

**Communitarian Critique of the Notion of Self in John Rawls: A Critical
Review of the Writings of Michael Sandel and Charles Taylor**

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CERTIFICATE

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This is to certify that the dissertation entitled **Communitarian Critique of the Notion of Self in John Rawls: A Critical Review of the Writings of Michael Sandel and Charles Taylor** submitted by **Arvind.E.** in partial fulfillment of the requirement for the award of the degree of **Master of Philosophy** is his original work and has not been submitted for the award of any other degree of this or of any other University.

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For my Grandmother - *Amulu*

In admiration.

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Introduction

The central objective of this dissertation is to critically examine the validity of the communitarian claims on the notion of self that is present in John Rawls's – *Theory of Justice*. The dissertation seeks to defend the view that the conception of justice as advanced by Rawls, does not rely on a particular notion of self, as the communitarians seem to believe. Alternatively, it suggests that the notion of self, incorporated in this conception of justice is essentially *diffused* and that there is no single or a unified picture of a self that emerges. This lends credence to the view that this theory of justice is actually home to different understandings of the notion of the self.

The notion of the self in Rawls is an issue that is acutely disputed among the defenders and the critics. This focus on the notion of the self was brought home by Michael Sandel's impressive – *Liberalism and Limits of Justice*. (1982). In this work, Sandel sought to surface the inherent contradictions within the *Theory*, given the conception of the person or a self that was assumed to be present in Rawls's work. Extending this further, Sandel thus aimed at displacing the primacy of justice in the discourse of political philosophy that was resuscitated by Rawls.

It is very difficult not to be impressed with Sandel's formulations and analysis. It is sharp, incisive and almost persuasive to consider his critique with considerable favor. However, the limitations of Sandel's work soon emerge when one reads both Rawls and Sandel carefully. Questions arise as to whether Sandel's characterization of Rawls's conception of the self is accurate or not. Whether, the various assertions and claims made by Sandel are in tune with Rawls' statements. When one reads with these questions in mind, one is faced with a further set of questions leading to examine the validity of the critique made by Sandel. It is such an exploration that necessitated work on this dissertation.

No work can progress without allies. In this exploration, the secondary literature examining the same question was interesting. Eminent commentators and critics examined Sandel's critique and arrived at a conclusion that while Sandel's critique is interesting, yet it is based to a large extent on a misreading of Rawls's work. The refrain was maintained that either Rawls never intended to say a particular point in the first place or the statement of Rawls was entirely misinterpreted. However, it has to be mentioned that the critical literature available was meagre and limited in its ambition regarding this issue. This caused further dissatisfaction, necessitating a full-length discussion.

While Sandel inaugurated this communitarian critique of the notion of self in Rawls, it seemed to be limited in its suggestion of an alternative. In this respect, an ideal complimentary account and a critique of Rawls in a broad sense, was Charles Taylor's. The works of Taylor proved to be the complimentary half of Sandel's critique wherein the former enunciated an understanding of human agency in specific evaluative and historical terms rather than remain an abstract understanding. Therefore, read in conjunction with Sandel's critique of Rawls's self, Taylor's account seemed to provide an ideal extension of Sandel's vision. In other words, the communitarian vision itself appeared rich, powerful, complete and appealing. Rawls's work thus appeared to suffer from serious debilitations. However, as mentioned earlier, with the surfacing of limitations of Sandel and a serious reading of Rawls, the hope of continuing in the direction of examining the validity of the claims made by Sandel and Taylor, was not lost.

Michael Sandel and Charles Taylor's works were identified as representative of communitarian critiques for two reasons. One, considering the two together provides a complimenting picture of the communitarian critique. Secondly, and perhaps importantly, the limitations of space, time and scholarly ability did not enable a critical examination of other two influential communitarian thinkers - Alasdair MacIntyre and Michael Walzer.

The central question of the dissertation therefore assumes the form whether the notion of self in Rawls as read by Sandel and to a certain extent Taylor is valid. An answer to this

question would thus lead to significant claims on the nature of the vision that Rawls advocates and the one argued for by the communitarians. It must be remembered that communitarians rest their case on a particular vision which they 'see' as embodied in Rawls's theory. It is in specific opposition to that vision, that they are able to articulate theirs. Therefore, the question of the notion of self in Rawls is crucial in order to settle the dust around Rawls's works.

In answering the central question of the dissertation, it is important to explicate the various basic ideas and themes that are present in both Rawls's work and in that of the Communitarians. This helps in stating the terms of the debate clearly and to avoid any ambiguity in this exercise. In order to explicate the ideas that the communitarians vigorously object to, it is essential to articulate those ideas of Rawls in sufficient detail. The first chapter is devoted to this task of explicating the fundamental ideas present in Rawls's – *Theory of Justice*. An important point to be borne in mind here is that this exegesis attempts to highlight areas where Rawls's theory seemed to be vulnerable and culpable of confusion. Though a judgment is not made at this stage, these points become relevant subsequently. This chapter helps in laying down the parameters of the proposed discussion on the notion of the self, in the subsequent chapters.

The communitarian claims are again, exegetically presented in the second chapter. In any critical assessment, it is crucial to know the positions of the critiques and preferably uncluttered with biases. An attempt in this direction has been made in this chapter. Here, the aim is to facilitate a critical discussion of the notion of the self, with the benefit of having known the positions of both Rawls's theory and the critiques' point of view.

The third chapter proceeds to thus critically examine the claims of the communitarians. An attempt has been made to address the important points of the critical claims of Sandel and Taylor. Simultaneously, a process of defending Rawls also follows in the chapter. Here, the validity of the communitarian claims are addressed in the light of Rawls's own work especially given the limited accessibility to the meagre literature available on this specific issue. In this chapter it is seen how the claims of Sandel and Taylor are limited in

their exposition and a strong need is felt for an understanding of the notion of self in a different manner than that suggested by the two critics.

This need is addressed in the fourth chapter. An attempt has been made to understand the notion of the self in Rawls as not existing in a single frame, but operating simultaneously in four different but interrelated and sometimes overlapping levels. It is urged that considering the questions of the self in each of these levels leads to different kind of answers in Rawls's theory. However, considered in unison, the conviction is confirmed that Rawls does not depend on any *particular* notion of a self, but a stronger argument is advanced by Rawls, namely that the theory of justice is accommodative to different kinds of understandings of a self that one actually witnesses in the society.

In the light of the discussion on the notion of self, a thought is voiced in the fourth chapter, regarding the nature of the debate between the liberals and the communitarians. It seems to generate what can be termed as – parallel discourses. Simply put, it can be defined as a discourse, which is essentially parasitic on a particular reading of another discourse through a myopic reading of the same. An urge is felt to unsettle such parallel discourses and recast the arena of dispute between the liberals and communitarians, or more specifically between Rawls and his communitarian critiques.

A final word on the sources used. Extensive reliance has been made on the *Theory of Justice*. This is deliberate. For most of the defenders of Rawls tend to rely on the later writings of Rawls, in the belief that, it is a reply to some of the communitarian criticisms. Departing from this, effort has been made to rely as much as possible on the *Theory* itself, rather than the later writings. This is done in the hope that it would lend credence to the view that Rawls was not susceptible in the first place to communitarian critiques, as some believe him to be.

CHAPTER - I

Familiarizing Rawls: Outline of a Theory of Justice

This chapter attempts to present a coherent ordering of the basic ideas of Rawlsian theory. In particular, the emphasis would be on *Theory of Justice*. Indeed, the later writings of Rawls reflect changes on some points from this first book. However, the interest in them is peripheral. This chapter is not divided into sections, as it is one complete rendering of the account of Rawls's *Theory*. Instead, as a guideline, the following markers would be helpful: Beginning with the problem of defining the central question that Rawls was interested in, the account proceeds to record some of the important ideas on which his account is premised. After that the actual process whereby his principles of justice are derived and the content of the same is discussed. Rawls definitely follows tradition. It is important therefore to get to the roots of his tradition. In this respect, his Kantian and Aristotelian roots are discussed prominently, with emphasis on Kant. Finally, the stage is set to proceed to the account of the critiques in the next chapter.

The Initial Hitch

Engaging with the writings of Rawls is an interesting experience. The writing is clear and lucid. There is no ambiguity. The arguments are neatly stated, though sometimes difficult to understand. However, to state briefly the arguments of Rawls, one needs a starting point. And what is that starting point?

Commentators and writers have noted their various starting points to understand Rawls and to critically assess his works. For instance, Sandel states the argument of primacy of justice, which Rawls makes at the beginning (Sandel 1982: 1) as the starting point of his analysis. Mulhall and Swift have taken the idea of the original position and veil of

ignorance as their starting point. (Mulhall and Swift 1992: 3). Kukathas and Pettit focus on the methodology of Rawls as their starting point. They point out its differences with the earlier theoretical tradition and how Rawls's theory was different in its methodological explication. (Kukathas and Pettit 1990: 2-11). Thomas Pogge in his illuminating work has taken two central ideas of Rawls, namely, the idea that the notion of justice requires reflection on the basic structure of the society and the feasibility of institutional schemes should be discussed bearing in mind the worst position that it generates. (Pogge 1989: 1). Thomas Nagel characterizes Rawls's theory as containing three elements: 'One is a vision of men and society as they should be. Another is a conception of moral theory. The third is a construction that attempts to derive principles expressive of the vision, in accordance with methods that reflect the conception of moral theory.' (Nagel 1975: 1). Similarly Amartya Sen, Ronald Dworkin, TM Scanlon, Richard Miller, Iris Marion Young, Mary Gibson, and *many* others have taken issue with Rawls with such diverse perspectives. In presenting a sample above, the main idea was to point out the diverse starting points for each of the commentator/critic in explicating and understanding Rawls. From methodological issues to social and policy making, gender to economics, disputes with the primacy of justice and the related notion of individual and community and so on. The range is vast. In this context, the question arises, in a limited project as that of this dissertation, which secondary sources to rely on in explicating the basic ideas of Rawls's theory? Or, is it better to rely on the primary text itself, thereby having the luxury of uncluttered presentation but run the risk of sidelining some of the important critical inputs of the critiques? Intuitively, the answer lies in balancing the two. For the most part, the explication of the basic ideas of Rawls's theory would rely on the *Theory* itself, with important inputs from the commentaries and critiques. The focus would be to explicate the various ideas that the *Theory* incorporates with a special focus on those elements, which necessitates the discussion of the conception of the person.

The Central Question

Despite several readings, it has been difficult to discern the central question that Rawls was engaged with prior to the writing of the *Theory*. As a reader, the burning question

was-what was his motivation to write a theory of justice? Of course, Rawls offers an answer in his preface, ‘..During much of modern moral philosophy the predominant systematic theory has been some form of utilitarianism...[T]hose who criticized them often did so on a ..narrower front. But they failed, I believe, to construct a workable and systematic moral conception to oppose it...’(Rawls 1971: vii-viii). He goes on to explain how his theory fulfills that role of bringing together a coherent and constructive alternative to the tradition of utilitarianism. Similarly, in a *commonweal* interview he says, ‘A *theory of justice* was...designed to set out a certain classical theory of justice-the theory of the social contract-so as to make it immune to various traditional objections.’ (Rawls 1999: 617).

Indeed, countering utilitarianism and positing a systematic alternative is a strong motivation. However, is that enough? The intuitive idea is that, given the copious literature that has germinated from the *Theory*, not all of them are devoted to discussing the theory of justice as just an alternative to utilitarianism. The focus has been wide and varied with people from diverse perspectives drawing their resource from Rawls and simultaneously finding him short in many areas. A representative sample has already been mentioned above. In this context, there is a need to ask the question what more did Rawls intend to do? The submission here is that a straightforward answer cannot be given. The limitation is fairly obvious.

Introducing a Hypothetical Person

Having noted the limitation, it is time to delve into the details of the conception of justice or as Rawls calls it, justice as fairness. How is this concept to be understood and how is it arrived at? Further, it is also necessary to examine those features of the concept, which lead to an understanding of the conception of person. In this respect, a respondent has been conceptualized to understand some of the basics of Rawls’s conception of justice.

Examine the following statements:

- a. I am a person, a human being.
- b. I have a job, a husband and two children.
- c. I like chocolates and pastries and generally prefer Chinese food.
- d. I hate politics.
- e. I think the policy of reservation should be abolished.
- f. I want my children to be happy even after I am gone.

The six statements above are responses of a hypothetical person, who was asked the question – briefly describe yourself, including your likes and dislikes and what you *like* the most. A number of inferences are revealed from the answer.

The general assertion that foremost, ‘I am a human being’ or a ‘person’ calls for considerable comment. It is a statement signifying that the person is not willing to be identified by any group or community primarily. She would like to be identified as a person first irrespective of any ascriptive factors.¹ Family seems to be of central concern for this person. This is reflected in her statements (b) and (f). Note that statement (f) also contains the notion of good life that she conceives. The fact that she wants happiness for her children after her is indicative of the kind of life she lives and works towards. While statement (c) indicates the priority of Chinese food, the other two statements, namely (d) and (e) are very interesting. The fact that she hates politics and in the same breath says that she wants the policy of reservation discontinued, speaks of the position that politics occupies in her priority of life. Politics would be an activity that she has always disliked or hates because of a bitter experience. There could be any number of reasons that she hates politics and believes that some policies of the government should be disbanded. Again, there could be a number of reasons for the same.²

¹ The reasons for her making such claims need not be of concern here. Again, the claims that she would wish to make on the basis of this assertion also need not figure at this stage. The important point is that she wishes to be identified primarily as a human being and not of any other means of identification.

² Not all those reasons might be rationally defensible, of course.

The reason for introducing this hypothetical person and her response is to construct a model conception of person that would help in making sense of the basic ideas of Rawls's theory. At the moment, it is in a very preliminary stage. The person has been introduced. Some of her likes and dislikes are now known. For Rawls, the interesting features of her personality would be (a), (d), (e) and (f). He would perceive a tension between (a) and (e). The details of this tension will be worked out subsequently. In essence, the tension can be described in the way the person is able to characterize herself and yet in certain beliefs of hers, she is not willing to consider that feature that might be a legitimate feeling of another person. In other words, denying to others features of the self, which one very consciously believes in for one's self.³ The statements (d) and (f) are directly linked to Rawls's concern. The last mentioned represents a certain conception of good life and the former a certain value attached to politics, which needs to be explored. Here exploration would mean, not analyzing the reasons for the same but to examine the assertion in a rigorous argumentative mode.

