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From John Rawls' Distributive Justice to Amartya Sen's Plurality of Social Universes

Abstract

The investigation of the political theology concept has led inevitably to an interrogation of the fields related to the origins of Law. Within this study we aim to identify the essence of Law principles in direct relationship with the moral judgements which ensure their inner substance. In this sense, the study presents the political morality concept as branch of social philosophy, in the thinking of John Rawls, Ronald Myles Dworkin and Amartya Sen, who marked the development of this field in the XXth century. What brings together these authors is their preoccupation for the foundation of law principles in the

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sense of reflective equilibrium, starting from the distributive justice of Rawls, and ending with the plurality of social universes described by Amartya Sen. The current study is based on information retrieved from the databases of Stanford University and Indiana State University.

Keywords
Reflective equilibrium, Political Theology, Pragmatism, Utilitarism, American Political Philosophy

1   Introduction

The investigation into the concept of *political theology* inevitably led to querying the fields on the nature of the law. In this study, based on information provided by the data bases of Stanford and Indiana Universities, we try to identify the essence of law principles directly related to the moral judgments that provide substance to these principles. In this regard the study presents the concept of *political morality* as a branch of social philosophy, according to some autors who have marked the developments in the field in the twentieth century: John Rawls, Ronald Myles Dworkin and Amartya Sen. What unites these researchers is their concern on the grounding principles of the law from Rawls' *distributive justice* up to the multiple social universes described by Amartya Sen.

In the broader context of our concerns about the need to conceptualize the meanings attached to political theology, we identified a number of authors (such as John Rawls, David Gauthier, Ronald Myles Dworkin, etc.) that build an amazing semantics in terms of the range of the research. What unites all these researchers is their concern on the grounding principles

of the law in the sphere of moral judgments, an itinerary which starts from Rawls' *distributive justice* up to the multiple social universes described by Amartya Sen.

The collocation *political morality* is, along with the social justice, the international ethics, the global justice and the forms of government, a branch of social and political philosophy also framed in the area of philosophy (according to the taxonomy *The Indiana Philosophy Ontology Project*), an area rearticulated by John Rawls' analyzes in the twentieth century. From the outset we must emphasize the vastitude of Rawls' research as a scale both horizontally, regarding the inter- and transdisciplinary provocative character of the themes (he was awarded the *Connant University Professor*), and vertically by the size of the critical-reflexive ampleness that it attests.

A question related to the reasonableness of such an approach could be raised in which a theologian could afford to field, as Andrei Plesu has told, in the vastitude of the interrogations involved by the nature of political philosophy, a field so vast and challenging. I want to confess that my interest John Rawls' person and thinking started with the identification in reading of the two concepts that caught my attention: the theory of justice (*the theory of justice* as honesty translated by prof. Andrei Marga; *fairness* as Răzvan Samoilescu took it over because of the inability of the Romanian language vocabulary to describe the content of the term[1]) and *reflective equilibrium*. At the same time I believe that John Rawls clears a postmodern direction of the concept of political theology (in our sense of

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[1] Rawls' concept is known as "justice as fairness", a concept proposed since the study with the same name in 1958 and translated so far into Romanian in four ways: justice as equity, justice as evennes, justice as impartiality, and justice as correctness.

understanding[2]). He was awarded prizes that have recognized the quality of his work: at Harvard, in 1969 Rawls received "Connant University Professor", the highest award for teachers, awarded from 1953 to "the personalities ... working on the frontiers of knowledge in such a way that extends beyond conventional disciplines."He was also a visiting professor at University of Michigan, Stanford and Oxford.

2   Legally correct but morally unacceptable

John Bordely Rawls was born in 1921 in Baltimore Maryland and died on November 24th, 2002 at his villa in Lexington, Massachusetts. He graduated from the famous Kent School in 1939 and Princeton University in 1943, where he obtained his doctorate in 1950, with the work *A study in the Grounds of Ethical Knowledge: Considered with Reference to Judgements on the Moral Worth of Character*. Rawls had an impressive teaching career, teaching at universities such as Princeton (1950-1952), Cornell (1953-1959), MIT (1960-1962) and Harvard (1963-2002). He remained in the history of philosophy by his impressive theory of justice, a theory developed in the monumental work (over 600 pages) with the same name, *A Theory of Justice* (1971), a work against the utilitarianism that dominated the moral and the political theory at that time. The premise underlying Rawls' approach of the political philosophy is an

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[2]   Ovidiu Panaite, *The Political Theology During the Constantinian dynasty* Alba Iulia, Reîntregirea Publishing House, 2014; Idem, *The Theological Background of Political Philosophy in Early Christianity – An Essay on Orthodox Political Theology*, in „International Journal of Orthodox Theology", 4:1, 2013, pp. 127-149; Idem, *The Dogmatic and Martyrical Conscience of the Church in the Political Philosophy of Early Christianity*, in „European Journal of Science and Theology", vol. 8, Supplement 2, September, 2012, pp. 311-327.

anthropological one, based on the fact that the man has a sense of justice.

