

# RAWLSIAN THEORY OF JUSTICE AS FAIRNESS: A MARXIST CRITIQUE

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*Any distribution whatever of the means of consumption is only a consequence of the distribution of the conditions of production themselves. The latter distribution, however, is a feature of the mode of production itself.*

Karl Marx

*(Critique Of The Gotha Programme)*

**Citation/©:** Kanatli, Mehmet, (2015). *Rawlsian Theory of Justice as Fairness: A Marxist Critique*, Hitit University Journal of Social Sciences Institute, Year 8, Issue 1, June 2015, pp. 301-318

**Abstract:** *Inspired by many philosophers such as John Locke, Jean Jacques Rousseau, Karl Marx, and John Stuart Mill, Rawls in his famous book called A Theory of Justice puts forward theoretical arguments regarding the notion of social justice. These arguments, based on Rawlsian approach, basically aim to make social justice possible by emphasising on how economic and political institutions that alleviate unfair distribution of rights and income in a given society should be organised. In this regard, this paper, based on Marx's view of social justice, mainly seeks an answer to the simple question: "Is it possible to construct a just society in the way Rawls puts forward?" Basing arguments on Marx's view of justice, the paper concludes that Rawls' theory of justice fails to construct a just society. Rather, it is concluded that Rawls' theory of justice legitimises economic and political inequalities in a capitalist society.*

**Keywords:** *Social Contract, Original Position, Difference Principle, Historical Materialism, Modes of Production, Surplus Value*

## **Rawls'un Adalet Teorisi Üzerine Marksist Bir Eleştiri**

**Atıf/©:** Kanatlı, Mehmet, (2015). Rawls'un Adalet Teorisi Üzerine Marksist Bir Eleştiri, Hitit Üniversitesi Sosyal Bilimler Enstitüsü Dergisi, Yıl 8, Sayı 1, Haziran 2015, ss. 301-318

**Özet:** John Locke, Jean-Jacques Rousseau, Karl Marx ve John Stuart Mill gibi birçok filozofun esinlenen Rawls, *A Theory of Justice* adlı ünlü kitabında sosyal adalet ilkesiyle alakalı teorik argümanlar öne sürmektedir. Rawls'un geliştirmiş olduğu bu argümanların temel amacı; toplumdaki siyasi ve ekonomik eşitsizlikleri azaltmak için ekonomik ve siyasi kurumların nasıl düzenlenmesi gerektiğini sağlamaktır. Marksist sosyal adalet anlayışından yola çıkan bu çalışma kısaca 'Rawls'un ortaya atmış olduğu argümanlar doğrultusunda adil bir toplum oluşturulabilir mi? sorusuna cevap aramaktadır. Genelde Marksist felsefeden, özelde ise Marks'ın sosyal adalet ilkesinden hareket eden bu çalışmanın temel tezi; Rawls'un ortaya atmış olduğu teorik argümanların adil bir toplum yaratmada neden yetersiz kaldığını açıklamak ve her şeyden önemlisi de Rawls'çu adalet anlayışının kapitalist bir toplumda ekonomik ve siyasi eşitsizlikleri nasıl meşrulaştırdığını açıklamaktır.

**Anahtar Kelimeler:** Toplum Sözleşmesi, Başlangıç Pozisyonu, Fark İlkesi, Üretim Tarzı, Artı Değer.

### **I. INTRODUCTION**

As it is not possible to study communism without referencing to Marx, it is said that it is impractical to study theory of justice in 21th century without mentioning Rawls' *Theory of Justice*. As Nozick argues that political philosophers are entitled to study within the theory of Rawls or if they don't then they need to explain why they do not care about Rawls' theory of justice (Nozick, 1974: 241). Freeman (1999) similarly argues that during the 1950s, before Rawls wrote his theory, most philosophers accepted the death of political philosophy. Especially positivist political philosophers, in this respect, have reduced philosophy to just a conceptual analysis claiming that any moral arguments are outmoded.

Emphasising importance of Rawls' theory of Justice, many scholars from different intellectual terrains have published hundreds of articles dealing with issues Rawls raised in his theory. It is generally argued that Rawls' main aim is to give new meaning to political philosophy, since he claims that the task of

political philosophy is reconciliation: “to calm our frustration and rage against our society and its history by showing us the way in which its institutions... are rational, and developed over time as they did to attain their present, rational form” (Rawls, 1971: 3). Defining the role of political philosophy, Rawls basically argues that it is possible to construct a just society in which people realize their good life. In order to construct a just society, Rawls puts forward a theory which he claims can best provide a just society. While many intellectuals criticize Rawlsian understanding of justice in order to heal its flaws, many critics, especially leftists, radically criticize his theory of justice on the grounds that it is nothing but legitimising unjust capitalist society. This paper, in this sense, seeks an answer to the simple question ‘Is it possible to construct a just society in the way Rawls puts forward? To this aim, the paper, first, descriptively points out main dimensions and premises of Theory of Justice, in the first part of the study. The study, then, based on Marxist paradigms, argues that why each premises of Theory of Justice works as a tool to legitimate capitalist system in which economic inequalities are the main obstacle to realize a just society in the second section of the study. Lastly, the paper concludes that, as Marx argues, without eliminating private property and private ownership which are the conditions of exploitation, just distribution cannot be theoretically and practically realized.