Having noted Rawls's interest in this person, it is now appropriate to begin the exercise of introducing the basic ideas of Rawls to this person and then analyze her response accordingly. Rawls believes in articulating the intuitions and understandings that one has in a liberal democratic society. His theory can also be seen as one of the coherent articulations of such democratic ethos, especially regarding the conception of justice. 'Being first virtues of human activities, truth and justice are uncompromising. These propositions seem to express our intuitive conviction of the primacy of justice.' Again, 'I wish to inquire whether these contentions or others similar to them are sound, and if so how they can be accounted for.' (Rawls 1971: 4). [Emphasis added].⁴

³ A pointed interjection is called for in this instance. The response of the person is deliberately constructed in a particular manner. This is done to suit the interest of explicating the theory of Rawls. For each of the mentioned six statements, there could be many counter statements asserting different values. However, the intrinsic difference or relativity between the values is not the point. The idea is to construct a person who would be best suited to respond to Rawls' ideas in a *fundamental* sense. How it would work for a person with different set of values is a question which can be worked out once some of the basic ideas are settled.

⁴ One immediate problem that comes to mind is whether the articulations as Rawls offers is a 'comprehensive' one. This is where Sandel picks up a problem with Rawls in his *Democracy and its discontents*. However, this need not be a detaining factor now. For the present, the need to articulate intuitions and present a coherent conception of justice as per those intuitions is the primary task at hand. In this respect, it would be fruitful to proceed along the lines proffered by Rawls.

Rawls also believes that the position he is articulating for would be acceptable to all and if not then they can be persuaded to do so. (Rawls 1971: 21, 587). Among the positions persuaded to accept Rawls's position would be the utilitarians and the perfectionists primarily. It is at this point that Rawls's theory differs so profoundly from ordinary theories. In his articulation of arguments vis-à-vis the utilitarians, he actually persuades the latter to accept his position. Whether he succeeds or not commentators differ. However, the point to be stressed is, he is in *dialogue* with the utilitarians and perfectionists and those who are moved by *their* arguments.

Returning to the hypothetical person, can she be considered as a utilitarian? In some respects, with the limited knowledge that is available of her, it seems that she is partly utilitarian and partly perfectionist. Especially given her commitment to the abolishing of reservation policy, it is highly likely that she would prefer a system based on merit rather than a system designed to supplement merit with equally important ascriptive factors for which one may not be responsible.⁵ A trifle far-fetched argument can also be teased out of this conviction of hers, namely that she believes that certain virtues have to be developed and excelled compared with others. The reason is her statement (f). If asked to explicate her notion of good life, which is embodied in this statement for instance, she would speak about how her children have been brought up and how they could possibly live a life wherein they would be happy. In this respect, she could be relying on some virtues. Therefore, her orientation is partly towards perfectionism and partly utilitarian because she prefers a system which is on the whole beneficial according to some priority of values, rather than a system that does not accord any specific priority to values and aims for the benefit of all. This much is inferred from her statement on reservation policy.

One can briefly describe the challenge before Rawls as to persuade this person towards a perspective that is much more complex and inclusive than what she would otherwise

⁵ It is true that some liberties are taken with this hypothetical construction of person. The intuitive idea is that it is not difficult to imagine someone or come across someone who advances the argument that merit should be the sole criterion and not anything else when it comes to acquiring benefits from the institutions that offer the same.

acknowledge. For instance, her location in a political society, her social and economic position as one which is among a series of positions and which is definitely linked to these other positions, her relationship with persons, with different capacities and interests and yet sharing certain common institutions. Rawls would also notice that she has certain capacities, which are commendable. For instance, that which is expressed in (a). For Rawls, this would reflect moral capacity and the judgments arising from such capacity would be the considered judgments. '...those judgments in which our moral capacities are most likely to be displayed without distortions.' (Rawls 1971: 47). Undoubtedly this capacity would be taken by Rawls as required for his conception of justice. Similarly, she also has certain higher order interests and may be having a highest order interest. Her higher order interest is to ensure that her children are happy. Presumably, she would not pursue courses of action, which lead to a situation where her children would be unhappy, whether now or in the future. For Rawls, this is very important. The person's capacity to form certain higher order interest, is a crucial component in his theory. '[M]oral personality is characterized by two capacities: one for a conception of the good, the other for a sense of justice..' (Rawls 1971: 561). So far in this account, the conception of the good has been found a place. The idea of sense of justice of this person would be explained subsequently.

To knot the different threads so far, the main idea is to convey two strong arguments of Rawls's theory of justice as fairness. One, his theory is appealing. If not appealing, then it can be persuaded to be appealing.⁶ Second, there has to be a common ground from where the process of persuasion can proceed from. It cannot proceed from two diverse and different arenas. This naturally limits the scope and effect of Rawls's theory. In this respect, the construction of the hypothetical person has been shown to possess those features, which would be considered as necessary to be a part of the common ground from where the process of persuasion can begin.

⁶ Eventually the notion of rationality will be introduced as a qualification in this statement.

The Arena of Persuasion – The Original Position

Rawls's theory is contractual. 'My aim is to present a conception of justice which generalizes and carries to a higher level of abstraction the familiar theory of the social contract as found, say, in Locke, Rousseau and Kant.' (Rawls 1971: 11). As in these contract theories, there is a hypothetically constructed situation interpreted differently by these theorists. Rawls interprets the hypothetical situation as the original position, which is characterized by certain features that would in turn specify his conception of justice as fairness. This characterization should be acceptable to diverse perspectives and points of view, which nevertheless share certain common intuitions, like that of the hypothetical person's view constructed above. Importantly it should be noted that this interpretation of the initial situation is itself subject to *persuasion*. The features of this interpretation therefore exhibit a sense of agreement even *before* the agreement on the conception of justice. The entire process between the original position, the status of the persons in that and the choice of the conception of justice are inter-linked. Questions have to be posed to this hypothetical person at two levels. One, with respect to her agreement to the characterization of the original position and second, her agreement to the Rawlsian conception of justice as fairness.

To proceed on these questions, two features of the original position would have to be noted which requires acceptance. One, is that agreement on a certain conception of justice will have to be made from within a veil of ignorance. Second, is that the *mode* of agreement will have to proceed in a pure procedural manner. Simply put, the idea of veil of ignorance means that the persons in the original position will be deprived of knowledge of certain features about themselves and of the society. (Rawls 1971: 136-142). This includes knowledge about one's gender, economic and social position, one's natural talents and abilities and a conception of a good life. On the other hand, the persons know certain features of the society, like the operation of economic laws, the functioning of a polity etc. Pure procedure means that the *justness* of the conception of

justice chosen will not be measured against a criterion defined independently of the conception itself. In other words, a particular concept of justice is most appealing when one witnesses the consequence of the same. Contingent arguments about the conception are ruled out prior to the actual execution of the concept itself. Implicitly, it means that justice as fairness stems from *within* and extends outward rather than the converse. Rawls believes that this would have a built-in stability for his conception.⁷

Returning to the hypothetical person, would she accept this characterization? At the outset, she has reasons to be apprehensive about the feature of the veil of ignorance. It denies her knowledge about herself expressed in statements (b) to (f). The only relevant information that she can carry through to the original position is her statement (a), which recognizes herself as a person, primarily. Given this, can she be persuaded towards the veil of ignorance? Rawls provides a general answer to this question. For him, since justice is a prime virtue of public institutions, it is necessary that this conception be arrived at in an impartial and fair manner to the extent possible. The veil of ignorance is a feature specially designed to circumvent the intrusion of arbitrariness and prejudice. Given this, it is possible to appeal to the person's implicit ethical structure, which is revealed in her assertion of being human. The point is that the person here is able to think of herself in a manner uncluttered by the various layers of preferences and choices that she exercises. For Rawls, this capacity is enough to show to that person that there are other individuals like her and may be *unlike* her do not have a favorable place in the society and who have possible claims to be considered. It is therefore necessary to regard them in the same manner as she primarily regards herself. This is why a feature like the veil of ignorance is required. The hypothetical person, given her reasonableness would still have reservations but nevertheless accept the veil of ignorance. The intuitive idea is that she is now more inclined to Rawls's idea and would like to examine its implications than previously. As far as procedural justice is concerned, though the hypothetical person is partly utilitarian, would not have serious objections to this method. The reason being, her ultimate interest is still, in the pursuit of happiness for her children. If the argument is

⁷ This is indicated by Rawls when he says that, '[G]iven the principles of moral learning, men develop a desire to act in accordance with its principles. In this case a conception of justice is stable.' (1971: 138).

made, as Rawls forwards, that justice would have to be *lived* and performed and not just decided by an independent criterion, (Rawls 1971: 86-87) she would accept it. For in such a scenario the pursuit of her good life is guaranteed and the justness of the system is also assured.

Having secured the first agreement, it is now necessary to introduce the tools of reasoning in the original position to the hypothetical person. For it is with the help of these that the person and persons⁸ in the original position arrive at the concept of justice as fairness, henceforth qualified as the two principles of justice.

Tools of Reasoning – Rationality and Primary Goods

The parties in the original position are assumed to be rational. However, no *deep* theory of rationality is assumed. It is simply explained as the choices that a person will make given certain constraints and choices available in a particular situation. In this sense, rationality is purely an economic concept. ‘...the concept of rationality must be interpreted as far as possible in the narrow sense, standard in economic theory, of taking the most effective means to given ends.’ (Rawls 1971: 14). This notion of rationality has definitely raised a few eyebrows. Mary Gibsons’ is one of them. She finds two reasons why Rawls’s notion of rationality suits the purpose of justice as fairness. ‘First he (Rawls) is attempting to convert a problem of moral philosophy into a problem for the theory of rational choice...second, ..[A] value-neutral conception of rationality is needed because of a moral general neutrality constraint to which Rawls is committed, that is, the idea of an Archimedean view point.’ (Gibson 1977: 195-196).⁹ Accepting this description, Rawls goes on to show how the parties in the original position would accept the two principles of justice as opposed to a utilitarian alternative.

⁸ Persons here refer to people similarly characterized as the hypothetical person mentioned here. Of course, they may not share the same set of value preferences. However, they all have an ‘identity of interest’ with respect to the division of distributive benefits of public institutions. Differences exist over the exact status of these persons, with respect to who they are. Rawls identifies them as representative persons and even heads of families.

⁹ She goes on to elegantly discuss the problems a neutral conception of rationality can have with respect to the application of the conception of justice as Rawls expounds. However, the details of her critique need not be a detaining factor here. It would be pursued separately.

Rationality, however is not an empty concept. Its content is filled with the concept of primary goods that the parties in the original position, know, that they want. Primary goods are those goods, which the parties know as required to enable the pursuit of conceptions of the good. 'Regardless of what an individual's rational plans are in detail, it is assumed that there are various things which he would prefer more rather than less. With more of these goods men can generally be assured of greater success in carrying out their intentions and in advancing their ends...' (Rawls 1971: 92). He also distinguishes primary goods in terms of natural and social. Natural primary goods are those of health and vigor, intelligence and imagination. Social primary goods are those of rights and liberties, powers and opportunities, income and wealth and the social bases of self-respect. (Rawls 1971: 62). The parties in the original position thus are deemed to be aware of this 'thin' conception of good given by the account of primary goods, as opposed to a *thick* conception of the good.

The parties in the original position with the help of rationality and the notion of primary goods have to deliberate and arrive at a conception of justice, which Rawls argues would be the two principles of justice, as espoused by justice as fairness.

It is now appropriate to articulate the two principles of justice that the parties would choose. However, before that an urgent matter has to be discussed with respect to the notion of rationality discussed above.

An Excursus: The Hypothetical Person's Question on Rationality

The discussion would relate around the central arguments raised by Gibson, mentioned above, with respect to Rawls's idea of rationality. For the sake of continuity, in the narration, it is assumed that the hypothetical person is raising these arguments.

The person could ask if rationality is supposed to be value neutral, how would it fare with respect to the conceptions of the good that people actually pursue? In particular, would it be considered *rational* to pursue conceptions of good, which are morally repugnant or embodies value system, which is harmful to persons? This is Gibson's central contention. According to her, Rawls's conception of rationality is inadequate to carry forward the strong moral claim that Rawls associates to it. (Gibson 1977: 193). She goes on to explain a case of a model society, which in its practical functioning practices morally repugnant values and in some cases actually is harmful. For instance, she urges to imagine two groups who are socialized into being masters and slaves. In such a society, there is a voluntary ceding of all authority and power and esteem by the slaves to the masters and the latter are actually happy at the state of the affairs. It is the masters who corner all the so-called 'privileges' of the society and enjoy their superior position. Gibson argues, in such a case the principles of justice would declare such a society to be just and yet it is morally repugnant. Rawls's notion of rationality has no substantive arguments to avoid such repugnancy. In other words, her claim is that rationality cannot be considered as a value neutral feature to be ascribed to every normal person. Rather they are closely linked to the conception of the good that they pursue. This rationality as she explains (Gibson 1977: 323-325) contains a reference to not just instrumental rationality, as in pursuing actions or functions effectively, but also closely linked to the agent's interest and good. This can be termed as 'complex' rationality, as opposed to Rawls's 'simple' rationality.

This is a definite hurdle to be crossed, before proceeding with Rawls's conception of justice. The argument raised by Gibson and imputed to the hypothetical person must be answered before a satisfactory rendering of the principles of justice can be stated. This is important because, it is only with the help of rationality in Rawls's sense that Rawls justifies the principles of justice.

At this point, the question Gibson raises relates to imputing the principles of justice to an 'undesirable' state of affairs, as her hypothetical society seems to embody. There are two problems to be addressed here. One, is to find a way of articulating recrimination of these

morally repugnant practices. Here, Gibson believes that Rawls's conception of instrumental and deliberative rationality does not help. Second, recognizing that such forms of socialization is very genuine, a way has to be found to make an inroad into such socialization. Here, Gibson gives a brief account of her rationality, that is designed in such a way that morally repugnant practices can be counted as *irrational* and thereby deal with them in an appropriate manner.

However, she does not address the fundamental issue that she raises, namely the issue of 'entrenched socialization'. Curiously, Rawls addresses this question. He discusses the question, whether persons in the original position would choose a society like aristocracy or a caste society. These societies are a good form of entrenched socialization that Rawls says will not be accepted as a form of organization by such persons.