Rawls initially prepared for priesthood. His graduation thesis as a senior thesis (BI) was entitled *A Brief Inquiry into the Meaning of Sin and Faith*, a work held in December 1942, discovered after the death of the author. During his life he did not publish anything with the reference to the spectrum of the faith, but his works of maturity (*Theory of Justice* and *Political Liberalism*) are the expression of this type of religiosity expressed in *A Brief Inquiry*.

His concerns on the ethical demands (philosophical, political, psychological) were a constant in the world of research. In the present study we are interested in picturing the researching of the twentieth century, especially in Rawls's approach of the fundamentals that generate the philosophical branch of the political morality. The ideological context, in which Rawls' reflection arose, was caused by a type of forwarding of the analysis concerning the democratic values through the revival of ethical categories. In the twentieth century, the American political philosophy developed a renewal of the reflection on the values of democracy, which is possible in terms of its pragmatic moderate attitude. This pragmatism was reinforced by the findings of negative effects on social inequalities. From this perspective, the studies have disclosed some contradictions between the French political thought (opposing terms of freedom and equality) and the American one (at the end of the twentieth century the principle of equality as an element of freedom organizer was supported).

The pragmatism that characterizes the American political philosophy is a legacy of the eighteenth-century liberalism which in turn was formed in response to the Christian speculative thinking. Among its followers, the history has recorded the illustrious names like William James (1842-1910), Charles

Sanders Peirce (1839-1914), and John Dewey (1859-1952). But the one who theoretically underlain this current was Richard Rorty (born in 1931) by his work *Hope instead of Knowledge*. The core of the pragmatism opines that an idea is true, if it is helpful and fecund, the rules, ideas and knowledge being validated by the effects they produce.

In this situation the possibility of isolationism interferes in, certain categories of thinkers threatening to develop and to remain stuck in an attitude of denunciation. This kind of denouncing isolationism lacking any proposals for solutions inventorizes more or less objective categories of problems, representing a self-consumerist type of an enclave (questions that build the very substance of their questioning, a denouncing self-motivating isolationism built as a kind of professional therapy).

The 70s marked a turning point by the returning of the power of moral philosophy. They propose as a working hypothesis that human actions can not be dissociated from the values and beliefs that support them. Their moral character derives from the philosophical reflection and political positioning to values such as *truth, goodness and justice*. From this perspective the differences between the actions that are *legally correct* but *morally unacceptable* are made. For this direction of the reflection, the justice results from the right balance between the aspiration for liberty and the pursuit of equality. Of course that equal conditions is an ideal of achievement for a democratic society, but it is considered that this equality is impossible in fact, for both moral reasons (the egalitarian politics like socialism have restricted freedom) and pragmatic reasons (inequalities were always present in the functioning of social life). From this point of view to balance the relationship between the two basic needs, *equality* and *freedom*, the solution

proposed by this approach lies in designing a realistic rapport. This idea would accept a certain type of inequality in society[3].

From this perspective David Gauthier (b. 1932) is known for the theory of morality on the neo-Hobbesian social contract, a theory exposed in *Morals by Agreement*. Ronald Myles Dworkin is in the same direction on the foundation principles, on the rules that standardize the human life as an individual and as a person in the community, on the theories of morality. His theory about the law or the right as integrity, where the judges interpret the law in terms of consistency of moral principles, especially of justice and honesty, is nowadays almost the most extensive and influential theory on the nature of the right. Dworkin undertakes a critical debate on the concept of justice proposed by Rawls, claiming that no theory of justice can be stuck in the formal rights of a person. Along with Dworkin, Michael Waltzer, Amartya Sen and others were added.