## **II. JUSTICE AS FAIRNESS**

Inspired by many philosophers such as Locke, Rousseau, Hobbes, Kant, Marx, and Mill, Rawls tries to make justice possible emphasising on societal and political institutions that cure unfair distribution of rights and income in a given society. In other words, inspired by Kant, Hobbes, and Locke, Rawls maintains social contract tradition on which he bases main propositions of his theory. His theory of social contract basically seeks an answer to the question “What terms of collaboration would free and equal citizens agree to under fair circumstances?” (Rawls, 1971: 4) Rawls claims that his theory presents an ideal of a just society that accommodates all reasonable ideas of a good life by legitimizing political and economic institutions (Rawls, In Hunt, 2013: 49). Regarding Justice as the first virtue of social institutions, Rawls believes a just order can only be realized by means of just social, political, and economic institutions (Rawls, 1971: 13). Rawls describes a just society by emphasising on the notion of fairness: “social institutions are to be fair to all cooperating members of society, regardless of their race, gender, religion, class of origin,

reasonable conception of the good life, and so on (Ibid). In this respect, Justice as Fairness aims to portray a just arrangement of the foremost political and social institutions, which, for Rawls, form a basic structure of a society: the political constitution, the legal system, the economy, the family, and so on. To this aim, Rawls develops some concepts which lie at the root of his theory. Original Position and Two Principles of Justice are key arguments of his theory each of which also forms basic premises of Rawls' other propositions collected in his other books. Since Rawls bases his entire theory on these two main arguments under the context of ideal theory, it is necessary to point out how Rawls use these arguments in theorising his notion of Justice by outlining his distinction between Ideal Theory and Non-Ideal Theory. This part, in this sense, aims, firstly to summarise Rawls distinction between Ideal and non-ideal theories and then to point out Rawls' critical arguments that enable readers to grasp core dimensions of Justice as Fairness.

### **A. Ideal and Non-Ideal Theory**

Before theorising the notion of Justice Rawls makes a clear distinction between ideal theory and non-ideal theory wherein he puts forward his theory as an ideal theory. An ideal theory, for Rawls, must provide two assumptions. First, an ideal theory should provide a legal base wherein all actors and citizens comply with the core principles of the theory. That is, it must be binding that all actors and citizens are generally willing to obey the rules of legal institutions which organized according to ideal theory's core principles (Rawls, 1971: 11). Ideal theory, secondly, must assume reasonably favourable social conditions wherein citizens do not easily face with famine, and failure of their states (Ibid). In order to legitimate and realize this ideal theory, Rawls describes non-ideal theory by emphasising on how to reform our non-ideal world, and fix what the best that can be hoped for is. To this aim, Rawls claims that non-ideal theory should be disproved according to right principles of ideal theory, since it is not able to make citizens productive members of society in realizing their happy life (Ibid). Similarly, Rawls claims that international system must also be organized based on core principles of ideal theory. That is, if any unjust international war stems from the principles of non-ideal theory it must be formulated according to ideal theory.

Making distinction between ideal theory and non-ideal theory, Rawls theorises his notion of justice under the name of Justice as Fairness. The main reason why Rawls called his concept of justice as Justice as Fairness is based on the idea that a fair society can merely be set up by the principles of Justice

as Fairness. Justice as Fairness, for Rawls, thus, aims “to describe a just arrangement of the major political and social institutions of a society: the political constitution, the legal system, the economy, the family, and so on” (Ibid: 13). The arrangement of these institutions is a society’s *basic structure* which provides main benefits and burdens of social life. In other words, it is basic structure that determines who receive basic rights, who have social opportunities, what the distribution of income and wealth is (Ibid: 15). Therefore, Rawls argues that the basic structure of a society consisting of institutions needs *justification*. In order to justify his theory Rawls uses some social contractivist arguments. Original Position and Two Principles of Justice are core arguments of Rawls’ theory.