It must be remembered that instrumental rationality is used to choose from alternative economic organizations. It is not used to choose between alternative conceptions of good life. In the sphere of the good, the notion of deliberative rationality is used. It is very difficult to pass the test of deliberative rationality given the example of Gibson's. For instance, Jean Hampton raises a very similar example. She says, if humans are really products of social factors, then there is occasion for a 'chilling' possibility to arise. This possibility is that these factors could be engineered in such a way that it leads to a society of socialized masters and slaves! (Hampton 1998: 189). Further, she questions, if one has to accept that persons would be perfectly happy by seeing such socialized products. The answer she comes up with and which she believes others would, is no. Therefore, she concludes that there must be some ability of the persons to question the practices. This ability importantly, for Rawls, is that of moral capacity to possess a sense of justice and to pursue a conception of the good, as already explained.

For Rawls, the practices of individuals will have to be conformed to the practices of other individuals and groups. It cannot be an isolated process. That is why his society is called social union of social unions, as will be explained later. The intuitive idea of Rawls is that the practices of individuals will eventually conform to the principles of justice. If it were

otherwise, then it would not survive for long. Rationality, therefore, cannot be given a major role to play as Gibson argues for. In the original position, it has to be a 'thin' version of rationality rather than a 'thick' one. That is required to choose the principles of justice. Interestingly, Gibson does not mention this aspect. As far as applicability is concerned, Rawls has the faith that his principles of justice would outweigh the tendency to harbor unsavory preferences and value systems. For each one is pursuing conceptions of the good which are understood and recognized by all within the parameters of justice as fairness. Should one break the rule, it would not be excused. So it is in the interest of the individual to live accordingly. That would again be rational!

Given this explanation, it is now clear that the hypothetical person would accept these arguments and proceed to the next level where the alternatives are presented and among them, the two principles of justice are also articulated.

The Central Axis – The Two Principles of Justice

Before articulating the content of the principles of justice, it is important to understand the role of the principles of justice. The principles regulate the functioning of the basic structure of the society that houses the public institutions. 'The primary subject of the principles of social justice is the basic structure of society, the arrangement of major social institutions into one scheme of cooperation.' Further, '...these principles are to govern the assignment of rights and duties in these institutions and they are to determine the appropriate distribution of the benefits and burdens of social life.' (Rawls 1971: 54). Thus, the individuals in the society whose lives will be influenced by these institutions are to choose those principles that would govern these institutions. In this respect, the choice that they would make would be very crucial as the effects of their choice are spread over generations. That is why the principles of justice are very important. Rawls argues that given the alternative of utilitarianism, presented both in its classical version and average version, the parties would realize that the benefits of the two principles of justice given by Rawls would be better than the former.

Rawls articulates the two principles of justice as follows¹⁰

1. Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all
2. Social and economic inequalities are to be arranged so that they are both:
 - (a) to the greatest benefit of the least advantaged, consistent with the just savings principle, and
 - (b) attached to offices and positions open to all and under conditions of fair equality of opportunity. (Rawls 1971: 302).

Here, he adds that the principles are subject to lexical priority. The first principle has to be satisfied before the second principle. Similarly, within the second principle, the principle of fair opportunity is prior to the satisfaction of the difference principle. Rawls reasons that the parties in the original position, given the constraints that they are placed in would choose these principles of justice, over the utilitarian alternative of the classical and the average version.

The process of reasoning that leads to the two principles of justice has been debated consistently by a number of commentators and critics. Agreement and disagreement exist, as to whether the parties would choose the principles of justice at all or they might still settle for the average utility principle. Similarly, the content of the two principles of justice has also come in for considerable appreciation and criticism. Beginning with the contention, wherein Rawls privileges liberty and that liberty has to be restricted only for the sake of liberty, to the difference principle has elicited strong critical literature. However, for the purposes here, these discussions are peripheral. The main interest in the principles of justice lies in the idea that it specifies a certain relationship between the individuals in the society.¹¹ The parties in the original position are led to the acceptance of these principles, which binds them together in a system of mutual trust, recognition and respect.

¹⁰ Rawls develops his principles of justice through the *Theory*. A developed version of these principles are stated here.

How strong is this moral binding? What is the conception of the person that needs to support such a moral commitment? There is a need to explore these questions about the principles of justice. In this respect, it is necessary to explore the notion of reflective equilibrium, analyze Rawls's Kantian affinities, and also note the departures from Kant in considerable respects. The explication of Rawls's ideas at least in *Theory* would then have acquired satisfactory proportions. But before proceeding on these lines, it is also necessary to suspend the narration about the hypothetical person for the time being.

Validity test – Reflective Equilibrium

In search of finding a point wherein the principles of justice would echo agreement among all, Rawls formulates his idea of the reflective equilibrium. It can be understood as the point where the considered judgments of persons match with the principles of justice. However, it is possible only given the person's capacity for a sense of justice. This is underscored by Rawls. (Rawls 1971: 48). So, he goes on to call his theory of justice as a theory of moral sentiments, because that best describes the sense of justice. (Rawls 1971: 51). This is a crucial test of validity. It is interesting to note that the test of validity of the principles of justice does not rest on its applicability, nor does it rest on some external factors, like acceptability. It rests on characterizing a person's sense of justice and then ensuring that it conforms to the principles of justice as he has enumerated. This is a strong claim to make in moral theory. Though it is not a new exercise, Rawls has sufficiently modified it to suit his conception of justice. It is interesting to note the roots from where this conception stems from. Examining the same would reveal a further layer of understanding that is ever more enriching. In the sphere of the right, the influence is strongly Kantian, while interestingly in the sphere of the good, the influence is both Kantian and Aristotelian.

¹¹ For the sake of discussion in this dissertation, that the parties choose the two principles of justice is not disputed. For the same reason that the critics, whose arguments are discussed in the next chapter also do not dispute the derivation of the principles of justice.

The Kantian Roots – Morality and Justice

One root that is explicitly acknowledged by Rawls is that of Kant. In order to appreciate the links between Kant and Rawls there is a need for a brief preview of Kant's idea of morality and justice.

Kant turned the focus of morality on man away from ecclesiastical influences. In this process, he undertook a rigorous epistemological critique of pure and practical reason and vindicated reason in a new form. This had its effects on the conception of the person in morality and ethics. 'The meaning of life was to lie in a realm independent of happiness and fulfillment in our everyday lives. People were to learn to act out of a sense of duty to the moral law. It was crucially our faculty of reason that gives us access to the moral law and so comes to define our very individuality.' (Seidler 1986: 4).¹² Morality is thus '...guaranteed as an independent and autonomous realm.' (Seidler 1986: 5).

From this idea of autonomy of morality, springs forth a number of strong claims. The idea of a self-legislating moral and a rational being which does not depend on extraneous factors to give its moral laws validity is one of the important claims. However, it is not possible for all persons to be autonomous and self-legislating in all spheres. It is only possible to consider oneself in that way, when a person is conceived of as belonging to an intelligible realm – called as the noumena. This realm is thought to be free from contingencies and other heteronomous influences, which a person is usually influenced by. Thus, this sphere of noumena ensures autonomy and freedom for the moral-rational person. This does not mean that the person is not subject to the laws of nature. The sphere where the person is subject to such laws is called the realm of phenomena, or the world of appearances.

¹² This of course follows from Kant's 'Copernican revolution' which stipulated that structures or categories of understanding already existed in the minds and that the outside world through the sense impressions merely correlated with the categories already existing.



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This idea of autonomy and its link with reason and the faculty of rationality is crucial for Kant. '[W]hen the principle of action is rational both because reason adopts it and because it arises from reason itself, autonomy obtains both in the formula and materially. This is moral autonomy. The law which the autonomous rational being posits is nothing other than the moral law, that is, the law of *its* will.' (Carnois 1973: 73). As Carnois explains, '...autonomy constitutes the very morality of the moral law. From Kant's perspective, it is no exaggeration to claim that no moral law imposed by an external authority could ever even deserve the name "moral law."' (Carnois 1973: 77). This is because for Kant, autonomy, that is being independent of heteronomous influences, is preserved by reason and in humans it is recognized by the faculty of rationality. Reason recognizes law and gives it itself unto to the humans as law. This is the moral law. For here, reason is the highest arbiter and not any other authority.¹³ Further, for Kant this notion of rationality is innate in man. It is not necessarily outside or given forcefully. It is part of the nature of the humans to be so rational. Man's obligation, Kant holds can only arise with such laws that he gives unto himself as he considers himself belonging to the noumena.

However, the phenomenal realm of man cannot be left out. As Williams points out, 'Kant stresses that although a metaphysics of right cannot be founded on principles derived from experience, it must nevertheless be closely related to our induction from experience.' (Williams 1983: 56). In keeping with this thought, Kant formulates two kinds of moral laws – laws directed at external actions are juridical and those laws, which are the 'determining grounds of action', are ethical. Consequently, there are two kinds of duty. Those which arise from internal legislation and those that arise from external legislation. (Williams 1983: 57). Thus, it is clear how the moral laws and their corresponding duties relate to the nature of man as set out above. Since man is a part of noumena, he is able to recognize that the law has to be obeyed not because of coercion or impulse, but for *its sake*. That is why the famous Kantian maxim, 'duty for duty's sake.'

¹³ '...In any case, Kant objects vigorously to every theological morality.' (Carnois 1973: 77)

Cassirer's elegant formulation of the maxim is worth noting, 'An action is said to be in accordance with duty only when every thought of advantage to be expected from it, every calculation of present or future pleasure likely to result from it, indeed every material aim of any other kind, is eliminated and only adherence to the universality of law, which reins in all contingent and particular impulses, remains as the sole ground of determination.' (Cassirer 1981: 244). On the other hand, as part of the phenomena, where man is affected by impulses and inclinations there is a need for an external authority, the State, which legislates laws and man agrees to obey them. Here coercion is not ruled out.

So far, the determination of moral law, namely its source as residing in reason has been noted. In the realm of practical reason, where much of Kant's moral philosophy is present, it is very important to translate this determination into codes of actions. In other words, there is a need to will the thought into action. This is where the person will know what to do and what not to do. In this respect, Kant gives the content of the moral law in the form of two imperatives. They are the hypothetical imperatives and the categorical imperatives. Hypothetical imperatives are those, where the person wills an end and a certain means is also given thereby. 'It is hypothetical because the necessity of action that it imposes is conditional. You ought to do a certain act *if* you will a certain end.' (Schneewind 1992: 319). Consequently the action that does not depend on the ends arises from moral law and such an imperative is the categorical imperative.

Schneewind explains further that in this respect, Kant recommends a two-stage testing of maxims. It has to be tested by both the hypothetical imperative and then test it with the categorical imperative. If a particular suggestion action passes both the tests, then it can be willed as a universal moral law. (Schneewind 1992: 320). This is important for Kant. The maxims of moral laws are thus not made dependent on divine inferences or exclusive privilege of defining and understanding morality. The people are the originators of these maxims and through the faculty of reason that is *innate* in them, they are able to derive content out of these moral maxims. Further, they are also able to will it to be universal. This formulation of morality was revolutionary in Kant's times, which finds its echoes still now and especially powerfully represented in Rawls's theory of justice.

The categorical imperative consists of maxims that are of particular interest to Rawls's theory as well. There is a need therefore to examine them. Schneewind has presented them elegantly and he quotes Kant, 'Act in such a way that you always treat humanity, whether in your own person or in the person of another, never simply as a means, but always at the same time as an end.' (Schneewind 1992: 322). This maxim has important implications for morality and the political order established on such morality. It is also the groundwork for the deontological ethics that Rawls derives from considerably. The basic idea is that the persons should not be treated as means only. They have to be treated also as an end in themselves. Each person has an undeniable moral worth. It is important to recognize that different individuals have their conception of ends set out in a different pattern. It is not permissible to encroach on another person's end in order to pursue a self-determined end. This encompasses within itself the idea that person's conceptions of good set limits on the pursuit of the self's conception of the good. This is to be morally acceptable. Another idea also flowing from this conception is the mutual respect for persons. Each individual is to be respected *irrespective* of any other contingent features that the individual finds herself in.

However, it would be a mistake to attribute any benevolence or kindness as a first principle on which Kant builds a society. There is respect between members as each one considers the other as belonging to the noumenal realm. Benevolence has the effect of requiring 'not only inequality but servility as well.' (Schneewind 1992: 311). For then a person's autonomy is seriously injured whereby everything is given and nothing is *self-determined*. For Kant, this is against human nature. While, 'Kant did not deny the moral importance of beneficent action, but his theoretical emphasis on the importance of obligation or moral necessity reflects his rejection of benevolent paternalism and the servility that goes with it, just as the centrality of autonomy in his theory shows his aim of limiting religious and political control of our lives.' (Schneewind 1992: 311).

The Sphere of the Political

What is recognized individually by persons as moral and ethical, it is necessary to extend it to the sphere of the political. Here, the implications of Kantian morality are very compelling. According to Wolfgang Kersting, '[W]hen one looks for political philosophy in the structure of Kant's practical philosophy one finds it in the realms of philosophy of right and the philosophy of history.' (Kersting 1992: 343). However, this process from the level of pure moral philosophy to the realm of the political is not a smooth one. 'The *Metaphysics of Justice* represents an extension of the pure moral philosophy into the unharmonious empirical life of man.' (Williams 1983: 65). As noted earlier in the dual law that man is subject to namely, the internal and external legislation, in the sphere of the right it is the external or the juridical law, which assumes prominence. This is because humans are not always able to act wholly rationally and therefore the moral laws may not always be effective. So, man has to be subject to the juridical laws, which governs his relations with others similarly constituted. Justice lies in pursuing courses of action which, are subject to laws that are self-legislated by rational persons and who recognize the importance of living together in such a constituted society. 'Kant's concept of right states: "Right .. is the totality of conditions, under which the will ...of one person can be unified with the will of another under a universal law of freedom."' (Kersting 1992: 344).

This formulation begs the question, whether moral autonomy translates directly as political autonomy? Williams warns against this conclusion. He says, that, 'political liberty, as an empirical state of affairs, cannot realize moral autonomy, it can only help foster those conditions where moral autonomy might develop. Contrariwise, the idea of moral autonomy may well provide the inspiration for the gradual development of political freedom, but it is not achieved in the same way, nor at the same time, as political freedom.' (Williams 1983: 69). The spheres of the moral and the political were at best settled as different spheres with an attempt to unify both the spheres under a universal reason.