3   Rawls' strong ideas of political philosophy

Rawls' moment marks the rebirth of political and moral philosophy of a systematic and normative type also contributing along with the *Political Liberalism* (1993), to the reaffirmation and redefinition of the contemporary liberalism, integrating the idea of social equality and economic development in the liberal theory of justice and providing a distinct alternative of political liberalism. The conviction that led to the Rawls's theory was that "justice is the basic virtue of a society. It has a similar status of truth for a system of thought: so as a theory will be rejected or at least modified if it is not

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[3]   Olivier Nay, *The History of Political Ideas*, Polirom Publishing House, Iaşi, 2008, pp. 598-599

true no matter how many qualities it may have, so the laws and institutions of a society will be abandoned or at least changed if they are not right, no matter how many qualities it may have"[4]. In *Theory of Justice*, Rawls develops the idea of social equality. The society is fundamentally divided on the need for justice, seen as truth. The principles, the actions that derived from the theory of justice must be in a reflective balance between their values, the beliefs and the moral practice.

Beyond all the rhetorical exercises that any analyst is seduced with, I think that when they approach to any typologies like Rawls' I believethat it is absolutely necessary to maintain the rigors of objectivity to that who was evaluated by Habemars as *the most important theorist* of politics in the twentieth century.

4   Reflective Equilibrium

One of Rawls' specific concepts is *reflective equilibrium* (equilibrium reflective). The history of the term is not necessarily related to Rawls person, but older. In 1955 Nelson Godmann proposed in *Fact, Fiction and Forecast* the reflective equilibrium as a justification for inductive rules[5]. Daniel Norman's studies began in 2003 (completed in 2008 and 2011) have increasingly nuanced the concept as an explanation. The primary meanings of the reflective equilibrium are seen as *inductive justification rules* in Godmann's version, in his work *Fact, Fiction, and Forecast*, published in 1955. Godmann's idea was that we justify the rules by bringing them into reflective

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4   J. Rawls, *A Theory of Justice*, Oxford University Press, Oxford, 1972, p. 3.

5   Daniels, Norman, „Reflective Equilibrium", *The Stanford Encyclopedia of Philosophy* (Winter 2013 Edition), Edward N. Zalta (ed.), URL = http://plato.stanford.edu/archives/win2013/entries/reflective-equilibrium/.

balance with what we judge to be acceptable or not. The criteria of such acceptability involve the integration into the dialectic of the judgment of the moral values. Rawls will take the term and he will enrich its semantics.

Rawls popularizes the term by *A Theory of Justice* as a method for defining the content of law principles. He builds his approach on the assumption that the man is the being who has *a sense of justice*. Therefore we identify here the source of the moral judgments or the sources of motivations towards morality. Rawls' theories are based on the concept of *the judgments that are considered* to support the whole sense of justice as righteousness. Rawls' distributive justice develops an immediate social objective, namely the inclination towards the disadvantaged categories. This process would still be realistic opposing the wild excesses of liberalism and socialism and also of the authoritarian drift, refusing to cede to the revolutionary illusion of a perfectly egalitarian society. For Rawls, justice is not establishing an arithmetic equality between people, but looking for a committed equity (fairness) in accordance with some rules that need to be assigned. Equity differs from equality by not seeking to blur the differences between people, not to limit their freedom[6]. As a result, the searching for the equity rises above the specific dialectic circular relationship *liberte-egalite* marking the post-revolutionary political thinking in Europe or USA.

The first meaning of the *reflective equilibrium* is to reason morally. An extract of K. Nielse's analysis, which provided in a few words a summary across Rawls' thinking, provides this meaning: *the activities accomplished by Rawls - to articulate, to clarify and to support a polical conception of justice is definitely,*

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6   Olivier Nay, *The History of Political Ideas*, p. 600.

in the first place, a regulatory, descriptive, interpretative and explicative speech and also it makes clear a method of moral reasoning (reflective equilibrium)… It is not meta-ethical or me-ta-political[7]. From this point of view *reflective equilibrium* is considered directly related to foundation of the political theory of justice.

The principles, the ideals, the standards sought by Rawls must be in *a reflective equilibrium* with the moral practice. This means that between them must be such a relationship that, on the one hand, the principles can and should be modified or abandoned if they are not in concordance with the practice or with our moral beliefs, just as, on the other hand, it should happen with the moral judgments, if they are not in agreement with the principles of justice (in Rawls's vision, justice is synonymous with truth. In other words the sap of justice is the truth and justice is an expression of the truth).

On the base of the principles, there are, in fact, a "reflective echilibrium" between people's judgments and the sense of justice. "From the standpoint of the moral philosophy, the best presentation of the sense of justice is not the one that matches the judgments to that, before examining any conception of justice, but rather one that suits its judgment in a reflective echilibrium." The moral philosophy, Rawls says, is basically Socratic, that includes the examination of the subject and the proof of the rational solutions. The reflective equilibrium is understood here not in the sense that the subject not only shows the descriptions which correspond to its judgments, but in the sense that the subject presents "all possible descriptions

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[7]   K. Nielsen, *Philosophy Within the Limits of Wide Reflective Equilibrium Alone*, in „Iyyun. The Jerusalem Philosophical Quarterly", 43 (1994), pp.5 – 6, apud Adrian Miroiu, *Introduction: Contemporary Theories of the Social Justice*, pp. 4-19.

that it is plausible to comply with its own judgments, with all the philosophical arguments for them". Rawls expands the visible "reflective equilibrium" so that it no longer fits in the fatal limited subjectivity of the personal experience[8].