### **B. Original Position**

Rawls use Original Position, which is a hypothetical envision, as a device in order to seek an answer to the question: “What terms of cooperation would free and equal citizens agree to under fair conditions?” (Ibid: 15). Continuing social contract tradition of other Liberals such as Locke, Rousseau, and Hobbes, Rawls points out how and why parties in the original position select principles of Justice as Fairness which provide basic structure of a just society. Rawls argues that ‘behind the veil of ignorance’<sup>1</sup> parties select principles, since each citizen is represented as free and equal citizen who fairly respect to other citizen. More importantly, Rawls claim that “principle of mutual benefit” enables parties to select principles of just as fairness, because both the best off class and worse-off class obtain their well-being by way of social cooperation, as he writes:

“To begin with, it is clear that the well-being of each depends on a scheme of social cooperation without which no one could have a satisfactory life. Secondly, we can ask for the willing cooperation of everyone only if the terms of the scheme are reasonable. The difference principle (*discussed below, [my emphasis]*) then seems to be a fair basis on which those better endowed, or more fortunate in their social circumstances, could expect others to collaborate with them when some workable arrangement is a necessary condition of the good of all” (Ibid: 103).

Pointing out the main reasons of why parties select two principles of Justice as Fairness, Rawls clarifies that behind the veil of ignorance, the informational position of the parties that symbolize real citizens is as follows:

Parties do not know:

i-) “the race, ethnicity, gender, age, income, wealth, natural endowments, comprehensive doctrine, etc. of any of the citizens in society, or to which

generation in the history of the society these citizens belong

ii-) the political system of the society, its class structure, economic system, or level of economic development” (Ibid: 17)

Parties do know:

i-) “that citizens in the society have different comprehensive doctrines<sup>2</sup> and plans of life; that all citizens have interests in more ‘primary goods’<sup>3</sup>

ii-) that the society is under conditions of moderate scarcity: there is enough to go around, but not enough for everyone to get what they want,

iii-) general facts about human social life; facts of common sense; general conclusions of science that are uncontroversial” (Ibid).

The main reason why Rawls uses Veil of Ignorance as a metaphor is based on the idea that since no party knows specific position of the citizen they represent, they select fair principles of justice by replacing themselves with others. In other words, each party agrees on principles that will be best for them, since they do not know what their place in society is. Therefore, Rawls claims that the parties are not supposed to be either risk seeking or risk-averse that is why the agreement they arrive at will be fair to all real citizens.

With the Original Position Rawls claims that parties, behind the veil of ignorance, select principles of justice, since those principles are selected regardless of whether citizens are born into a rich or a poor family, are born as female or male, are born as a member of particular race, and so on (Ibid: 22). Such a method, according to Rawls, also legitimises to riddle arbitrary social positions in the sense that any citizen who is rich, black, white, male, gay, religious etc. provides no grounds in itself for him/her to either advantaged or disadvantaged. Since Rawls aims to synthesise the notion of *equality* and *freedom* based on taking citizens as equal and free into consideration, justifying and reasoning the notion of justice should stem from the basic premise that all communally- produced goods should be equally divided (Ibid). Therefore, Rawls provocative claim of justice is based on the idea that ‘*any inequalities must benefit all citizens and especially must provide an advantage to those who have the least*’ [My Emphasis] (Ibid).

### **C. Two Principles of Justice as Fairness**

Two principles of Justice as Fairness, for Rawls, are chief determinants of the notion of Justice. By means of first principle of Justice as Fairness Rawls aims to provide a just design of political constitution, while second principle with its

sub-derivations in Rawls theory targets to regulate fair economic institutions. Rawls defines these two principles as follows:

**1<sup>st</sup> Principle:** “Each person has the same infeasible claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all;

**2<sup>nd</sup> Principle:** Social and economic inequalities are to satisfy two conditions:

- a. They are to be attached to offices and positions open to all under conditions of *fair equality of opportunity*;
- b. They are to be to the greatest benefit of the least-advantaged members of society” (**the difference principle**) (Ibid: 42–43).

The correlation between first and second principle provides a theoretical framework which reflects how political and economic institutions should be arranged. Rawls, in this sense, arranges the principles ‘in lexical priority’. That is, while first principle takes priority over second principle, the sub-principle (a) in Second Principle, namely, equality of opportunity takes priority over the sub-principle of (b), namely, over the difference principle (Ibid). The first principle assures basic rights and liberties<sup>4</sup> for all citizens providing that unequal rights will never benefit those who have a lesser share of rights. This kind of definition of first principle enables Rawls to claim that a just contribution of rights must include equal rights for everyone in any circumstances as Rawls argues “the basic rights and liberties must not be traded off against other social goods” (Ibid).

As far as Rawls’s second principle of justice is concerned it is apparent to say that Rawls, by means of fair equality of opportunity, aims to justify that each citizens who have same talents and willingness should have right to use educational opportunities regardless of their socio-economic position, as he writes: “In all parts of society there are to be roughly the same prospects of culture and achievement for those similarly motivated and endowed” (Ibid: 44). Accordingly, Rawls, by means of different principle, argues that social and economic inequalities can be justified only if these inequalities benefit for least-advantaged members of society. Different principle can simply be elucidated by the *Table 1* below.