This brief preview of Kant's morality and the consequence for his theory of the right would greatly help in identifying these elements in Rawls's theory of justice. Rawls himself devotes a section to describe the Kantian interpretation of justice as fairness.¹⁴ In significant ways, Rawls departs from Kant as well. This link between Rawls and Kant is interesting for many reasons. One, Rawls is working within a particular tradition. Rawls highlights those features of the tradition that he believes is sound and formulate certain difficult elements in an acceptable manner to present a theory of justice. One such influential tradition is that of Kant. Second, Kant's views on morality has influenced the liberal tradition ever since. The idea of individual autonomy, negative freedom, the principle of equal respect and the idea of rationality have ingrained in subsequent theorists in a firm manner. Rawls in the pursuit of finding an abiding conception of justice finds that he is also providing a firmer and rigorous analytical foundation for liberalism in the present times. Third, Rawls's own views on utilitarianism find an echo in the distant ideas of Kant. Fourth, the philosophy of Kant is so powerful, that as one commentator put it, philosophy henceforth has to be defined relatively in terms of Kant, namely either with him or against him. Rawls is no exception in this regard.

In the following account, the matching of the theoretical grids between Rawls and Kant will be noted. In particular, the departure of Rawls from Kant will also be noted. For then, as mentioned earlier, the account of rendering of the basic ideas of *Theory* would have reached satisfactory proportions.

Significant Departures

Commentators have noted that the *Theory* was very largely influenced by Kant. This is because Rawls has failed to specify adequately the difference between the moral and the political aspects of his theory. Indeed, Rawls himself admit as much that in *Theory* he has not adequately stressed the distinction between a comprehensive moral conception of justice and a particular political conception of justice. Therefore, since his publication of 'Justice as Fairness – Political not metaphysical', in 1985, Rawls has emphasized his

¹⁴ Section 40 in *Theory*.

political conception of justice than as a comprehensive moral conception. Nalini Rajan for instance in her review of Rawls's 1999 publication, *Collected Papers*, notes that readers would solely miss the bold Kantian formulations in *Theory*. (Rajan 2000: 1451).

Justice as fairness is given a Kantian *interpretation*. As Rawls reminds that analogy does not mean identity, so his rendering of the Kantian interpretation of justice as fairness should not be taken as a mere improvement of Kant's philosophy. The strength of justice as fairness lies in extracting from Kant the nectar of core values, which has informed much of liberal philosophy. While these core values are represented in justice as fairness, they call for an explanation that situates Rawls's theory in a Kantian tradition and yet departing from it significantly.

Rawls energizes the foundational metaphysics of Kant in a new framework to reflect philosophically on justice and also to make Kant relevant pertinently. For Rawls, the analytical structure of the construct of justice as fairness should be acceptable, feasible and stable. The metaphysics of Kant provided an ideal background from where much of the resources could be drawn for this endeavour. The challenge was to translate some of the metaphysical claims into political claims, which would be adhered to universally and yet not be dependent on an unverifiable claim.¹⁵ As Rawls saw it, the problem with Kant's idea lay here.

To remind: justice as fairness requires the parties in the original position to choose principles from within a veil of ignorance. Both the devices, Rawls believes are implicit in Kant. (Rawls 1971:12,140). The veil of ignorance helps situate the parties symmetrically such that they choose the principles of justice from a given set of alternatives. Two important elements of Kant are present in this procedure. One is the notion of rationality and second is the notion of expression of the nature of the self.

¹⁵ Unverifiable claim is here used to specifically describe Kant's formulations of the dualist conception of the person. Much of the critiques of Kant rest on the question as to how to consider a person both as belonging to a world of phenomena and to the world of a noumena? The universal claim that all persons are equally rational similarly begs the analogous critical question. The point is not to get into this debate, but rather just state that this Kantian claim can be termed as unverifiable which is why it has been very difficult to posit an answer to the critiques' question.

While for Kant, persons expressed their *innate* nature when they considered themselves as noumenal selves, Rawls believes that the parties in the original position express themselves as 'free and equal rational beings.' While, this is the similarity, there is a very interesting departure that needs mention. The interesting part is that while for Kant, rationality is a faculty, which helps accessing reason, for Rawls, rationality, is instrumental. Rawls claims that the parties express their natures by choosing principles of justice with the help of *instrumental rationality*.¹⁶ The substantive epistemological claim of Kant gives way to a merely instrumental claim of Rawls. This has its effects on the notion of autonomy which Kant values highly and Rawls's instrumentality makes considerable inroads into this notion of autonomy.

Rawls highlights that the parties act autonomously when they consider themselves independent of all contingent attributes, whose knowledge the veil of ignorance deprives. Together with the instrumental rationality then the parties are assumed to have adopted a characteristic, which helps Rawls in successfully deriving his principles of justice. The movement away from the substantive conception of rationality to the instrumental conception makes autonomy a derivation rather than a first principle claim. In sum, then the conception of the person which is *strong* and for whom autonomy is a prized possession, in Kant, gives way to a conception of person in Rawls¹⁷ for whom autonomy is a derived condition to enable arriving at certain principles of justice. This feature then decidedly makes the notion of self in Rawls *weak*. It is this departure from Kant, which enables Rawls to stand by the idea that his theory including that of reasoning involved in the original position is persuasive even if not attractive in the first instance.

This movement away from Kant is more interesting when one considers the implications of the same. As was noted above with autonomy, significant changes also occur in other notions. The parties in the original position consider themselves as noumenal selves. (Rawls 1971: 255). Yet, the procedure of the construction of the original position enables the parties to retain ties with their phenomenal selves. (Rawls 1971: 256). In this form of

¹⁶ See O'Neill (1989: 207).

¹⁷ The inferences made here refer to the *Theory*.

Rawlsian construction, there is a procedure of diffusion that occurs. To explain, for Kant, the self with its prized possession of autonomy and which gives itself moral laws identified through reason acquires an absolute character such that in the phenomenal world, though it is subject to heteronomy, retains a qualifying distinction to itself. In this sense, it is possible for the self to retain its distinction completely from contingent attributes like the family, civil society or the state. On the other hand, Rawls proceeds by *disaggregating* this 'absoluteness' of the self into different dimensions, namely, a position prior to the veil of ignorance and from within the veil of ignorance. Unlike Kant, the difference between these two dimensions is expressive of a need for a conception of justice rather than a coming to an understanding of a rational self. In other words, heteronomy in Rawls is acceptable and in *no way denies* any self-realization in that sphere. This is a crucial difference between Rawls and Kant.¹⁸ The language and form is Kantian but the substantive implications are quite divergent from a Kantian position.

Similarly, the role played by the categorical imperative in Kant is expressive of the need of regulations without any specific interest in mind. This was necessary for Kant, to support the notion of autonomy. For, autonomy demands that regulations and choices of action be made independently of heteronomous influences. This includes a conception of an end as well. The categorical imperative therefore germinates the deontological idea that right is prior to the good. Rawls explains that his principles of justice ought to be considered as categorical imperatives because they are not directed to any specific end. In this respect, they are also deontological and do not further any specific conception of end. (Rawls 1971: 253). However, Rawls fails to note *here* that his principles of justice apply only to the public institutions of a society and not to all actions of the individuals. Again, there is a crucial difference between Kant and Rawls wherein the 'categorical imperative' of the latter cannot act as the final arbiter. While this is not the case in Kant, as was noted above. Rawls's principles are procedural and not substantive but it has its limits and does not extend to all the spheres of the individual. The point to be noted again is that Rawls's rendering of the Kantian interpretation is more procedural and not substantive.

¹⁸ This point will come up again in the discussion of the critique of Sandel and Taylor.

Rawls's problems with utilitarianism can also be traced to Kant. For Kant, utilitarianism is a moral and political philosophy, which derives its first principles from observable experience rather than reason. However, this method would only lead to a false generalizable claim because the individual's experience and sense impressions would lead in different directions and it would not lead to a sound first principle. For this reason, Kant rejects utilitarianism. (Williams 1983: 55-56). Rawls develops this argument further and using Kant's maxim – never to use one simply as a means but always also as an end in himself – argues that utilitarianism does not take the distinction between persons seriously. By attributing the dominant impulses of agents as acquiring pleasure and to avoid pain, utilitarianism fuses the individuals. In this process it is also subject to the violation of the above mentioned Kantian maxim. This is a very interesting point because as will be seen the critiques will subject Rawls to the charge of violation of this Kantian maxim.

Further, with the Kantian interpretation, Rawls forwards substantive claims for his theory. The idea of freedom and equality that the persons in the original position agree allude to the Kantian idea of freedom and equal capacity of all to access reason. In fact, the egalitarian idea of Kant is mentioned by Bernard Williams, quoted by Seidler, '...Kant's view not only carries to the limit the notion that moral worth cannot depend on contingencies, but also emphasizes, in its picture of the Kingdom of Ends, the idea of *respect* which is owed to each man as a rational moral agent – and, since men are equally such agents, is owed equally to all...' (Seidler 1986: 5). For Rawls, this idea of freedom and equality will be chosen by the parties in the original position, given the different constraints under which they choose.

So far, the discussion has centered on the Kantian roots of Rawls's theory, particularly of the right. The theory of the good also has a Kantian root, which is very interesting and needs to be mentioned. In order to do this, the thread of explicating Rawls's theory has to be picked up again.

In the theory of the good, Rawls's objective is to develop a notion of the good, which would correlate with the theory of the right. The right is represented in choosing the principles of justice under certain constraints. Since Rawls's theory is deontological, the right is prior to the good. This means that the principles of justice would regulate the conceptions of the good that people will pursue generally.

Very briefly, it can be stated that for Rawls, it is important that the agents have the moral capacity for justice. This moral capacity is defined by acquiring a sense of justice and to pursue a conception of the good. These reflect the moral capacity of the person. A sense of justice is acquired by a process of socialization with successive levels of authority operating in an individual life. For instance, in childhood, the morality of authority is represented by parents wherein the child gets praise and affection and at the same time is punished if something wrong is done. This is done with framing of certain 'rules' that the child can comprehend. When the child grows, she is in the company of peers and other forms of associations, which gives rise to the morality of association. The associations now give the rules, which depends on the role that an individual plays within the association. This gives rise to considerable feelings of guilt if the person fails to do her part. So, there is a further stage in the development of the sense of justice. Finally, Rawls explains the third stage of development of sense of justice, namely, the morality of principles. This development proceeds from the morality of authority. The individual is now able to recognize and understand the principles of justice. She is also able to live by those principles and would have also developed the ability to not just think of one's role in the society but also think about other's roles and their requirements. For Rawls, this is very important. '...morality of principles takes two forms, one corresponding to the sense of right and justice, the other to the love of mankind and to self-command.' (Rawls 1971: 478).¹⁹

The other aspect of moral capacity is to pursue a conception of the good. It was mentioned earlier that the principles of justice are chosen with knowledge of a thin

¹⁹ A complete account of development of sense of justice is present in *Theory* (462-479). An earlier version of this is present in *Collected Papers* (1999: 96-116).

conception of the good defined by the list of primary goods. Rawls explains that the motivation of the parties in the original position would require a fuller conception of the good, which is regulated, by the conception of justice. The content of the conception of the good is not mentioned by Rawls, keeping inline with Kantian formalism. However, the capacity to formulate and pursue a conception of the good is formulated by Rawls.

One such capacity is the aspect of deliberative rationality. In the original position, it sufficed to possess rationality that was instrumental. The only idea was to maximize return from a minimum available information. In the theory of the good, deliberative rationality means, '[I]t is the plan that would be decided upon as the outcome of careful reflection in which the agent reviewed, in the light of all the relevant facts, what it would be like to carry out these plans and thereby ascertained the course of action that would best realize his more fundamental desires.' (Rawls 1971: 417). This careful reflection, for Rawls would include making choices without any errors with complete awareness of the genesis of actions as well as consequences of the actions. Further, 'we are to see our life as one whole, the activities of one rational subject spread out in time. Mere temporal position, or distance from the present, is not a reason for favoring one moment over another.' (Rawls 1971: 420). The temporal aspect in defining the good is important for Rawls because goodness cannot be defined for moments or momentarily. They have to be decided for a long period of time in which the agents perceives herself as having lived one continuous life. (Rawls 1971: 420).²⁰ This is the reason why happiness as a dominant end is ruled out. For happiness, is a condition, which is realized after a sufficient course of action has been undertaken. Therefore, happiness by itself cannot be the dominant end for whose pursuit, decisions will be taken. At best, happiness will be a by-product. (Rawls 1971: 553).

Thus, deliberative rationality and a person's sense of justice ensure that the conception of the good chosen by the person would be in conformity with the principles of justice.

²⁰ It is interesting to note that this idea is very similar to MacIntyre's idea of a narrative. MacIntyre says that lives are lived as continuous whole and never in parts. Persons are essentially story telling animals and their present or future cannot be dissociated from the past. (1986). For Rawls, "The whole plan has a

Together, with the idea represented in the basic structure of the society, Rawls argues that person's with their sense of justice find conformity in the principles of justice in the society. Further, the conditions of the society so characterized in turn reinforce their beliefs in the principles of justice. For Rawls, a society thus characterized helps in self-realization and coming together of individuals in unions defined differently. Nevertheless, united by a conception of justice. Such a unity is described by Rawls as a social union of social unions.

The Kantian root in this theory of the good is very significant. One feature of Kant's explanation of supremacy of the moral principles, is the corresponding theory of the error. To explain, what happens when a moral person fails to live up to the moral principles. For Kant, the moral person would experience *shame*. This is significant for Rawls wherein he elaborates that the moral person has acted out of the influence of heteronomy forces that she is unable to express anything but in the expression of shame. In a society characterized by the two principles of justice, Rawls claims that the persons would experience shame rather than guilt when failing to live up to the moral principles. This is also because of the socialization through the sense of justice. (Rawls 1971: 444-445).

Another feature is the indeterminate nature of the good but informed by the conception of the right. (Rawls 1971: 564). This is a Kantian rendering of formalism wherein the content of the conception of the good is not given by the categorical imperative. Apart from the differences noted above, it is interesting to see that Rawls's definition of the right is structured in a manner that it effectively regulates the conception of the good. The indeterminate nature of the good is not given a free will. That is why, 'From the standpoint of justice as fairness it is not true that the conscientious judgments of each person ought absolutely to be respected; nor is it true that individuals are completely free to form their moral convictions.....we are to respect him as a person and we do this by

certain unity, a dominant theme." (Rawls 1971: 420). Rawls is here describing the narrative in a formalistic manner. However, the idea that life is one continuous unity is believed by both.

limiting his actions, when this proves necessary, only as the principles we would both acknowledge permit.' (Rawls 1971: 518-519).