5   From Rawls' *abstract* to the multiple social universes

This kind of attitude is opposed to the utilitarian philosophy. With roots in the nineteenth century England, immediately assimilated to the American pragmatism, the utilitarianism defends the idea that social organizations should promote the welfare and happiness of the crowd. Favoring the principle of effectiveness, accepting the sacrifice of the poor, the utilitarianism appears unsatisfactory on the moral level. In front of the mechanisms and the utilitarian philosophy, Rawls opposes the grounds that the fate of the disadvantaged outweighs the criterion of general happiness of society. For the construction of the future theory, Rawls was inspired by the philosophy that is specific for the social contract which claims that the socity is the product of an agreement between all members of society. His desire is to establish a framework for discussion to determine the composition of some principles of justice which would obtain the consent of all. Here is another problem. It is very difficult to build an agreement on the criteria of universal justice, as everyone thinks, acts, according to the conditionings of deliberate psychological, cultural, social, and religious, etc. Rawls calls these types of circumstances with the title of *the veil of ignorance*. To overcome those limitations,

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8   John Rawls, *A Theory of Justice*, The Belknap Press of Harvard University Press, Cambridge, Massachussetts, 1973, pp. 48-49, conf. http://andreimarga.eu/contractualismul-lui-john-rawls-2/.

Rawls forces the imaginative of the political reflection forcing the exit out of *the veil of ignorance* by assuming this project based on individual neutrality. From this position it would lead to the foundation of a new social contract that would rise above the two antagonistic desires: the desire of the largest individual freedoms (manifested by those who would have a status which favors) and the desire of greater equality (when they would have been born poor and weak).

The principles of the new social contract are based on two main ideas. First principle of equal freedom (everyone has the opportunity to access fundamental freedoms: of thought, expression, religion, integrity, protection etc.) and the principle of the difference (some differences are fair, acceptable only if the superior earnings would never lead to an impoverishment of those who are already poor).

Olivier Nay concludes the relationship between these two principles as follows: "by reconciling these two principles, Rawls aims both to protect the most disadvantaged against the elites' selfishness and to accept the idea of competition and social ascension. Justice is neither in perfect equality (which sacrifices the most deserving) nor in full freedom (to abandon the most disadvantaged). It is a middle way"[9].

6   Conclusions

The first criticism of Rawls' new social contract started in terms of challenging the universality which he claims around the 70', criticism that emerged because of the powerful abstracti-zations. Several authors (Ronald Dworkin, Michael Walzer, Amartya Sen) showed that Rawls' operating terms are not

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[9]   Olivier Nay, *The History of Political Ideas*, p. 601.

recognized as universal values only in certain contexts (in liberal democracies for example) and that he does not have a realistic approach. Rawls takes this criticism and acknowledge the restriction of the universalist claims of what he proposes and only recognizes the constitutional and democratic societies. At the end of the twentieth century's his philosophy experiences a change by the assumption and the redistribution of the reflactions on *justice* in terms of what he called *the fact of pluralism*. The presence of plurality greatly restricts the structure of the *neutrality* that we previouslymentioned and supports the introduction of *the progressiveadjustments* and overcoming the initial disagreements by what he calls overlapping consensus.

Ronald Dworkin critically undertakes the debate on the concept of justice proposed by Rawls, claiming that no theory of justice can be stuck in the formal rights of a person. His theory on law or justice as *integrity*, where the judges interpret the law in terms of consistency of moral principles, especially justice and honesty, is nowadays almost the most extensive and influential theory on the nature of law. Dworkin criticizes the positivist theory of the law as developed by Rawls, exposed in *The Theory of Justice*. The author moves the discussion deeper in terms of moral rules that give substance to the legal codes, regulations, laws, etc. The source of the variety of rules that exceed a certain time contingency must be sought in that kind of moral substance. From the point of view of the judgments Dworkin falls in redefining the theory of natural law, estimating that the company should be organized on fundamental values inalienable and sacred. Michael Walzer and Amartya Sen introduce into the discourse on the foundations of justice an anthropological direction, accepting in such a context the plurality of social universes.

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