Think about four imaginary cost-effective structures A-D, and three groups with a different possible income presented by the table below:

<b>Economy</b>	<b>Least-Advantaged Group</b>	<b>Middle Group</b>	<b>Most-Advantaged Group</b>
<b>A</b>	5,000	5,000	5,000
<b>B</b>	7,000	25,000	40,000
<b>C</b>	15,000	45,000	75,000
<b>D</b>	4,000	50,000	250,000

**Table 1**

According to Table 1, Economy C is best convenient to difference principle, owing to two main reasons:

**i-)** that it justifies the distribution where relatively disadvantaged group holds its best income position.

**ii-)** that inequalities in Economy C benefits for each group comparing to Economy A. More importantly, it is unjust, according to different principle, to select Economy D, since it is not allowed for rich to get richer at the cost of the poor. Therefore, it can be claimed that Rawls' second principle basically aims to arrange inequalities where they benefit for all, especially for the least-advantaged members of a society.

### **III. RAWLS AND SOCIAL JUSTICE: A MARXIST CRITIQUE**

Summarising main premises of Justice as Fairness, it is discussed in this section of the study that Rawls Theory of Justice does not provide a just society in the way Marx argues. In other words, this part of the study mainly outlines a Marxist critique of Rawlsian understanding of Justice.

Marxists generally argue that any argument put forwarded about justice in a capitalist system just aims to serve for the interest of dominant class. In other words, it is argued that since Marxism regard the notion of Justice as a product belonging to superstructure, any conceptualization and theorising of justice is entirely ideological and seeks nothing but legitimating social inequalities, as Christie argues : “by the claim that conceptions of justice are ideological, a Marxist can mean that conceptions of justice are “bodies of ideas characteristic of a particular social group or class” or “ideas that help to legitimate a dominant political power” (Christie, 2015: 3). If the notion of Justice, for Marx, is nothing but an ideological vehicle of dominant class how it is, then, possible to claim that Marx does not care about any notion of justice,



since after communist revolution all notions belong to the superstructure of a society will disappear. This part, firstly, argues that Marx, contrary to common belief, has a notion of justice which enables us to better analyse Justice as Fairness.

### **A. Marx and Social Justice**

Marx's main argument about justice can simply be derived from his famous motto "from each according to his ability, to each according to his need" (Marx, 2008: 17). Many arguments have been put forwarded in explaining what Marx means by this motto. Some liberals such as Nozick and Hayek argue that Marx's view of justice can only be a *good wish*, since the needs of human beings are infinite. Those who criticize Marx in this way base their arguments on the assumption that scarcity is reality of the world that is why it is impossible to equally distribute material goods among human beings taking infinite needs of human beings into consideration. Capitalist system based on free-market and laissez-fair principle is generally justified by scholars, including Rawls, emphasising on characteristic features of moderate scarcity of material goods. Similarly, liberals claim that Marx cannot have a view of the justice of capitalism at all, since he regards ideas of justice as ideological apparatus which prevents him from making an objective analysis about the notion of justice (Wood, 1972; 246).

What does justice mean in a capitalist system? Is it really only an ideological apparatus of dominant class, namely bourgeoisie class? Marxists, based their arguments on Marx's classic texts, argue that capitalist system is unjust, because it is nothing but an exploitative system. Some Marxists, on the other hand, claim that Marx does not say much about justice and besides in some passages he regards capitalism as a just system (Geras, 1992: 44). Such an interpretation of Marx works if it aims to eliminate Marxism. Marx in fact claims that capitalism is just on its own terms but unjust under an implicit higher conception of justice. In other words, justice, for Marx, develops through taking different forms in different societies. Basing his justice argument on modes of production Marx suggests that "justice simply reflects the social relations of production of a society, and differs when they differ" (Marx, 1981: 460). The main reason why Marx accentuates on production as a replacement for distribution principally stems from his argument of historical materialism. The notion of justice in feudal age is different than that of primitive age and similarly it is different in capitalist system than in communist system, since the mode of production in all societies are different than each other. Therefore,

as far as capitalist system is concerned, it is apparent to say that the relations of production constitute the justice structure of society, as Marx argues “the sum total of these relations of production constitutes the economic structure of society, the real foundation, on which rises a legal and political superstructure and to which corresponds definite forms of social consciousness” (Marx, In Tucker, 1978: 4). This is an outcome of Marx’s scrutiny of the function of ideas of justice from within historical materialism. That is, juridical institutions are parts of the superstructure, and ideas of justice are ideological, and the role of both the superstructure and ideology is to protect and maintain the economic structure. Accordingly, to declare that something is just in any capitalist system is purely a judgement applied to those elements of the system that will tend to have the effect of advancing capitalism.

