

# **RAWLS' POSITION IN FRONT OF THE UTILITARIANISM ETHICS FROM A PERSPECTIVE OF THE RIGHT**

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## **SUMMARY**

This article presents the major criticisms of the American philosopher John Rawls makes to the ethical perspective presented by utilitarianism. For this reason, this article develops in the following order: In a first time addresses the principles of the Theory of Justice and the ethics of the law of the philosopher mentioned. In a second time describes the utilitarian theory with respect to the main elements that characterize and finally presents the major criticisms of the Harvard philosopher raises him to the current ethics.

Key Words: Ethics, Philosophy of Law, John Rawls, utilitarianism.

## 1. INTRODUCTION

Throughout this article I intend to pick up the most important criticisms that from a perspective on the Ethics of Right, Rawls makes it to the utilitarianism; to begin, I have found it convenient to make a description of the most relevant elements of Rawls's theory of justice and of utilitarianism, by highlighting the elements that come into play within this controversy.

This is the reason that I'll develop this article follows: In a first time I'll describe how general the context in which is born of Rawls's theory, showing how this appears contesting a place compared to other theories, and I will address the two principles of his Theory of Justice as being those most important elements within the ethics of the right of this American philosopher in a second time, I'll describe a very general way the utilitarian theory by addressing the main elements that characterize and make it attractive. Finally, I'll present some differences between the two principles of Rawls's theory of justice and the principle of the utilitarian theory and develop the main criticisms that Rawls makes him the utilitarianism.

## 2. METHODOLOGY

This article is supported by the methodology of formal logic, which develops inferences through the construction of formal languages, semantic structures and deductive systems. In addition to this is using the pragmatic approach to the extent that it is to elucidate the validity of the positions on the grounds of the consequences that they generate.

## 3. RESULTS.

### The proposal of Rawls

The question for the justice was given a prominent place in the ethical discussion legal in the second half of the twentieth century is precisely in this context in which it appears the work of John Rawls. In this era, the recognition of moral pluralism had as a result a change, because this recognition is not seeking a rationale for a particular conception of the good, but accept the different conceptions and look for more well how they can live together in a same just society.

In Western society, the reflection over the centuries had been marked by a multiplicity of disputes that were evidence of the absence of an agreement on how they would have to be the basic institutions in a society, and these differences are evident, for example, in the difficulties that had all the thinkers when they tried to reconcile two demands, one of them was to specify and ensure the basic rights and freedoms of citizens, while the other sought to answer the demands of economic equality for people free and equal before the law.<sup>1</sup> Compared to this situation Rawls asks: Is there any way of fixing an order in a society whose members have projects of life different and immeasurable?

Rawls was not the first to try to answer that question and therefore, his theory appeared contesting a place already occupied by other theoretical conceptions among which the intuitionism and utilitarianism, which is why Rawls said: "The objective that guides me is to develop a theory of justice that a viable alternative to the doctrines that have dominated our long philosophical tradition"<sup>2</sup> in front of these two conceptions, the Harvard professor proposes its two famous principles of justice which also describe how the principles 1, 2a and 2b:

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<sup>1</sup> John Rawls, "justice as fairness: policy, not metaphysics", in *the Policy. Journal of studies on the State and society*, No. 1, Paidós, Barcelona, 1996 p. 26.

<sup>2</sup> John Rawls, *Theory of Justice*, trad., María Dolores González, Fondo de Cultura Económica, Mexico City, Mexico, 1997.

### *"First Principle*

Each person has to have an equal right to the most extensive total system of basic liberties compatible with a similar system of liberty for all.

### *Second principle*

Economic and social inequalities have to be structured in such a way that they are to:

- a) Greatest benefit for the least advantaged, in accordance with a principle of just saving, and
- b) United to the charges and the functions available to all, in conditions of fair equality of opportunity."<sup>3</sup>

To justify this formulation of the principles, Rawls is worth from two key elements within his theory. The first is to appeal to a fictional situation that called *original position* in which "no one is placed in an advantageous position or disadvantaged by the natural fortune or by the social circumstances when choosing principles", and in which you must be sure that "the incitement and individual aspirations, as well as the conceptions of the people about the good, do not affect the principles adopted". Is excluded then the knowledge of those contingencies that face men and allow them to be guided by prejudices. In this way you will reach the veil of ignorance in a natural way.<sup>45</sup>

According to the above, this notion of original position leads to the formulation of a problem of choice: it is, therefore, to negotiate a contract in which the parties involved will be linked in the "real life" but

without knowing that occupy or social position that features will be in it (white or black, man or woman, etc.). According to Rawls, it must be possible to demonstrate that this negotiation "beneath the veil of ignorance" necessarily leads to the adoption of the two principles of justice mentioned above.