In sum, Rawls enterprise, '...to generalize and carry to a higher order of abstraction the traditional theory of the social contract as represented by Locke, Rousseau and Kant.' (Rawls 1971: viii) has been more than enriching. Comment cannot be made here of Locke and Rousseau but certainly Kant's philosophy has been deeply ingrained in the 'Theory of Justice.' There are very significant departures from Kant as was noted before. It is a procedural rendering of Kant's thoughts rather than anything substantive. This is noted by Rawls himself. But, the procedural rendering brings into the discourse of justice as fairness a remarkable direction and 'indicative substance' that has generated a vibrancy to Rawls's theory of the right as well as of the good.

The Aristotelian Roots

The fascinating aspect of Rawls's theory is the combination of the traditions of Aristotle and Kant. At first sight, Kant is diametrically opposed to Aristotle. For Aristotle, justice can only be realized in a *polis*. The arrangement of this *polis* differs from one type to another. The citizens in the *polis* have particular roles to perform depending on the social position of the citizen. An effective performance of this role in the *polis* would entail acting according to some virtue. Upholding of the virtue thus becomes a central aspect of the life in *polis*. Connected with this virtue is the idea that rewards for this virtue depends on some qualities that the individual possesses. Desert, has a central claim in the distribution pattern of the life in the *polis*. Therefore, injustice arises when certain unjust actions have been performed or certain rules have been violated. Correspondingly, there are two kinds of justices. One, is the corrective justice where an order has been breached as in the first case and distributive justice, wherein the principles governing the corrective justice has not been obeyed. The moot point therefore is that justice is contextual, desert dependent and virtue rewarding. (MacIntyre 1988: 103-104).

Aristotle's idea of practical rationality as explained by MacIntyre is not different from his idea of justice, from Kant. For Aristotle, a particular action is performed in the light of the *telos* and what is required by the *telos*. This is done in conjunction with the situation in which the citizen is situated. Thus, actions are not indeterminate in nature, without any guiding reason for the same. All actions are to be justified in the light of the good pursued and the context in which that particular action is pursued. Importantly, for Aristotle, the context is provided by the *polis*. (MacIntyre 1988: 124-145).

These two ideas of justice and practical rationality places Aristotle and Kant in opposite camps. There is no immediate necessity to delve into the details of comparisons, as a brief account of Kant's morality and justice has already been provided above. Rawls combines Kant's formal requirements with Aristotle's substantive requirements of the good for his theory of justice. In other words, it can almost be claimed that the right is defined by Kant's formalism and the good is defined by Aristotle's conception of the good. How is this possible?

Rawls defines justice in Aristotelian terms, when he says that justice requires rescinding from appropriating undue advantages from persons that legitimately belongs to them.²¹ (Rawls 1971: 10). Elaborating on the conception of the good that is required for stability of the conception of justice as fairness, Rawls remarks that an interpretation of the Aristotle's conception of excellences required to sustain a *polis* is applicable for his conception as well. Specifically, Rawls says, '...other things equal, human beings enjoy the exercise of their realized capacities (their innate or trained abilities), and this enjoyment increases the more the capacity is realized, or the greater its complexity.' (Rawls 1971: 426). Again, as mentioned with respect to Kant, there is a subtle aspect of disengagement that Rawls follows with respect to Aristotle's ideas as well. The idea that the individual has a propensity to excel and an attraction to more complex activities is indicative of the notion that the individual's life can be described in a richer fashion and not just in relation to the *polis*, he is situated. In effect, Rawls disengages the rich aspect

²¹ Rawls quotes Aristotle's '*pleonexia*' to state his point. Rawls does acknowledge the wide differences that exist between his theory and that of Aristotle's. However, he believes that the essence of justice is drawn from an Aristotelian notion. (Rawls 1971: 10).

of the individual that Aristotle subscribes to from the political order in which the individual is a part of. Aristotle fuses the individual with the state (in modern terms), while Rawls seeks to disengage the two but relate them differently. This has been a unique feature of Rawls's methodology while presenting his theory of the good and the right. With Kant, the disengagement was between the moral individual's express attachment to reason and relocating them in a different relational framework. This helps Rawls to claim that he is working within a tradition and yet redefining the framework in a revolutionary manner. This becomes clearer with the exposition of more Aristotelian elements in his theory.

Like Aristotle's need for a *polis*, Rawls also expresses the need for a community of interests in order to realize the individual's capacity for excellence as well as for self-esteem. For it is only in such a community can the individual expect and receive praise for virtues and actions well done. The role of the *polis* is played by the principles of justice given by Rawls. This is interesting because the principles as a background condition are so different from *polis* as a background condition. While in the latter the *telos* plays a very important role, in Rawls's theory there is no *telos* that plays a determinate role. The conception of the good is indeterminate though regulated. Again, the process of disaggregation is beautifully at work here with importance primarily assigned to an individual's *capacity* to pursue excellences within an arrangement defined by the individual's own reflective endorsement expressed by the principles of justice.

In a *polis*, the individual's capacity to be realized would be possible only with moral learning. Rawls interprets this Aristotelian requirement in his development of sense of justice discussed earlier on. With the motivation to excel, in a community of shared interests, which can appreciate the virtues of an individual who has sufficient moral learning would lead a good life. Such a life would have continuity, congruence in the plans of different persons and Rawls believes that this Aristotelian value is well represented by the conception of the good that he presents in his theory of justice.

Thus, the two traditions of Aristotle and Kant are represented by Rawls in the most elegant manner possible. All along Rawls has departed considerably from both the traditions. The reinterpretation of both the traditions has been presented in a framework that is nothing short of a brilliant achievement.

With this presentation done, a rendering of the basic ideas of the theory of justice has been completed. It should be noted though that Rawls's ideas of how the principles of justice would be concretized in the structure of the society have been left out of this rendition. This is because they do not pertain directly to the discussion of the central topic of this dissertation and secondly, that is a sphere wherein separate discussions will have to be held in order to assess the feasibility of Rawls's theory.

A Pause – Knitting the Threads

It is imperative now to knit the threads of this narrative so far. So, it is time to return to the hypothetical person who was introduced earlier and assess if she would be persuaded to accept Rawls's position. A large part of her notions or ideas regarding politics and desert, utilitarianism and perfectionism has dissolved with the Rawlsian account. That is why in the first place, she was able to accept the constraints of the original position and reason out the principles of justice. Further, with the account of Rawls's good in place, the hypothetical person would realize that pursuit of a conception of the good can take place including that of pursuit of excellence, but within an ambit protected from the excesses of those excellence. To explain, pursuit of excellence is not a problem as long as the institutions of the society are not motivated by the principle of excellence. This is one of the most important ideas of Rawls's theory of justice. It is assumed therefore, that the hypothetical person would not have any more valid objection to Rawls's theory.

However, there are many areas in Rawls's *Theory*, which are ambivalent and have been subject to different interpretations. That the scope for these interpretations exists implies that *Theory* is not free from being interpreted differently or creatively. The communitarian critique of Rawls, particularly of his notion of self has relied on reading

his theory as a classic example of a liberal dream. In this, they have also read the notion of self as being a liberal individual self, which is not quite hospitable to the claims of culture and community. This feeling is vindicated when they examine the method of Rawls's reasoning, which makes no express appeal to community or nation and relies purely on instrumental rationality and a veil of ignorance to arrive at principles of justice. This enabled the communitarians to critique Rawls heavily both in his concept of right, which they find is impoverished and the concept of the good, which they feel is inadequate.

Whether these critiques are ultimately imprecise in their target or do they have important claims that are ignored by Rawls remains to be seen. But first, a presentation of the communitarian critiques is required. This is the task in the second chapter.

CHAPTER - II

The Communitarian Critique

The communitarian reading of Rawls paves the way for a fascinating encounter between the two. The first communitarian criticism is found in the works Michael Sandel. This was soon followed by many, of whom, MacIntyre, Taylor and Walzer are prominent. The task in this chapter is to identify the main elements of the communitarian critique of Rawls in general and then proceed specifically to an account of the same as articulated by Sandel and Taylor. This is done in three parts. Section A deals with the general features of the communitarian critique. Section B and C presents the arguments raised by Sandel and Taylor respectively.

Section A

General Features

The primary motivation of the communitarian position is their firm belief that concern should be focused on a community instead of an individual. (Hampton 1998: 182). As Hampton continues to explain, ‘...they (communitarians) insist that each of us, as an individual, develops an identity, talents, and pursuits in life only in the context of a community. Political life, then, must start with a concern for the community (not the individual), since the community is what determines and shapes individuals’ natures.’ (Hampton 1998: 182). Given this preliminary remark, it is clear how the communitarians specifically read Rawls and argue for their point.

To explain, the *Theory* has been the subject of reconstruction and criticisms from the communitarians. They specifically focus on the liberal antecedents of the theory and the

vision that the work seems to embody. That vision is one of conceiving society in a manner consistent and hospitable only to individual concerns. Any kind of association that the individual finds herself in, is a result of the *choice* that the individual exercises, for which she is given the right. In such a society, the ideas of family, communities and its related notions of history, tradition and practices of the same are relegated to a peripheral level. What matters above all is the individual. The conceptions of good life, which an individual believes in, are subsequent to the individual already existing.

It is interesting to note that the communitarian critics of liberalism are not recent.

Historically, liberalism has always had to contend with these critics which have originated from time to time. The recent communitarian critics however provide a fresh depth and understanding of the philosophical and political issues involved, given the complex plurality and social complexities of society today.

Amy Gutmann (Amy Gutmann 1985: 308-309) characterizes these critics as revivalists of the tradition of communitarian critics. She makes a distinction between the communitarian critics of the 1960's and the 1980's. She locates three areas of differences between the earlier critics and the later ones. These differences are broadly in terms of – historical motivation, the political implications and coming to terms with contemporary liberalism. While for the earlier critics, the historical figure was Marx, ‘...the recent critics are inspired by Aristotle and Hegel’. (Amy Gutmann 1985: 308). Secondly, the political implications of the new communitarian criticisms are correspondingly more conservative with emphasis on settled traditions and established identities. Thirdly and perhaps importantly for the new wave communitarian critics is coming to terms with an accommodative liberalism. While it was easier to target the liberalism of the 19th century, it is difficult to direct it against contemporary liberalism because the latter has undergone considerable transformations. These transformations have made it more accommodating of some of the central communitarian concerns. However, they still fall short of dissolving the communitarian objections. For the liberals according to them are still reluctant to ‘admit...that our personal identities are partly defined by our communal attachments’. (Amy Gutmann 1985: 309).

It is difficult to agree to Gutmann's last point on the liberal's reluctance, especially in the context of understanding Rawls. However, a more interesting point to be noted here is that the communitarians have a tradition of opposing liberalism. That it is revived in the light of Rawls's theory attests to the fact that Rawls has also been read as one who has continued the same tradition of liberalism.¹

Another feature of communitarianism, is the shared tradition of the communitarian and liberal strands. Through history, while liberalism has surfaced strongly and has continued as a dominant philosophical and political paradigm, communitarianism has also been a tributary of this stream in search of a 'better' paradigm. While this is not to denote any hierarchy between the two strands, the emphasis is on the *shared* history and practices as witnessed in the western world. Consequently, the scope of the debate has enriching capacity only in the limited range of the western world.

Another interesting feature of the critiques is its attempt to present the 'forgotten history' of the western world. For a long time, the story as articulated and interpreted by one stream of thought has been dominant. It was as though there was a single strand of continuity in the history of western political and moral philosophy. Alternative frameworks, different interpretations and discerning discontinuities were not very forcefully present. The critiques undertake this wonderful task to make their effort at articulating the shortcomings of liberalism more enriching and widening of depth. This feature is very important because it provides critical insights on the history and other 'silent zones' of history that helps to ask some important questions in order to understand the present problems. This is particularly pertinent given the fact that they stem from the same historical background as that of liberalism. Therefore, in order to make a critical appreciation of communitarianism, one has to contend with the in-depth historical analysis that they have presented with. Otherwise, the observations will tend to get superfluous.

¹ This feature will play a prominent role subsequently, when it will be questioned whether Rawls could be considered so.

Having noted these general features, it would be useful to remember that the critique of Sandel and Taylor with respect to the notion of self in Rawls is firmly located in this broad overview of features that is enumerated above. This would become increasingly clear with the critiques of Sandel and Taylor in place.

Section B

Michael Sandel's Critique

A wholesome displacement of the work of John Rawls is attempted brilliantly in the works of Michael Sandel. His celebrated work- *Liberalism and limits of justice* (1982), sets the pace and tone of his consistent attack on the works of Rawls and the kind of philosophy his work embodies. While the theoretical concerns are brought out in this book, a more detailed historical and empirical evidence for this critique is presented by him in the second book- *Democracy and its discontents* (1996). Together these works represents a genre of criticism that offers powerful insights implicit particularly in the works of Rawls and liberalism in general.

Here, an attempt is made to discern the central concerns of Sandel with Rawls, followed by a detailed explication of those concerns and is concluded by summing up of the dispute with Rawls, which would be critically reviewed in the next chapter.

The Promise of Liberalism Demystified

In Sandel's view, the central problem with liberalism is the liberating vision that it entails for the society and yet fares very badly when seen in its actual practice. Liberalism with its promise of guaranteeing the primacy of individual rights, freedom to choose one's ends or in other words, conceptions of good life, ensuring minimum State interference on

the economic activities of the individuals and so on seeks to project an ideal which is the best possible arrangement from among other alternatives. This attractiveness is further enhanced by the idea that the individuals in question are the sole determinants of their life and are free to choose their lives. The only restriction that would be applicable is the like liberty of the other individuals. So, individuals have to live their lives *with* other individuals who are also exercising this inviolable right of theirs. This vision has important implications for the way the individuals can actually lead their life. For instance, an individual is able to rise above the conditions and circumstances that she is born into. This means the community cannot exercise absolute influence on the individual to perform certain actions. The individual by her own choice can comply or importantly *not comply* with the wishes of the community. Thus the gravity of power shifts from a larger collective, defined variously as family, community, even the State to that of the individual. This is the powerful and the liberating vision that liberalism offers.

For Sandel, contemporary liberalism espoused best by John Rawls retains this spirit of liberalism. However, it also addresses the problem of redistribution from the vantage point of these central tenets of liberalism. The result was the *Theory of Justice*. Thus, social and economic inequalities in a society are to be arranged in a manner consistent with the expectations of the least advantaged. As noted in the earlier chapter, expectations here refer to the index of primary goods that a person possesses. However, this is only lexically subsequent to guaranteeing the primacy of rights wherein each one is guaranteed liberty compatible with a like liberty of all, thus comprising within its fold the liberating and empowering promise of liberalism.