Marx, on the other hand, claims that the principle of real justice which is “from each according to his ability, to each according to his needs” can only be applied in the higher stage of communism, where society goes beyond “the narrow horizon of bourgeoisie right” (Marx, and Engels, 1976: 119). Marx implies that capitalism is unfair, as he likens exploitation to robbery, and domination to forged imprisonment (Marx, In Hunt, 2013: 51). In a capitalist society thus, for Marx, it is impossible to realize justice because of its exploitative nature of relations of production. From the Marx point of view, private ownership of the means of production is the cause of capitalist exploitation. More importantly, Marx never thinks that distributive justice could be achieved under the conditions of the capitalist system. Grounded on his theory of labour of value Marx claims that it does not matter how capital originates, through violent or idyllic processes, its profit cannot be justified (Marx, In Wei, 2008 : 476). Marx, therefore, regards capital as the first outcome of the other’s alienated labour (Marx, In Peffer, 1990: 172). According to his argument of Surplus Value, “the workers are paid wages that are not equal to the price of the force of labour expended in their work. The missing value, which is not paid for by the capitalists, is the profit of capital” (Ibid). According to Marx’s labour theory of value, products, therefore, should belong to their producers, and those ( i.e. capitalists) who occupy the means of production could be more occupying the labour of others (workers), which results in exploitation and should be regarded as injustice (Ibid). Any system which works under the conditions of relations of capitalist production, for Marx, therefore, never realizes or achieves the principle of real justice, ‘from each according to his ability, to each according to his needs’, since employees do not themselves own the means of production. Those who possess the means

of production not only rule the work of others, but also dominate the surplus labour of others. In short, for Marx, simply public ownership of the means of production can assure distributive social justice which will be realized by way of historical materialism. By this way public ownership of the means of production not only transforms surplus labour, but also transforms owners as employees and employers who then become equal. In this way both the managers and workers theoretically and practically become the owners of the means of production which make them real equal under the context of real social justice.

### **B. Critique of Original Position**

Liberal rights and ideas of justice are premised on the idea that each human being needs protection from other human beings. In order to realize this premise it is a common method which liberals apply to their theories about rights and justice derived of social contract (Kai, 1988: 215). As far as development of social contract theory is concerned, it is apparent to claim that social contractivists approaches were raised especially during the development of capitalism out of feudalism. As an imaginary argument the aim of social contract was to balance between disinterested equals, namely first capitalists, in a capitalist market in order to enable bargainers to form reasonable circumstances in which bourgeoisie class eliminates privileges of divine authority (Ibid). Abstract isolated man or atomistic individuals were the main subjects of social contract where *absolute free will* of individuals guaranteed freedom of individuals regardless of their society in which they live.

Rawls' Theory of Justice also shares same social constructivist tradition in which liberty and equality of human beings hypothetically formulated. Rawls' Original Position, as an imaginary position, is thus a supra-historical method in which correct principles of justice is logically deduced. Excluding history out of his theoretical base, Rawls formulation of Original Position is not adequate to form a theoretical base for the notion of justice because of three main reasons.

First of all, abstract isolated man is the condition which Marx, in the Economic and Philosophical Manuscripts, condemns as alienation of man from his species being, and alienation of man from other man (Marx, and Engels, 1976: 26). Freedom of individuals in Rawlsian view reflects the idea of freedom from interference. What this view overlooks is the possibility, for Marx, "that real freedom is to be found positively in our relations with other people. It is

to be found in human community, not in isolation” (Ibid: 27). Since people cannot be regarded as real free who make rational and reasonable choices, the argument of veil of ignorance also isolates each party from history and societal circumstances in which they live. In order to accept parties equal and free it must be drawn a historical circumstances which human beings can realize his/her being and his/her reason. Rawls says that parties are free, equal, rational, and disinterested in original position, so then the question of “how do they rationally select principles if they are mutually disinterested and they are hypothetically free?” remains unresolved.

Secondly, ‘mutual disinterest, and moderate scarcity’ are Rawls’ two elements which enable human cooperation possible and necessary (Rawls, 1971: 128). Then, if human cooperation is a necessity how is it possible for atomistic or isolated individuals to be completely uninterested in each others’ interests? Similarly, if human cooperation is a necessity then how do parties in the original position respect disinterested people’s life and social position and vice- a- versa. Suppose a society in which someone depends for his or her existence, on someone else’s labour, then is it rational to be apathetic as to their outcome? If Rawls use the word competition instead of disinterestedness, in case of moderate scarcity, the parties would best be described as capitalists where they need to behave according to principles of free-market in which they are not care about societal consequences.