The adoption of the two principles of justice are worth a second element, namely, the *reflective equilibrium*. We wonder then what the function of the balance reflexive is. For Rawls, nothing guarantees *a priori* to resort to the *original position* and the reference to the *trials well weighted* that express our sense of justice will lead to the notion of the same principles, the notion of *reflective equilibrium* allows us to make the link.<sup>6</sup> Now well how can we describe the balance reflexive? According Rawls, the reflective equilibrium occurs when there is a balance between our judgments ripened about justice, on the one hand, and the principles of our conception of justice, on the other hand, "It was a balance because finally our principles and judgments match; and it is reflective to me because I know that principles is adjusted our judgments reflective and aware of the premises of their derivation"<sup>7</sup>

This balance is achieved by isolating the moral judgments about which we have more confidence, this is the trials ripened,<sup>8</sup> and then, by comparing them with the general principles, to test whether these can be explained to those when in a first attempt did not find a accordance between our

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<sup>6</sup> Parijs, Philippe, *What is a just society? Introduction to the practice of political philosophy*, Ariel, Barcelona, 1993, p 62.

<sup>7</sup> John Rawls, *Theory of Justice*, *op. cit.*, p 32.

<sup>8</sup> The ripened trials are "those issued in favorable conditions for the exercise of the sense of justice and, therefore, in circumstances in which there are no excuses and explanations more common to commit an error, then presumed that the person submitting the trial has the ability, the opportunity and the desire to reach a correct decision (or at least, that has no desire to do so)." John Rawls, *Theory of Justice*, *op. cit.* p 57.

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<sup>3</sup> *Ibid.*, p 280.

<sup>4</sup> *Ibid.*, pp. 30-31.

<sup>5</sup> *Ibid.*

judgments individuals and the general principles, we must revise our judgments or modify the general principles to find the desired balance.

### General Elements of utilitarianism

Jeremy Bentham, in the years following the French Revolution, stated that all the moral duties are derived from a principle last: the principle of utility. According to this principle, the man in all its activities is guided only by the maximum satisfaction and the minimum amount of suffering. In this way one could say that the satisfaction ethics is the satisfaction of the self-interest, and this in turn, consists in the achievement of individual happiness in the nineteenth century, John Stuart Mill<sup>9</sup> and Henry Sidgwick, developed and extended this doctrine by which the utilitarianism became the most important ethical option.<sup>10</sup>

The utilitarianism can refer to a simple principle: when we act, we need to do abstraction of our interests and our inclinations, of our prejudices and taboos inherited from the tradition, and in the same way, any alleged "natural law", taking care to follow the formula that says: "the greatest happiness for the greatest number," specifically, the aim is to maximize the collective welfare, defined as the sum of the well-being (or utility) of the individuals that make up the community considered.<sup>11</sup>

Rawls acknowledges that utilitarianism appears at first glance as a very attractive

theory: "The first thing that we have to assume is that there is a way of thinking about the society that makes it easy to assume that the conception of justice is the most rational utilitarian".<sup>12</sup> Now, what could be the reasons that explain the lure the utilitarianism?

In the first place we must highlight the position that the utilitarianism suggests that we take in case of doubt in front of a particular conflict of interest; thus, in the event of uncertainty in the midst of such a conflict, we must assess the various alternatives in game, considering the interests of the individuals who could benefit or harm from such positions. In this way, for example, in the face of censorship by the consumption of alcohol or the dissemination of certain ideas, the utilitarianism he wondered how that person is actually affected or benefited by such a decision? Because censor such conduct if it does not harm anyone?<sup>13</sup>

On the other hand, the utilitarianism is attractive because it does not prejudice the wishes and preferences of different individuals whose fate is at stake. For this reason, the time to develop their proposals, the utilitarianism suggested to take into account the preferences of each of the potentially affected, regardless of the specific content of the particular claims of each one of them, for example: in the time to start thinking about how to organize the economy of the society, a proposal aimed at orienting according socialist precepts, will be placed on an equal footing with other intending to organize a free market system.