Sandel claims that far from delivering on its promise, this kind of liberalism falls short of it. The notion that this vision empowers is deeply flawed. For instead, it contributes to disempowerment. The individual, who is given the right to choose, ironically does not know what to choose and for *what* purpose. For the individual is defined antecedently and prior to the ends that she may pursue. Thus, 'even a dominant conception of ends must be chosen among various possibilities.' (Rawls 1971: 560). There is no particular good that the individual aims for which specific freedoms would make sense. This

criterion is ruled out in this form of liberalism. Sandel characterizes it as the deontological priority wherein the good is only subsequent to the individual already agreeing to certain liberties and restrictions. Thus, the right is accorded priority over the good.

The self being defined in such ephemeral terms and not in terms of the situation that the individual is born into and lives, has its corollary effect of disempowerment. Increasingly, the individual feels that she is given the power of choice but there are a multiplicity of factors that is influential in choosing the ends, which is completely unaccounted in this form of liberalism. Further, this conception of the individual cannot ask relevant questions about its own agency. For the question – who am I, can never be answered by the doctrine which has an answer already presupposed by it. The only relevant question for such an agency would be to ask – how should I live. For Sandel, this is the serious problem that is ensconced inevitably with this ‘promise’ of liberalism. There is no liberating vision at all. (See Sandel 1984a and 1984b. The arguments are quite similar in both these articles).

Sandel does not attempt to resuscitate the ideals of liberalism within a broader communitarian fold. Rather, he proposes a definite break with its ideals so as to make way for a vision that is more congenial to the already established practices and traditions within a nation-state. In such a vision, ideals of civic republican virtues are invoked which offers active realization of citizenship². The individual is seen as part of a collective which is influential in the choices that she makes. Thus the civic resources are ‘...to be found in the places and stories, memories and meanings, incidents and identities, that situate us in the world and give our lives their moral particularity’. (Sandel 1996: 349). The need of the time is to strengthen human agency not by offering a false ‘liberating’ promise but by actively accounting for the individual situatedness and inculcating the virtues of realizing citizenship.

² Charles Taylor (1985: vol. II. 96) explains this tradition in the form of the citizen’s relation to law. The significant feature here is that the citizen’s obedience to law is the archimedian point from which the perception of the society is viewed. Therefore, the ‘laws are significant not *qua* mine, but *qua* ours; what gives them their importance for me is not that they are a rule *I* have adopted.’

Having briefly outlined Sandel's reconstruction and critique of liberalism particularly of the Rawlsian variety, a detailed explication of his specific problems with Rawls' theory is now presented. Here the focus would be on how Sandel presents the conceptual impoverishment of the unencumbered self in Rawls's theory. This notion of self is inadequate for the requirements of a theory of justice. Rawls, in Sandel's view has to have a more encompassing notion of self than he has willingly allowed in his theory. This is particularly evident in the nature of American pursuit of public philosophy, which has for the last fifty years or so has incorporated and functioned according to the ideals that Rawlsian liberalism promises.

The Inevitability of the Unencumbered Self

Sandel claims that the primary objective of Rawls is to work within a framework of deontological liberalism, which accords primacy to the right over the good. For this the conception of the self is antecedently given. This means that the self is prior to the ends that it *chooses*. Thus, 'I am not merely the passive receptacle of the accumulated aims, attributes, and purposes thrown up by experience, not simply a product of the vagaries of circumstance, but always, irreducibly, an active, willing agent, distinguishable from my surroundings, and capable of choice.' (Sandel 1982: 19). It is only such a self which, is considered independent of any of its constitutive attachments can agree to the principles of justice which Rawls enumerates. Thus the boundaries of the self are foreclosed and given in advance. This is the unencumbered self. A conception of such an unencumbered self or 'selves' as provided in the original position is required to establish the important priority of self being prior to its ends and the right being prior to the good. Therefore, the conception of the unencumbered self is central and *inevitable* to the theory of Rawls.

The question therefore is whether this conception of unencumbered self is able to address the requirements posed by the theory of justice itself? Is it able to preserve its boundaries

provided in advance of its ends, consistently? Sandel proceeds to answer these questions in the negative.

Collapsing Boundaries of the Unencumbered Self

Sandel claims that the perimeter of the antecedently defined self is supported by certain central assumptions of the deontological theory of Rawls. They are mainly the notion of considering natural talents and attributes as common assets and its connected notion of desert and entitlement. Together, these assumptions make way for the bounded nature of the self.

Sandel claims that these boundaries are not well guarded and they are prone to particular attacks from quarters which questions the claim of considering natural talents and attributes as common assets. If these 'common assets' are really common then to which commonality is Rawls referring to? By his own account, there is no collective identity present before the individual. Any collectivity comes into existence only subsequent to the identity of the individual being established. Thus, there is an implicit acceptance of a commonality existing even before the individual exists in this case. (Sandel 1982: 80; 96-103).

A second objection reads that, by making the claim that the assets are to be considered as common and should be used to benefit the least advantaged in a society, Rawls violates a central Kantian injunction. The injunction is that persons should be used only as ends in themselves and never as means. This is a serious objection because Rawls claims that his theory is a variant of Kantian formulations. Sandel claims that Rawls can only defend his argument by implicitly relying not in an antecedently individuated self but in an intersubjective self, whose boundaries extend beyond its bounded self. This is a crucial conclusion that Sandel draws from his analysis³. If this claim is found sustainable, then the fear of collapsing boundaries becomes very real. And in his discussion of Rawls's

³ For a detailed discussion of this criticism of Rawls, see Thomas Pogge, *Realizing Rawls*, Cornell University Press, Ithaca and London, 1989, pp. 63-73.

notion of community, Sandel gives further evidence of the collapsing boundaries of the unencumbered self. (Sandel 1982: 78).

Rawls accounts for a notion of community in his discussion of the theory of the good. Sandel purports to claim that the idea of community has to be central to the *theory*, rather than its perimeter. ‘.justice on the deontological ethic requires a notion of community for its very coherence’ (Sandel 1982: 147). The question is whether the notion of community provided by Rawls, is adequate enough to account for the principles of justice and ‘also of accounting for the virtue of community generally’. (Sandel 1982: 147). The answer is in the negative.

To substantiate this argument, Sandel accounts for the policy of affirmative action, as an instrument of social justice, and goes into its premises as articulated by Ronald Dworkin. Though it is not essential to go into the details of the argument, it is to be noted that for an effective conceptualization of the policy, it is imperative to have a notion of community central to the policy. It is just not enough to make individualist assumptions as it would lead to an impoverishment of the policy at the conceptual level, besides greater trouble will have to be encountered at the level of implementation. Having established this, Sandel explores whether Rawls’s theory of justice is able to account for such a notion of community.

In Sandel’s view, Rawls’s notion of community is sentimental and not instrumental. This means that cooperation among human beings is considered as a virtue in itself. This is unlike the notion of private society, which Rawls enumerates, that views cooperation as instrumental. However, how is the self which is bounded and antecedently given able to participate in a sentimental community? Importantly, it requires the faculty of reflection. It needs to constantly reflect on its own nature, its dispositions, its preferences, values and morals. Only such a constant engagement can help the self to reflect and ask the question – who am I? But by Rawls’s own account, the self is not able to participate in its identity because of the abstraction of its constitutive attachments. This does not deny the implicit commitment to an intersubjective understanding of the self as evidenced in the

notion of common assets argument mentioned above. Thus, the boundaries of the unencumbered self completely give way.

The Burden of the Unencumbered Self

Yet, the collapsing boundaries of the unencumbered self have not given way to its disappearance. Sandel notes with considerable concern that they have found their best expression in the procedural republic as is evident in America today, for instance. The incorporation of this idea of the unencumbered self in the public philosophy (Sandel 1996: 4-5) has generated concerns and problems, which are detrimental to the project of liberalism itself. Therefore, 'the public philosophy by which we live cannot secure the liberty it promises...it cannot inspire the sense of community and civic engagement that liberty requires' (Sandel 1996: 6). This is the point that Sandel explicates in his fascinating work-*Democracy and its Discontents*.

The burden of the unencumbered self lies in the fact that it cannot make a meaningful sense of our own lives and yet we are 'firmly' committed to it at this point of time. '...it cannot make sense of our moral experience. Therefore it cannot account for certain moral and political obligations that we commonly recognize, even prize'. (Sandel 1996: 13). Will Kymlicka characterizes this point as the 'self perception' argument of the communitarians.(Kymlicka 1989: 52). The way the self perceives itself is very different from the way it is embodied in the public philosophy of the country. It is further compounded by the fact that it translates itself into the notion of a neutral state, which strives to remain neutral among different conceptions of the good life. Yet, both the unencumbered self and its corollary of state neutrality have proved to be inimical to certain central liberal tenets itself.

The unencumbered self does not provide a way of defining the 'relevant community of sharing'. (Sandel 1996: 17). This shared notion of a community is essential to make a coherent argument of the liberal values themselves. For instance, the two related liberal values of liberty and dignity. In the case of pornography, for instance, the liberty given to

the surviving of pornography in the society does not guarantee the dignity that a liberal society otherwise promises to all its citizens. Similarly, the toleration seen towards homosexuals, for instance, seems at best superficial. 'For it leaves wholly unchallenged the adverse views of homosexuality itself'. (Sandel 1996: 107). And, 'unless those views can be plausibly addressed, even a court ruling in their favor is unlikely to win for homosexuals more than a thin and fragile toleration'. (Sandel 1996: 107). This leads to an ironical situation within the liberal values because the 'content' of the choices that individuals make, seem to matter less than the form of making those choices. The liberal state along with the conception of unencumbered self seems to respect the individuals *more* by respecting the content of their choices *less*.

However the burden of the unencumbered self does not lie only in the inconsistencies within the liberal framework but also in the liberal state pretending to be neutral but in practice not being so. In trying to be neutral among conceptions of the good, the state actually alludes to a particular conception framed along liberal standards. Therefore, the decisions are biased and prejudiced towards other conceptions. (Sandel 1996: 115).

For Sandel, therefore, it is essential firstly, to recognize these extraordinary limitations of the unencumbered self and secondly explore the alternatives that would provide more meaning and unity to lives. He expounds the alternative of revival of civic republicanism, whose basic features are mentioned earlier.

Thus, Michael Sandel has critiqued Rawls and his version of liberalism in two ways. One, by reconstructing the notion of self in Rawls and two, by examining the liberal public philosophy of America which he claims has embodied that notion of self. He has found problems with both these interconnected notions. The theoretical problems with the notion of self which he has explicated in *Liberalism and limits of justice* (1982) finds its empirical fruition in his examination of the procedural republic of America in his second major work- *Democracy and its Discontents* (1996).

His primary concern with liberalism and Rawls in particular is the constitution of the self, which is implicit in the *Theory of Justice*. This self, which he calls as the unencumbered self, is shown to be severally impoverished to account for its own coherence as well as to account for the requirements of the theory of justice. Eventually it is shown to be required to rely on an intersubjective understanding of the self rather than being identified separately from its constitutive ends. This unencumbered self embodied in the procedural republic with its attendant feature of a neutral state. Here, lack of accounting of the constitutive features of the self has contributed to impoverishing certain central liberal tenets itself. Further, pretence of neutrality is maintained when it actually subsumes a bias towards certain conceptions.

In sum, given the theoretical and practical inconsistencies of the Rawlsian argument and his version of liberalism, it is best to look towards reviving the virtue of civic republicanism with all its attendant features.

It must be noted that many finer points that Sandel raises with respect to the notion of self in Rawls have been left out here. The reason is that they would be examined and discussed in the next chapter, wherein these critical claims are assessed.

Section C

Charles Taylor's Conception of Human Agency

Though there is no specific lineage of criticism attributed between Michael Sandel and Charles Taylor, yet it is unmistakably evident that their critiques represent complementary halves of the communitarian critique. While Sandel's critique targets Rawls' implicit conception of the self directly, Taylor's understanding of human agency seemingly posits an alternative that supports the view taken by Sandel. Taylor's descriptions of the nature of human agency is a *thicker* description of the notion of self so far as explicating the contours and layers, that the self is actually ensconced in. Taylor

identifies this as an exercise in philosophical anthropology. This is another point where Taylor's and Sandel's critique coincide.

Charles Taylor's critique is not developed specifically in response to Rawls or the genre of liberalism that he represents. Starting much earlier, he has targeted the broad trends in social sciences that fell prey to the attractiveness of naturalism and its concomitant corollary of reductionism. His focus has been to resist this trend in forceful and in no uncertain terms. His dissatisfaction with such trends and his response is insightfully present in the two volumes of *Philosophical Papers* (1985).

Taylor identifies the main problem with the naturalist inspired social sciences as the failure to understand the conception of the self or human agency. (Taylor 1985, Vol.1: 3). By 'objectification' of the natural world, this kind of social science hopes to explain human actions. By implication, this reductionist doctrine hoped to bring the realm of human actions within a zone of predictability and determination. Whereby, it is possible to insulate the self from all the variable contingent factors and determine the course of action. It is against such a theses that Taylor developed a conception of human agency. 'Taylor's project is no less than the constitution of a legitimate, moral subject, which would serve as a ground of adequacy for approaches to knowledge in the human sciences'. (Shapiro 1986: 312). This conception had a different story to tell about the notion of the self and tries to trace the multiple sources of the self. Thus proving that reducibility of the self to a single point or even points is an exercise that is inherently flawed.

In the following sections, this conception of human agency as developed by Taylor is discussed. Understanding of the notion of self, this way develops an argument for communitarianism. From here, it is possible to look at the points of contestation with Rawls. In part I, two specific features, which constitutes the core of Taylor's conception of self, is discussed. This leads to a broader critique of a theory of justice as given by Rawls, among others, which is discussed in part II. Finally, a sum-up is attempted to

place Sandel and Taylor's critiques to help recapitulate the main points of this chapter and facilitate in the critical discussions which will be followed in the next chapter.

I

Constitution of the Self

For Taylor, the self is constituted by a given set of undeniable and irreducible features. The question- what is the notion of self or what it is to be human acquires significance prior to their epistemological implications. This means that the self has certain undeniable characteristics, which can never be alienated from it. Therefore, theories purporting to involve human beings have to take into account these characteristics. Any abstraction from these essential characteristics would inevitably lead to either false or bizarre consequences.

Further, it is essential to be able to *identify* that person, with respect to whom the question is addressed. For this, the notion of identity is invoked here⁴. This is extremely important for Taylor, in his conception of the self. The human agency does not exist merely as a figment of imagination in a state of nature, nor does it situate itself completely abstracting from social commitments. It exists concretely in a web of social relationships. More specifically it has an identity within that web and is consequently in a position of influencing and being influenced by this social web. '...the crucial feature of human life is its fundamentally *dialogical* character'. (Charles Taylor 1994a: 79) This recognition of identity by the agent herself and by the relationships within which the identity is *lived* is a crucial feature of the self, as explained by Taylor.