Thirdly, Rawls argues that parties behind the veil of ignorance in the original position know some basic information about world. He argues parties know that i-) “the society is under conditions of moderate scarcity: there is enough to go around, but not enough for everyone to get what they want”, and they also know that ii-) general facts about human social life; facts of common sense; general conclusions of science that are uncontroversial” (Ibid: 17). Such information given to the parties in the original position indicates how Rawls implicitly impose liberal principles of justice without giving any chance to other theories. The distinction between Ideal Theory and Non-Ideal Theory put forwarded by Rawls cannot legitimize liberal impose on parties. Suppose parties know and accept Marx’s theory of Surplus Value so then “are there any reasons for parties to select Economy C in Table 1? If parties, even they are identified as isolated people in the way Rawls argues, know Marx’s theory of Surplus Value then it will be nothing but silliness for parties to select any economy presented in Table 1.

### C. Critique of Two Principles of Justice as Fairness

Rawls argues that a fair society can be constructed by means of two principles of Justice as Fairness, since these principles suggests a progressive tendency to equality transcending dichotomy of freedom and economic equality (Freeman, 1999: 62). Even though it can be argued that Rawls tries to alleviate economic inequalities in a society, his two principles do nothing but providing a permanent inequality among different groups where bourgeoisie class benefits for. In other words, they are these principles that give rise to emerge main flaws of Justice as Fairness which indicate how Rawls theory of Justice itself legitimise injustice. More importantly, what makes Rawls' Theory of Justice unjust is based on his argument that social and economic inequalities are a-priori and inevitable. That is, Rawls claims that economic and social inequalities are natural and a theory of justice should deal with to ease these inherent inequalities without swerving liberty (Rawls, 1971: 7).

As mentioned above, by means of first principle of Justice as Fairness Rawls aims to provide a just design of political constitution, while second principle with its sub-derivations in Rawls theory targets to regulate economic institutions. Yet, when it is analysed it is apparent to notice that these principles with a lexical order cannot realize a just society. As far as first principle, which, for Rawls, guarantees basic political liberties is concerned; it is plain that Rawls in last instance regards political liberties as independent from economic structure. This kind of interpretation of political liberty is clearly power-blinded. That is, it is impossible to talk about political liberties without taking power matrices into consideration. Even though rich and poor have equal political and legal rights they are not equal in doing politics. It is not difficult to imagine that a dustman and a boss are not equal in a society in doing politics in the same society. Rawls, indeed, is aware of this paradox and tries to meet it, as he writes:

“The inability to take advantage of one’s rights and opportunities as a result of poverty and ignorance, and a lack of means generally is sometimes counted among the constraints definitive of liberty. I shall not, however, say this, but rather I shall think of these thing<sup>4</sup>as affecting the worth of liberty, the value to individuals of the rights that the first principle defines ... Freedom and equal liberty is the same for all ... but the worth of liberty is not the same for everyone” (Ibid: 204).

Yet, what prevents Rawls from eliminating this paradox is his false assumption that is; ‘separating the mode of distribution from the mode of production’ can

help achieve just society. Insisting on political equality without eliminating capitalist mode of production does not justify any capitalist society in the way Rawls puts forward, since, as Cohen argues, some capitalist societies offer political equality, as if they are very equal and just by nature (Cohen, 2008: 385). Rawls, in this respect, fatally overlooks the linear equation between political legal rights and mode of production in a given society. Therefore, Rawlsian appeal to justice in the sense of realizing first principle is superficial and unacceptable in that it suggests that important social change can be achieved by political and legislative institutions.

As far as second principle of Justice as Fairness is concerned, it can be claimed that Rawls justifies inequalities in a capitalist system. In other words, by second principle, especially with difference principle, Rawls legitimises injustice. His main argument, mentioned above, is based on the idea that social and economic inequalities are to satisfy two conditions: i-) "They are to be attached to offices and positions open to all under conditions of *fair equality of opportunity*; and ii-) they are to be to the greatest benefit of the least-advantaged members of society (the *difference principle*)" (Rawls, 1971: 42-43). Contradictions of these principles with a lexical order lie at the root of Rawls' understanding of basic structure of a society. Fair equality of opportunity, which is first sub-principle of Two Principles of Justice as Fairness, is, for liberals including Rawls, as if something magical and holy argument that provides a just society. It is in fact nothing but still legitimising economic inequalities. In other words, as Cohen claims, that fair equality of opportunity cannot rule out capitalism, since the great inequalities of capitalism are consistent with it (Cohen, 2008: 385, Demartino, 2004: 21). Suppose the principles work at the time each disadvantaged group benefits for from the economic activities as follows: In their first distributive justice mechanism, X, as a disadvantaged group, earns 1000 dollars with selecting Economy 1, while Y, as an advantaged group, earns 200000 dollars in same Economic activity. In their second activity to say in Economy 2, suppose X increases his income from 1000 dollars to 1200 dollars, as Y does so by increasing from 200000 to 240000 dollars. Then, is there any mathematical proportion that justifies the notion of fair equality of opportunity? The answer is surely 'no'. Before Economy 1 there were Ferrari and Murat 124 (a moderate car) which were racing in a car race. Now after Economy 2 they are Ferrari and Doğan Slx (slightly moderate car than Murat 124) but the car race is still going on under the context of liberal formal and political institutions which justify capitalist system by masking the motto of "fair equality of opportunity". Rawls therefore does not challenge the social

class structure. What concerns him is equality of opportunity, although he acknowledges that, for those in different economic positions, the first step on the path to a career cannot be equal (Rawls, 1971: 78).