In this sense, it is important to highlight a new argument in favor of the utilitarianism: its egalitarian nature. That is to say, in his eagerness to maximize the welfare in general, the utilitarianism tends to count as equal the different preferences in game, for

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<sup>9</sup> John Stuart Mill, *Utilitarianism* (1863), translated into Spanish as *utilitarianism*, Aguilar, Madrid, 1980.

<sup>10</sup> Sandwich, Henry, *the methods of Ethics* (1874).

<sup>11</sup> Parijs, Philippe, *What is a just society? op. cit.* , p 30 before continuing i would like to clarify, as Rawls acknowledges, that there are many differences between the utilitarianism of Bantham, John Stuart Mill and Sindgwick. Rawls proposes to examine the utilitarianism of Sidgwick which asserts that the company is properly ordered, and therefore, it is just, when its most important institutions are arranged in such a way that gets the greatest balance of satisfaction belonging to it (see Jhon Rawls, *theory of justice, op. cit.* , p. 34)

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<sup>12</sup> John Rawls, *theory of justice, op. cit.* , p 35

<sup>13</sup> Cf. Gargarella, Roberto, *theories of justice after Rawls*, Paidós, Barcelona, 1999, pp. 23-24

example: in a society where the majority prefers to use existing resources to distribute it among the poorest, while the richest group likes to build golf courses, the utilitarianism prioritized the claim of the majority, and in this sense, shows a strict commitment egalitarian: there is no one whose preferences have more than that of the other, when it comes to recognize which is the preference which has greater social support.<sup>14</sup>

Finally, in his usual recurrence to the calculations of costs and benefits, the utilitarianism shows that all seem reasonable to us, when we think about our own lives, having recourse to balance sheets that could culminate in the acceptance of certain sacrifices present in pursuit of higher future profits. In order to clarify this position, consider the example of a person who goes to a dentist, or that you agree to be bound to a painful operation. The utilitarianism says that to all of us it would seem rational acceptance of costs is present in pursuit of future gains.<sup>15</sup>

These arguments make us see the utilitarianism as a position beyond reproach; however, each one of these positions seem to have a downside unattractive as we will see in the next point, where we will develop the criticism that Rawls makes this ethical perspective.

### **Rawls in front of the utilitarianism**

To examine the differences that Rawls has compared to the utilitarianism we will rely on all the elements described above. We will begin drawing on the principles of justice addressed in the first part of this work and we will continue to use the features of the utilitarianism described in the previous subtitle, in which, on the one hand, we will

describe the critical that Rawls makes it to the teleological nature of this ethical stance, and on the other hand, his generalization.

- **The principles of justice versus utilitarianism**

The demands of justice as fairness, as arising from the deliberations of the original position, are expressed in the two principles of justice referred to in the first part of this article. According to these principles, justice requires a strictly equal distribution of certain primary goods: individual freedoms (according to the first principle or principle of equal freedom), the possibilities to access the various functions and positions (according to the second principle in its paragraph *b* or equitable principle of equality of opportunities), and a distribution of the other primary goods in the resulting favored the less advantaged (second principle in its numeral, *or principle of difference*).

For Rawls, there is a hierarchy between these demands, which is explicit in the lexicographical order of the first principle on the second and the second part of the second principle on the first in this context, a society is more just than another if fundamental freedoms in it are larger and are distributed on a more equal basis, regardless of the distribution of other primary goods; and between two similar societies in the level of fundamental freedoms, which ensures the opportunities more equal for all is the most just, regardless of how it the degree of difference.

The theory of Rawls, characterized by this hierarchy of first principle, then the numerals "b" of the second principle and finally the numeral "a" of the second principle, which we will describe in later as the principles 1, 2b, 2a, is presented as a rival to the utilitarianism theory which is defined by a single principle. This contrast is seen by the sole principle of

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<sup>14</sup> *Ibid.*, p 25.