⁴ A broad definition of identity is given by Taylor as, 'if my being of a certain lineage is to me of central importance, if I am proud of it, and see it as conferring membership in a certain class of people whom I see as marked off by certain qualities which I value in myself as an agent and which come to me from this background, then it will be part of my identity. This will be strengthened if I believe that men's moral qualities are to a great extent nourished by their background, so that to turn against one's background is to

Thus, the twin features-undeniable features of the self and the imperative of understanding this self in terms of a continuously living identity posits as crucial overlapping axis around which Taylor's notion of human agency is deftly woven. There are a number of knots, which is delicately untied by Taylor, of which a rudimentary presentation is attempted below.

Language of Qualitative Contrasts

Central to the language that the self speaks, is the inevitable presence of qualitative contrasts. By qualitative contrasts, Taylor means a vocabulary that invokes hierarchic distinctions in motivations, which eventually guides one's action. This distinction is given in terms of a duality- strong evaluation and weak evaluation. The significance of this distinction is brought out strongly, particularly in the light of the reductionist thesis of utilitarianism. The latter merely ascribes two kinds of motivations for all kinds of actions- to acquire pleasure and to avoid pain. It conceives of the self as beings whose only authentic evaluations are non-qualitative. (Taylor 1985: Vol.1. 23).

It would be worth examining just briefly, how inadequate it is to only have a language of evaluations, which are non-qualitative. A typical non-qualitative evaluation would invoke desires and preferences as premises of making a particular decision or taking a particular course of action. However, even a preliminary thought would foresee a multitude of actions and decisions with which one could be faced. An attempt to bring commensurability to these diverse visions would be an extremely difficult task. For instance, faced with a choice between taking care of a loved one in a hospital or staying back to finish the reading required in order to complete a dissertation, does provoke one to think and make a choice. The significant point about the example is that both are choices, which command considerable *moral* force and further demands a qualitative distinction which is assumed to be not available to the agent making this choice. If the

reject oneself in an important way.' (Charles Taylor 1985: Vol.1. 34) A further discussion on the question of identity follows later in this section.

first is one of personal commitment, the second is that of fulfilling the institutional commitment. The easy way out would be to divide one's time reasonably between the two commitments. However, in this case if the demand is such that time cannot be reasonably divided, then there is a genuine choice problem faced by the individual.⁵ The only solution seems to be here to make a *radical* choice. (Taylor 1985: Vol.1 29-35). However, the individual, no matter what choice she makes will never be able to justify or explain it, except as an extempore decision. A choice that cannot invoke any kind of rational explanation. For there is no language of qualitative contrast available to her. This makes the agents actions unconvincing⁶, even to the agent. There is a possibility of drift towards meaninglessness. For Taylor, this has to be countered strongly.

The duality of strong and weak evaluation helps in countering this meaninglessness. Strong evaluation⁷ elicits motivational ascription to the agents' action. It helps in making discriminations which are based on worth. Now it may be argued that 'worth' itself is a qualitative discrimination, which perhaps even a reductionist thesis, like that of naturalism or a variant of utilitarianism could employ. The naturalist claim could be that worth as a value is further reducible to units which could be measured in terms of either pleasure or pain. With the result that the decision taken would reflect the 'worth' that is implicit in the agent's reasons for action.

However, it is not always possible to reduce worth to reducible units in terms of pleasure or pain. The reason is that worth not only erudites pleasure but also includes pain. For instance, take the case of a painter who has produced a fine work of art. The extent of effort (put very crudely), time and sacrifice that went into producing that fine work of art is unmatched and incompatible with any of reductionist descriptions. They not only contain the emotions of joy, but also pain. Here the worth of the painting is irreducible to mere pleasure *or* pain. Worth is thus a qualitative expression that encompasses diverse

⁵ Taylor explains this problem by giving an example, quoting Sartre. Roughly alluding, the choice is forced between staying back to look after ailing mother or to join the renaissance movement. Finally, the choice is made abruptly.

⁶ By unconvincing, it is meant, here that the argument is not sustainable in a rational discourse consistently.

feelings and is strongly connected with the agent, which Taylor calls as 'subject referring'.

Strong evaluation, unlike the reductionist claim, finds a central place for such a evaluative expression. It is the realm of those qualitative judgments, which an agent makes and articulates it in her exercise of the choice. This also helps in bringing about the commensurability of diverse visions that the agent may be encountered with. (Taylor 1985: Vol.1. 26).

The idea of strong evaluation being employed to help articulating the inchoate is not an aside or an 'optional extra', which at times can be done away with. To the contrary, it is central to the human agency, the notion of the self. Taylor's claim is *lives* are lived within a paradigm or a framework, which is inescapable. (Taylor 1989: 17-19). 'A framework incorporates a crucial set of qualitative distinctions. To think, feel, judge within such a framework is to function with the sense that some action, or mode of life, or mode of feeling is incomparably higher than the others which are more readily available to us.' (Taylor 1989: 19). Thus every action, finds a constant reference in the frameworks within which one is placed. This is not to suggest however, that everyone is adequately aware of their frameworks and are fully equipped to engage in an exercise of constant reflective endorsement or revision of the same. Indeed, it would be wonderful if people could. It depends on the nature of articulation that one is familiar with at all points of time. Rather, the point of Taylor is that, irrespective of the levels of awareness of the articulation of one's framework, it is an undeniable feature that human agency is *firmly* placed within an evaluative framework.

For, evaluation, especially in terms of certain fundamental questions is an exercise that is constantly undertaken. This becomes necessary in the light that there is a constant search for meaning and try and live a life that is meaningful, as also, to try and live a life that is 'good'. A self cannot be thought of in abstraction from asking these kinds of questions.

⁷ It is defined as that which, 'deploys a language of evaluative distinctions, in which different desires are described as noble or base, integrating or fragmenting, courageous or cowardly, clairvoyant or blind, and so on.' (Taylor 1985: Vol.1. 19).

That is why, the self is considered as irreducible to certain quantifiable entities, as some theories have purported to believe in.

So far, the discussion has centered on the constitutive features of human agency. It has been very individualistic. But the crucial strength of this notion of self, for Taylor, is derived from the social. The self can realize itself only in the midst of other selves. It derives its constant nourishment only in the web of social interaction and interlocution. One of the foremost implication derived from this thesis, is the notion of identity and the connected notion of dignity, which an individual professes and exudes. This argument then forcefully leads to the domain of communitarianism.

The Social Theses- Identity and Dignity of the Self

Lives are lived and articulated in the form of identities. The feeling of identity that one has, provides meaning to one's life. Of course, experience has proven that identities need not always be accepted. History is replete with instances of negating certain facets of inherited identity and pursuing the search for a new identity. This is evident both at the individual level and the socio-political level, across cultures. The point that Taylor emphasizes is that, the self *necessarily* lives an identity.⁸ 'Our identity is therefore defined by certain evaluations which are inseparable from ourselves as agents. Shorn of these we would cease to be ourselves, by which we do not mean trivially that we would be different... but that shorn of these we would lose the very possibility of being an agent...' (Taylor 1985: Vol.1. 34). It is not an optional extra that could be willed.

This is particularly pressing when identities are 'partly shaped by recognition or its absence, often by the *misrecognition* of others..' (Taylor 1994a: 75). It is very important that the identities one professes be recognized in the way it has to be. It is a vital human need. (Taylor 1994a: 76). The challenge of a multicultural society today has been to bring

⁸ Taylor, in his epic work, *Sources Of the Self*, (1989) articulates the history of the modern identity. His enterprise is to articulate the multiple sources of the self that a human agent today owes it to. Understanding this aspect is very essential to contend with the popular characterization of a human agent today-namely, an individual as an abstract entity and a strong repository of rights and obligations. The account is phenomenological and extensive. The central point for the purposes here would be to understand

about this perception in its society. Namely, to recognize and accord due respect to identities, which are at serious variant from one's own, at times.

However, proceeding on these lines would be digressing into the demands placed on a democratic and multicultural society. The point is that according respect to an individual *means* according respect to the individual's identity. Because, the identity defines the framework within which the individual alludes to the complex structure of desires and motivations which is given by that framework. Thus respect is not independent of one's identity which makes the notion of identity *indispensable* to human agency.

Recognizing identity is thus crucial for Taylor. For it means that a way of life of an entire community is assented to. A community has common meanings as its basis.

Inter-subjective meaning gives a people a common language to talk about social reality and a common understanding of certain norms, but only with common meanings does this common reference world contain significant common actions, celebrations, and feelings. These are objects in the world that everybody shares. This is what makes community. (Taylor 1985: Vol.2. 39).

The agent thus derives her moral imperatives, meaning to life and even rationality from within this web of common meanings. This does not mean that the agent necessarily affirms and always acts within the 'authoritative horizon' of the community. Indeed, it may not even be fully evident to the agent herself. But the articulations of the same are nevertheless present in the use of language by the agent. Therefore, to discover one's identity can never be an exercise in solitude or isolation. It has to be within this web and in a constant dialogical character. It has to be negotiated with partly overt dialogue and partly covert with these 'significant others'. It crucially depends on the agent's dialogical relations with others. (Charles Taylor 1994a: 80). It must be noted that these 'significant others', need not only be members of the same community. In a multicultural polity, it could be members of different cultures as well. For identity is as much formative process involving affirmation as well as rejection or negation.

that, for Taylor, it is important to recognize and understand the full complexity and richness of the modern identity.

Having looked at the centrality of the notion of socially derived identities, it is now easier to understand the concomitant corollary of dignity of the self. Dignity as a modern notion⁹ is egalitarian in nature. It is built into the institutional structures of a democratic polity that each individual is to be recognized as one having dignity and this is the basis of the rule of law. Any violation in this respect would primarily constitute a violation of the dignity of the individual concerned. This modern notion of dignity is intertwined with the modern identity. Dignity could be perceived in power, sense of dominating public space or self sufficiency or the attention commanded from others. But very often it could also be the social roles which the individual performs. In being a householder, head of a family, as a responsible friend could be the basis of dignity¹⁰. It need not always be a role in the citizen life of the state as it was in the ancient times.

Identity and dignity of the individual are thus located in an interminable lexicon of social vocabulary. Any attempt at abstracting from this would be hazardous to the theory itself. This becomes particularly evident when the *good* of the human agency is given from its situatedness. Before concluding this section, it would be worthwhile to examine this aspect of Taylor's conception of human agency. For this would complete the rudimentary presentation and facilitate the discussion of the communitarian implications of the same and the subsequent critique of Rawls's understanding of the self.

The Good Life

Taylor brings out beautifully the link between identity and the good. The latter being understood as those higher order preferences which essentially guides the agents' actions. It could also be understood as the moral space within which the individual is located. For, 'to know who you are is to be oriented in moral space, a space in which questions arise

⁹ Taylor explains that dignity as a modern notion replaced that of *honor* in the ancient sense. In the latter period, it was essential that to have honor, not everybody have a share in it. Further, it was also related to the distinct social hierarchies in the society. Certain classes or sections had 'natural' superiority over others and therefore qualified for honor, unlike the others. (Charles Taylor 1994: 76).

¹⁰ This fascinating transformation is much celebrated and discussed in his famous discussion of 'affirmation of ordinary life', discussed in many places. Prominently it is found in his *Sources of the Self*. (1989).

about what is good or bad, what is worth doing and what not, what has meaning and importance for you and what is trivial and secondary'. (Taylor 1989: 28).

Taylor's quotation even at a preliminary first glance runs counter to the familiar Kantian tradition of considering morality. One important point of that tradition is that the self is a self legislating moral being. The legitimacy of morality stems from the agent herself who as part of belonging to the *noumena*, affirms moral rules. This means that the agent is *free* from other contingent attributes like family, society or state in formulating and affirming moral imperatives. This has been the influential tradition in philosophy and politics from which liberalism derives much of its legitimacy. The communitarian critique has been to counter this influential strand.

For Taylor, the moral space is the context in which the self is located. It cannot transcend the context. It is the community that has an 'authoritative horizon', which shapes the moral space and defines the question for the agent. Thus, notions of morality and the good life are thus invariably linked with this context.

It must be noted here that Taylor argues specifically to contest the claim of the deontological theories, like that of Rawls's, that is based on an underlying premise of right being prior to the good. This means that philosophical and political reflection ought to be on the question of what should be the right action, instead of what should be the good action. Focus is more on the right principles of justice as opposed to the goods that a theory of justice has to preserve or further. For Taylor, '... this leaves perplexing gaps in theory. It has no way of capturing the background surrounding of any conviction that we ought to act in a particular way. It cannot capture the peculiar background sense, central to much of our moral life.' (Taylor 1989: 87). In this, Taylor's and Sandel's claim echo in unison.

The good life and understanding the good life can come about only by constant articulation of the culture, within which one is located. '...articulations bring us closer to the good as a moral source, can give it power. The understanding of the good as a moral

source has also been deeply suppressed in the mainstream of modern moral consciousness. (Taylor 1989: 92). What follows in *Sources of the Self* is an attempt at such an articulation, which is very powerful and rich in its inquiry. The point here is that the good life has to stem from the cultural roots that the self finds itself in and political and social theories have to articulate this good.

Having captured the gist of Taylor's conception of human agency, it is now a possibility to take the next step of examining the communitarian implications of such a conception. In doing so, Taylor's contestation with Rawls's theory will also become more clearer. This attempt is made in the following section.

II

The Good of Justice

Departing from MacIntyre, Taylor believes that there is no 'viable' way outside the Aristotelian forms of thought. (Taylor 1994b: 22). Proceeding from this fundamental supposition, Taylor explicates his concerns with procedural theories of justice.

Taylor understands procedural theories to elide the *thicker* conceptions of the good with the right. Targeting Rawls specifically, Taylor claims that the intuitions underlying the 'thin theory of the good', if spelled out would actually reveal a thick theory of the good. (Taylor 1989: 89). It is thus not possible to arrive at a coherent understanding of justice without articulating the vision of the good. This is criterial for Taylor. The moral issue is to arrive at a possible ordering of the goods, with respect to the importance given to each of them. Whether some are truly worthwhile or not. This is because of the nature of strong evaluation of human agency. However, the modern procedural theories (read Rawls) tend to shy away from recognizing this aspect. To make these theories coherent, Taylor believes that procedural theories have to be restated in a substantive form. (Taylor 1994b: 27). Indeed, Taylor does not attempt to do so, but drives home the point that

unless procedural theories unmask their thicker conceptions of the good, it is bound to lapse into incoherence.