The second or difference principle is another complicated proposition. Even though it is called by Rawls as an egalitarian principle, it also functions to justify inequality. After all, it is the standard justification for inequalities everywhere that they benefit for the least advantaged. Such a Rawlsian paradox stems from his exclusive emphasis on distribution rather than production, as well. As he regards the notion of free market as a crucial element of the basic structure of a just society (at least he does not strictly object it), his theory of Justice as Fairness implicitly or explicitly accepts class divisions. He writes;

“The infinitive notion here is that (the basic) structure contains various social positions and that men born into different positions have different expectations of life determined, in part, by the political system as well as by social and economic circumstances. In this way the institutions of society favour certain starting places over others. These are especially deep inequalities. Not only are they pervasive, but they affect men’s initial chances in life; yet they cannot possibly be justified by an appeal to the notions of merit or desert. It is these inequalities, presumably inevitable in the basic structure of any society, to which the principles of social justice must in the first instance apply” (Ibid: 8).

Even though Rawls outlines class division as something should be eliminated, he does not deal with mode of production of a given society. In other words, what Rawls overlooks is the idea that “unequal distribution is not the outcome of any of conscious decision taken by individuals or by society in accordance with one principle or another, but of unequal relations of production” (DiQuattro, 1983: 55). Yet, the entire area of production, from Rawls point of view, remains a dim and virtually unexplored continent in terms of realising justice. As Wei writes;

“Although Rawls knows the effects of social class structure, he never questions the relations of production and their rules nor does he at any time question the existence of private property” (Wei, 2008: 477).

More importantly, difference principle directly works in order to realize needs of capitalism. It basically paves the way for welfare state. That is, state as a political organization should take role in arranging economic issues. By healing conditions of worst-off, different principle gives rise to enlarge market in the way worst-off people also become *good buyers*. Similarly, exploitative

dimension of capitalist system, no matter it is a part of a Welfarian or part of other type of state, maintains by means of difference principle. Suppose you are a worker and your income is getting higher thanks to Rawls' different principle. You were paid 50 dollars before Rawls' different principles, but your income after different principles goes up to 70 dollars. Does different principle of Rawls justify your labour if you accept Marx' theory of Surplus Value? Of course it does not justify, since you are still the main producer of economic cake no matter what your purchasing power is unless you get your labour value that you deserve. Therefore, while on the one side Rawls different principle gives rise to realize capitalists' needs in free market in terms of providing customers, it, on the other side, enforces disadvantaged groups stay as worst-off until they die by excluding them from equally sharing the economic cake. In other words, while best-off people still gets the huge part of the cake, the worst-off group, even it is the real owners of the cake, never gets his merited labour. Rawls' different principle, in this sense, does not work as a hush money in preventing Marxists from shouting the slogan: 'We don't want a larger share of the cake we want the whole damn bakery'!

#### **IV. CONCLUSION**

Attempting to vitalize social contract tradition, Rawls' theory of Justice as Fairness calls for the agreement of the oppressed minorities, that is "the least advantaged groups". Yet, flaws of his theory give rise to injustice society. Original Position, and Two Principles of Justice as Fairness which are key arguments of Rawls theory play an important role in justifying inequalities in a capitalist society.

More importantly, a theory of justice cannot be derived from pure reason divorced from society and history under the context of original position. In other words, since society is not based on a contract, a social contractivist approach to justice is nothing but economic-structure and power matrices-blinded. Original Position, as a hypothetical argument, also reflects the idea of freedom from interference which prevents parties from freely and rationally selecting principles of justice. What Rawls in Original Position overlooks is, as Marx argues, that real freedom is to be found positively in our relations with other people. It is to be found in human community, not in isolation.

Accordingly, a theory of justice cannot be derived without dealing with mode of production in a given society. Focusing exclusively on distribution rather than production, Rawls' theorising of justice can merely work for the benefits of advantaged groups, namely, for dominant class. As Marx writes; 'any



distribution whatever of the means of consumption is only a consequence of the distribution of the conditions of production themselves. The latter distribution, however, is a feature of the mode of production itself” (Marx, In Wolf, 1977: 210). Similarly, in capitalist modes of production if class division is seen as natural and inevitable as Rawls sees, social and economic inequalities can never be eliminated regardless of taking mode of production into consideration. Even though Rawls seems to spend much time in dealing with just distribution of economic income, the difference between the distributive justice of liberalism and Rawls’ justice as fairness is that both accept the basic system and the rules of capitalism, while the latter justifies its natural result from the stance of the disadvantaged and readjusts it with redistribution (Wei, 2008: 477, Miller, 1974: 182). A radical change of a basic structure of a society in terms of constructing a just society can only be achieved through change of owners of the means of production which only enable anyone caring about just society not to regard justice as something except ideology of a dominant class where Rawls fails to understand.