<sup>15</sup> *Ibid.*

utilitarianism: it is just a society that maximizes the sum (or average) of the levels of welfare (or utility) of its members; however, the aspect of the theory of Rawls more contrasting against the utilitarianism, is the principle of difference (2a), because while this requires that the society maximize the amount of primary goods for the most disadvantaged, the principle of utility requires that optimize the fate of its members as a whole, i.e. that maximize the sum (or mean) of the levels of utility, which is why we can say that utilitarianism does not deal with the distribution of wealth between the Members of the society: what matters is the average of that welfare, irrespective of the manner in which it is divided; On the contrary, for Rawls, it is important how the primary goods are distributed, knowing whether a society is just in no way dependent on, for him, the amount of primary goods available to those better equipped, but only of the attributed to the most disadvantaged.<sup>16</sup>

- Criticism of the teleological nature of utilitarianism

The above-mentioned elements are closely related to the criticism that Rawls makes it to the teleological nature of utilitarianism in the teleological nature of utilitarianism, "the well is defined independently of what is right, and then it is only fair defined as something that maximizes the well,"<sup>17</sup> For this reason, the utilitarian feel that the institutions and the acts that, among the various alternatives will produce the greatest good, are deemed fair. This feature of utilitarianism is attractive because it provides us a method capable of sorting the different alternatives in case of moral disputes; in addition, the idea of maximizing or consider the highest number is attractive

because it is consistent with the conception of rationality that we have.<sup>18</sup> For Rawls, in a utilitarian view of justice

"It doesn't matter, except in an indirect way, such as the circulation of this sum of satisfaction among individuals, nor does it matter as a man distributes its satisfactions in the time. The correct distribution in each case is the one that produces maximum satisfaction, the society has to assign their means of satisfaction, whatever, rights and duties, opportunities and privileges, and various forms of wealth, in such a way that, if you can, get this maximum"<sup>19</sup>

In summary, justice in the ethics of the law of the utilitarianism, has as its sole purpose is to get a better balance of satisfaction, and for this reason, it is reasonable to expect that arise situations in which the fundamental rights of some are posts in question on behalf of the interests of the majority." "there is no reason why the largest profits of some do not have to compensate for the lower losses of others or, more importantly, by which the violation of the freedom of a few could not be regarded as correct by a greater good shared by many", in this case, fidelity to the social system can require some, in particular of the less fortunate, his resignation to certain advantages for the sake of the greater collective good.<sup>20,21</sup>

Rawls is distinguished in this point of the utilitarianism by subordinating the optimum distribution of wealth and power, the strict respect of the equal freedom and the equitable principle of equality of opportunities, but what are the fundamental freedoms and that is the equality of the equitable opportunities?

<sup>16</sup> Cf. Parijs, Philippe. *What is a just society? op. cit.* , p 69, See also, John Rawls, *theory of justice, op. cit.* , pp. 68-69.

<sup>17</sup> John Rawls, *theory of justice, op. cit.* , p 36

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.* , p 37

<sup>20</sup> *Ibid.*

<sup>21</sup> Cf. Gargarella, Roberto, *theories of justice after Rawls, op. cit.* , p 30

Rawls tells us that the basic freedoms are: political freedom (the right to vote and be elected to carry out public functions); freedom of expression and assembly; freedom of conscience and thought; the freedom of the person, which includes the freedom of the person in front of the psychological oppression, physical assault, and the dismemberment (integrity of the person); the right to personal property and the protection against arbitrary detention and the however.<sup>22</sup> To which a society to be fair, it is necessary that none of the freedoms set out in this list is more limited than in so far as may be necessary so that everyone can equally enjoy them and following the question raised above, this American philosopher shows us how, the equality of opportunities fair, cannot be reduced to the purely formal possibility of access to any function in the society; it requires, on the one hand, that the social order does not affect the possibility of access to the different positions and functions, and for another, that compared to talents and capacities equal, Ensure to individuals of all societies the same possibilities of access to different levels of education.<sup>23</sup>

On the other hand, for Rawls, the fact that we consider the maximization of their own desire as a benchmark for the assessment, would be two consequences morally unacceptable, and the first shows that utilitarianism would require taking as relevant what we might call the "expensive taste" of the people. Rawls gives the example of a person that considers itself to be satisfied with a diet of milk, bread and chickpeas, compared to one that calls for exotic dishes and more expensive wines. The attitude of utilitarianism, in front of the well-being, should be given to the last with more resources than the first, to avoid that get less satisfaction final against the one who is satisfied with the more modest diet.

