberation from political and economic discriminations and equal participation in society. Walzer emphasizes the need for shared domestic work and equal distribution of social goods between men and women to prevent degradation. In *Spheres of justice* Walzer describes housework as an activity that had to be shared equally by men and women Martha Nussbaum also proposes the capabilities approach, emphasizing substantive freedoms such as bodily integrity, education, and political participation .

Iris Marion Young argues that justice must address structural oppression beyond distributive patterns.⁸

Nancy Fraser adds that justice involves redistribution, recognition, and representation.

From a Rawlsian standpoint, if women and marginalized genders are among the least advantaged, then affirmative policies are required under the Difference Principle.

In India, gender intersects with caste and class. Access to education, employment, and political representation remains uneven.

Thus, gender justice demands:

- Recognition of unpaid care labor
- Workplace equity enforcement
- Political reservation where necessary
- Protection against structural violence

Formal equality is insufficient without institutional transformation.

⁸ Iris Marion Young, *Justice and the Politics of Difference* (Princeton: Princeton University Press, 1990), 41.

Nonetheless, Rawls' Difference Principle justifies affirmative action and redistributive policies to address gender disparities. If women constitute a systematically disadvantaged group, justice demands institutional correction.

Intersectionality further complicates the framework. In societies such as India, gender intersects with caste, religion, and class, producing layered disadvantage. Rawlsian justice must therefore incorporate multidimensional inequality analysis.

Nevertheless, Rawls' foundational commitment to equal basic liberties and fair opportunity provides normative support for gender equality. Expanding Rawls' framework to include recognition of unpaid care work, reproductive justice, and structural reform strengthens its contemporary relevance. Justice as fairness must extend beyond formal institutions to social practices that shape opportunity.

Conclusion

The contemporary world faces profound moral and political challenges: deep economic inequality, violent conflict, technological transformation, gender injustice, and environmental crisis. In this context, the philosophy of John Rawls remains remarkably relevant.

Rawls does not offer immediate policy prescriptions, but he provides a rigorous moral standard for evaluating institutions. His framework compels societies to ask:

- Are basic liberties equally protected?
- Do inequalities genuinely benefit the least advantaged?
- Are opportunities fairly accessible?
- Are global actions consistent with human rights and fairness?

Justice as fairness remains not merely a theoretical construct but a living moral guide for democratic societies striving toward equity and dignity. In the twenty-first century, Rawls continues to challenge policymakers, scholars, and citizens to imagine a social order structured not by privilege, but by principled fairness.

The twenty-first century confronts humanity with unprecedented transformations: global capitalism, technological acceleration, environmental crisis, and persistent social inequality. Revisiting Rawls' theory of justice as fairness reveals its profound normative power.

Economic inequality demands application of the difference principle. Welfare democracy must be institutionally strengthened. War and global order require cosmopolitan expansion. Digital capitalism necessitates distributive regulation. Gender justice demands structural reform. The Indian constitutional vision offers a living laboratory for Rawlsian principles in practice. Rawls does not provide final answers. But he offers a moral compass.

In a fractured global order, justice as fairness remains not merely relevant—but indispensable.

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