## REFERENCES

- CHRISTIE, Isham. (2015). ‘A Marxist Critique of John Rawls’ Theory of Justice’, [on 21. 01. 2015 accessed by] <http://tr.scribd.com/doc/137100966/Marxist-Critique-of-Rawls#scribd>
- COHEN, A., Gerald. (2008). *Rescuing Equality and Justice*, Cambridge Press: London.
- DEMARTINO, George. (2004). ‘Realising Class Justice’, *Rethinking Marxism*, (15).(1): 1-31.
- DIQUATTROO, Arthur. (1983). ‘Rawls and Left Criticism’, *Political Theory*, (11).(1): 53-78.
- FREEMAN, Samuel. (1999). *Collected Papers*, Harvard University Press: Cambridge.
- GERAS, Norman. (1992). ‘Bringing Marx to Justice: An Addendum and Rejoinder’, *New Left Review*, Vol. 195: 27-56.
- HUNT, Ian. (2013). ‘Marx and Rawls on the Justice of Capitalism: A Possible Synthesis?’ *Value Inquiry*, (Vol) 47 : 49-65.
- KAI, Nielsen. (1988). ‘Arguing About Justice: Marxist Immoralism and Marxist Moralism’, *Philosophy and Public Affairs*, (17). (3): 212-238.
- MARX, Karl, Engels, Friedrich. (1976). *Collected Works. Vol 5*. Progress Press: Moscow.
- MARX, Karl (1981). *Capital, Volume III*, Penguin Books Press: Harmondsworth.
- MARX, Karl. (2008). *Critique of The Gotha Programme*, Wildside Press: Rockville, USA.
- MILLER, Richard (1974). ‘Rawls and Marxism’, *Philosophy and Public Affairs*, (3). (2): 167-191.
- NOZICK, Robert. (1974), *Anarchy, State, and Utopia*, Basic Books Press: NewYork.

- PEFFER, G., Rodney (1990). *Marxism, Morality and Social Justice*, Princeton University Press: Princeton, New Jersey.
- RAWLS, John. (1971). *A theory of Justice*, Harvard University Press: Cambridge.
- TUCKER, Robert. (1978). *The Marx-Engels Reader*, Second Edition, Norton Press: New York.
- WEI, Xiapoing. (2008). 'From Principle to Context: Marx versus Nozick and Rawls on Distributive Justice', *Rethinking Marxism*, (20). (3): 472-486.
- WOLF, R. Paul. (1977) *Understanding Rawls*, Princeton University Press: Princeton, New Jersey.
- WOOD, W. Allan. (1972). 'The Marxian Critique of Justice', *Philosophy and Public Affairs* Vol. (1): 244-282.

### **Endnotes:**

1 *Veil of Ignorance prevents other arbitrary facts about citizens from influencing the agreement among their representatives. Each party in the original position, by means of veil of ignorance, is deprived of knowledge of their race, class, gender, social position and etc in society. See John, Rawls. (1971). A theory of Justice, Harvard University Press: Cambridge, pp. 17, 21, 25, 36, 184, 252.*

2 *Comprehensive doctrine is used by Rawls to refer a system of moral beliefs which enable parties to determine and realize what the right thing for their life in the way they determine political and economic institutions. In other words, comprehensive doctrine is people's world view. Communism, utilitarianism, Religions, Liberalism, and etc are examples of any comprehensive doctrine. See, Rawls John, Rawls. (1971). A theory of Justice, Harvard University Press: Cambridge, pp. 19, 35, 42, 194.*

3 *Primary goods are described by Rawls as "things that every rational man is presumed to want". Rawls classifies primary goods into two categories: Natural Primary Goods which are 'intelligence', 'imagination', 'health' and etc., and Social Primary Goods which are civil and political rights, liberties, wealth and income etc. See. John, Rawls. (1971). A theory of Justice, Harvard University Press: Cambridge, pp. 21, 25, 37, 116, 182, 256.*

4 *Basic rights and liberties are formulated by Rawls as follows: "liberty of conscience and freedom of association, freedom of speech and liberty of the person, the rights to vote, to hold public office, to be treated in accordance with the rule of law, and so on". See. John, Rawls. (1971). A theory of Justice, Harvard University Press: Cambridge, pp. 19, 55, 76, 94.*