However, Rawls pointed out that this would have to take to the individuals as mere "carriers liabilities of wishes".<sup>24</sup> This is the reason that Rawls is going to defend a metric objective and not subjective, in determining how to distribute the resources of the society of a fair and equal way. The second consequence is that, consider the well-being as criterion Valuation would oblige us to accommodate what we might call preferences or tastes "offensive." In effect, the utilitarianism, to seek to maximize the pleasure of each one, he would be obliged to take into account the pleasure that a person get to discriminate against another or to leave less room for the freedom of another, which would be totally unacceptable.

- Criticism of the generalization utilitarian.

At the end of the description of the utilitarianism that we did, we saw how this, reproduced in scale "social" our tendency to accept certain sacrifices present, in order to obtain greater benefits in the future; we can in this way, impose a momentary sacrifice in order to obtain after a greater advantage. In fact, the utilitarian reasons in the following way: As well as the well-being of a person is formed from the different satisfactions that you feel at different times during the course of his life, in the same way, the well-being of the society has to be built from the satisfaction of the systems of wishes of the many individuals who belong to it, in the same way as the principle for an individual is to promote both as possible their own well-being, this is, its own system of wishes, also the principle for the society is to promote both as possible the welfare of the group. For this reason it could be said that, it is maximizing the general system of wishes by maximizing the wishes of the largest

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<sup>22</sup> Cf. John Rawls, *theory of justice, op. cit.* , p 68

<sup>23</sup> Cf. Parijs, Philippe, *What is a just society? op. cit.* , p 72

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<sup>24</sup> Rawls (1971), pp. 30-31, quoted by: Gargarella, Roberto, *the theories of justice after Rawls, op. cit.* , p 25.

number of members of a society. Finally, the utilitarianism believes, as we outlined at the beginning, that the same way as an individual gains balances the present and future, a society can balance satisfactions and dissatisfactions between the present and future generations.<sup>25</sup>

However, for Rawls, a certain type of calculations we could consider acceptable on a personal level should be rejected when they are moved on a plurality of individuals; for example: wanting to impose sacrifices to present generations in pursuit of benefit to future generations.

This is one of the most interesting criticisms that has been done to the utilitarianism, because it shows how utilitarianism tends to see the society as a body, where it is possible to sacrifice some parties on the basis of the other. This operation should be checked as illegitimate because they don't know the independence of the people; that is to say, it ignores the fact that each individual must be respected as an autonomous being, distinct from the others and as worthy as any other.

#### 4. CONCLUSION

A perspective on the ethics of right utilitarian, which aims to maximize the collective well being defined as the sum of the well-being of individuals, presents many difficulties: first, justifies the loss of some members of society because of the higher profits of a few; secondly, it gives you much room to preferences or tastes costly and even "offensive" justifying the fact leave less room for the freedom of other people, if this leads to maximize the overall system of satisfaction. Finally, justifies the present gains of a society by sacrificing the future gains, and the satisfactions of the society

present at the expense of the satisfactions of the society of the future. In this sense "it doesn't matter, except indirectly, such as the circulation of this sum of satisfaction among individuals, nor does it matter as a man distributes its satisfactions in the time. The correct distribution in each case is the one that produces maximum satisfaction".<sup>26</sup>

Before concluding I would like to clarify that the debate between of Rawls's theory of justice and the proposal of utilitarianism, in spite of its importance, it is not the only debate that has had to deal with this theory of justice. This is the reason why this article can become the preamble to the presentation of other debates that has had to face the theory of justice, among which the debate with the Analytical Marxism, with communitarianism and with republicanism.

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<sup>25</sup> Cf. John Rawls, *theory of justice, op. cit.*, p. 35-36

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<sup>26</sup> John Rawls, *theory of justice, op. cit.*, p 37.