It is important to examine, why? Part of the answer lies in Sandel's critique. Taylor acknowledges that. (Taylor 1985: Vol.2. 289). To just recapitulate the main point of Sandel- the implicit assumption of the unencumbered self lapses into incoherence because it has a built-in assumption of a community. Thus the bounded nature of the self actually gives way to an intersubjective understanding of the self. Further, an analysis of the difference principle, according to Sandel, reveals that it requires the centrality of the notion of community rather than being in the periphery.

For Taylor, the self is constituted by strong evaluation and by the web of social vocabulary. It would not be possible to decide on rules and procedures to determine its morality and conduct, completely abstracted from such a situation. For the good of the self is defined by the social context in which the self is located. Therefore, the articulation of the good is very important. Taylor does make the concession that the evaluations of the agent and the concomitant conception of the good are amenable to revision. '...no formulations are considered unrevisable.' (Taylor 1985: Vol.1. 40). A viable way of accommodation of such a good or goods have to be found in recognizing these goods and not by their elision. The dignity of the self and its conception of the good is linked with other selves constituted similarly. Thus, the principles of distributive justice *have* to be related to some notion of the good. (Taylor 1985: Vol.2. 292).

For Taylor, '...to argue or reason about distributive justice involves giving clear formulations to strong and originally inchoate intuitions; and attempting to establish some coherent order among these formulations.' (Taylor 1985: Vol.2. 290). While this is in agreement with the formulation of Rawls' reflective equilibrium, the departure is with respect to the articulations of these intuitions. These intuitions reflect the notions of different kinds of good. '...disagreements about justice can only be clarified if we formulate and confront the underlying notions of man and society' (Taylor 1985: Vol.2.

291). The departure from Rawls becomes more clear when the shadow of Aristotle engulfs the arguments of Taylor.

The Aristotelian Shadow

As Taylor points out, central to Aristotelian distributive justice is the notion of the good of the community and a significant place to the demand of desert. 'Societies are associations for the achievement of common goods; what goods are to be distributed, and to whom, will depend on what the ends of the association are, and how they are achieved....But since some will make a more signal contribution, the mutual debt may not be entirely reciprocal...' (Taylor 1994b: 37). Both these features are significantly absent in Rawls's theory of justice.¹¹

Following Aristotle, Taylor thus makes the claim that deliberation on justice will make sense only in the light of the common goods. For living together in today's times does involve coming together on a number of issues and ideas. It is very important to cohere and agree on substantive aspects of those ideas. This cannot be possible by abstracting from people's specific notions of the good. Rather, it should be *via* these notions of the good that people practice.¹² This is also necessary to avoid a conflict with the principles of justice, as given by Rawls derived independent of specific conceptions of the good.

For Taylor, desert will have to play an important role in determining the principles of distributive justice. For the claims of desert arises within an evaluative framework of the self. It is inseparable. As seen above, this is closely linked with the conception of the good. Any theory of distributive justice will have to take this into account. If it does not then the principles of distribution would transgress the limit of the framework, which would be in violation of the nature of the goods distributed, or of the agents to whom they

¹¹ Taylor does mention Nozick as well in his critique of procedural theories of justice. For the purposes here, his discussion on Nozick has been left out.

¹² Taylor adds that the procedural ethic of rules cannot cope with the prospect that the sources of good might be plural. (Taylor 1994: 39).

are distributed. (Taylor 1985: Vol.2. 297). It is not difficult to understand the arguments that are raised against Rawls's theory in this case.

One of the implications of the difference principle is that lower taxes on the salary of academicians would be admissible, as long as the taxes on a taxi driver's income are also lowered. While the academician in this case has no cause for complaint, since his taxes are lowered, the question is whether there is a possible ground of complaint that the academician can have. According to Rawls, there would be no ground of complaint. The demands of desert, with respect to whatever advantage the academician might have had are neutralized with respect to the disadvantages that the taxi driver might have had. The implications of Taylor's arguments however lead to a different conclusion.

The argument would run something like this: the academician could argue that the time, effort and the intellectual labor that she puts in is much more than the effort put by the taxi driver to make her living. Further, to pursue excellence, which she values and cherishes and for which an opportunity exists, the lowering of taxes on her salary is a welcome measure. But it need not be necessarily dependent or *naturally* (on the basis of difference principle) lead to the lowering of taxes on the income of the taxi driver. Are both the contributions to be evaluated in the same scale?

In this case, the difference principle satisfies the normative concern of distributive justice. But, it does not actually address the dissatisfaction that has arisen in the mind of the academician. The way the good has been distributed may not be justice at all to the agent, in this case, the academician. Thus, neglect of desert does not solve the problems of distributive justice. It has to play a role in informing the principles of distribution. For Taylor, this Aristotelian position is unchallengable.

However, Taylor tones down his criticism of Rawls's theory of justice by arguing that his theory need not be in diametrical variance from that of an Aristotelian vision. It is possible for the general theory of distributive justice to exist amidst the specific local demands of justice. He emphasizes nevertheless the point that the common goods are to

be subjects of articulations and a *Theory* would make sense only with such stronger articulations.

From the discussion above of the common goods and the centrality of the notion of desert in a theory of distributive justice, it is evident as to how they advance the claims of communitarianism. Before concluding this section on Taylor, this transition from the shadow of Aristotle to donning the cloak of communitarian sentiments is to be noted.

The Communitarian Cloak

Taylor's self is communitarian. This follows, almost naturally from the foundations of Aristotelianism that his account presupposes. The idea of the self realizing itself with other selves, the common good and the political organization helping in furthering this common good and the importance of desert as a guiding principle of distributive justice reflect the features of the communitarian self, that Taylor has developed over the years.

Taylor, like MacIntyre believes that modernity is confused when it comes to incommensurable visions of good life. With the result, the ethical and political theories advocate an abstraction policy, whereby the good life is removed from the political discourse and replaced with procedures and rules whereby their lives will be governed. As Sandel notes in his, *Democracy and its Discontents*, this feature was very evident in the rulings of the courts. This has also led to the *disempowerment* of the self, wherein the latter finds itself in a situation that it has apparently chosen, but is not fully comfortable in it. These seeds of discontent are heavily borne by the individuals. Taylor's conception of the self would not allow for such a disempowerment.

It is to the credit of Taylor, that he recognizes the complexity of modernity. It is not a single polis with a homogenous population, which exists. The intercultural and intracultural diversity makes it extremely difficult to arrive at a common consensus on diverse issues. Indeed, politics has been an instrument in neutralizing large areas of differences and only bringing to the fore certain aspects of culture. This again has been a

cause for discontent in a number of countries.¹³ However, the challenge of these societies is greater today.

The challenge is to find that common ground that would procure the affirmation of people of such diversity. Interestingly Rawls is also responding to such a call. However, Taylor believes that to find that common ground one does not have to abstract from particularities. It is only through these particularities will the common ground be found. This is particularly so, given the nature of the self and its relationship with the society. As was noted in part I, above, the way the self is constituted is inextricable from any of its constituent features. This is an undeniable feature of the self. From this, the claim of communitarianism is derived which argues that the institutions have to recognize this aspect of the individual. Further, the principles of distributive justice have to allude to this nature of the self. Therefore, any effort at finding the common ground has to keep this in mind.

Having attempted a rudimentary discussion of Taylor's conception of the self and his subsequent problem with Rawls' theory, it is now possible to attempt an ordering of the main ideas of this chapter and thus move to the next chapter where the critical claims of the communitarians are contested.

The communitarian critique specifically targets the primacy of justice that Rawls accords it. For primacy of justice rests on a particular understanding of the self, which realizes that justice is primary virtue of social and political institutions. Both Michael Sandel and Charles Taylor have tried to show that this understanding of the self by Rawls is not adequate enough to show that justice is primary. Further, the account is bound to lapse into incoherence without a further explication of the self.

¹³ The multicultural critics of liberalism have raised this issue considerably. Their main target has been the liberal idea of neutrality, which advocates those specific concerns of cultural groups in the nation-state, should not enter the realm of public discourse. With the result, the institutions were arranged in such a manner that they benefited only the members of a majority community and severely biased against a minority community. This has caused sufficient discontent and movements which did eventually result in

In this chapter, the critique of Michael Sandel and Charles Taylor are presented as complementary halves of the communitarian critique, well aware of the danger of being anachronistic. However, the substantive aspects of the critiques render such danger to the periphery.

Michael Sandel's critique was the more substantive one in as far as directing his critique directly at the notion of self of Rawls's theory. He tried to show the contradictions within the *Theory*, which leads one to believe that the assumptions of Rawls's individualistic bias soon gives way to an unacknowledged community, which is actually at the heart of *Theory*. This being the case, the claims of a self, which is individuated in advance, falls apart. The 'unencumbered self', is shown to be encumbered with intersubjective elements which the *Theory* fails to acknowledge and thereby paying the price of coherence. For such a self, justice as derived by Rawls cannot be primary. It will be only one of the virtues. A possibly fuller explication of that self, which Sandel has not really elaborated, can be found in Charles Taylor's account of human agency.

For Taylor, the self is essentially an intersubjective self, which is in constant interaction with other selves. Infact, it derives its ontological status only in relation to these other selves. It derives the good only within this context. Devoid of the same, it would fail to exist. Hence, any theory of justice has to take into account this nature of the self. Principles can be derived only within the context of the self being situated. Abstraction and historical antecedence would be arrived at only at considerable price. For Taylor, this cannot and should not happen. Rawls's self lacks this situational element and also hides the notion of good, without explicating the same. In sum, a theory of justice has to be substantive and not procedural as Rawls argues.

Thus, these two influential critiques have cast a long shadow on the claims of Rawls. These are serious claims, which have to be considered in detail, in correspondence with the tools available from within Rawls's theory and that of his defenders.

liberalism revising its stand and allowing specific cultural concerns to have a say. These aspects form the bulk of multicultural literature that has been forthcoming for the last three decades or so.

CHAPTER - III

Critiques and Defenders: Contesting the Claims of Communitarians

The aim of this chapter is mainly two: To critically evaluate the claims made by Sandel and Taylor in their critique of Rawls and secondly, understand Rawls more clearly. Infact, these two aims would not be pursued separately as indicated above. It would be coterminous. Starting with a few preliminary remarks on the nature of critical assessments of Rawls, a response is attempted to the arguments raised by Sandel and Taylor. In Section – A, the first part of Sandel’s critique is addressed while in Section – B the second part of Sandel’s critique is addressed. The nature of these parts is explained in the introduction of Section –A. To a large part it is Sandel’s critique which is addressed. Taylor’s critique, wherever significant is mentioned.

Nature of Critical Assessments

Any critical assessment of a theory has to be sensitive to its critiques. For the danger of misreading or misunderstanding the critiques is always looming large in the background. This has to be clearly avoided. Therefore, it is better to be more rigorous with the ideas to be defended and more sensitive to the critiques. For it provides a favorable starting point and steers clear of charges of insensitivity.

Satisfying this condition of ‘sensitivity’ sets forth the conditions within which the issues are to be located and discussed. These conditions are mainly three: the import of the critiques must be fully enumerated before being critical of the same. Secondly, to avoid ambiguity, the critical issues that will be brought into sharp relief have to be stated very clearly. Finally, a good critical assessment will help in an elucidation of the thought or idea to be defended. In other words, a good critical assessment has to satisfy the three conditions of comprehensiveness, clarity and elucidation.

Luckily, much, though not all, of the literature available in discussing and assessing the communitarian critique of Rawls, satisfies these conditions. This would make it appear that the task of this chapter is made very easy. However, this is not the case. For though, there are strong arguments in critically scrutinizing and disclaiming some of the communitarian claims and consequently defending Rawls, an uncomfortable feeling lingers on. This feeling has to be elaborated.

Primarily, the critiques (read Sandel and Taylor) and defenders of Rawls, are engaged in a debate which has been framed by the communitarians. This means that the issues are raised by the critiques who have read Rawls in a particular way and then proceeded to critically probe into it. While, this is a welcome feature, as a theory (like that of *Theory of justice*) has to ultimately stand up to as many different perspectives as possible, there is also a worry associated with it. This worry is communicating to the critiques in their own language. The intuitive idea is that this has to be avoided. For it must be remembered that a particular reading may be off the mark and as such, a reply to the critiques have to include an argument as to why the particular reading is not called for in the first place. This would become more evident as the discussion proceeds in the following pages when the claims of Sandel are critically assessed.

Internalizing the critiques' categories has an effect of distorting the original idea and thought which perhaps needs more forceful articulation and exposition. This may not come from the author himself, but it has to come from the defenders. This is the source of the uncomfortable feeling. For the defenders of Rawls have just internalized the categories and readings of the communitarian critiques and respond to them in the same language.¹ There is a strong need to curb this tendency and move beyond the categories presented by the communitarian critiques, in order to fully appreciate the theory of Rawls. It must be remembered that a value judgment is not made here, by claiming that the categories of the critiques are inherently *wrong*. Rather, a critical assessment and a

¹ This would become more clear in the discussion that follows.

defence of a theory should not preclude a critical examination of the critiques' *categories* itself.

This leads to the discussion of the core issue of this dissertation. The question of the notion of *self* in Rawls. The communitarian critique depends to a large part in carving out a notion of self in *Theory* and appealing for its rejection. Simultaneously, they also plead for a positive case of a notion of self that is more hospitable to the claims of community. Thus, their critical discussion of Rawls depends centrally on the notion of self that they have read in Rawls. As Mulhall and Swift put it, '...we should at least be able to see how the original position puts the question of conceptions of the person at the centre of political – theoretical debate.' (Mulhall and Swift 1992: 10). The submission here is that the way Sandel and Taylor to a certain extent have read this notion into Rawls is misplaced.

This is where the question of the categories of the critiques' comes into question. The method followed here is a simple one. It begins by questioning whether there is a notion of self in *Theory* in the first place.² Questioning in this way enables one to strike at the root of the communitarian assumptions. If, in principle, the communitarian assumption is proved faulty, then their enterprise of critiquing Rawls would fall apart. However, this is not the sole aim of raising this question. The idea is to explore Rawls's *Theory* in those areas where the communitarians find him weak so as to understand them in their proper perspective.

Infact, this exercise of exploring Rawls can be done effectively by using Rawls's method of reflective equilibrium. Assume that the considered judgment (in this case understanding) of a theory of justice is given by the communitarians and a revision is made in the light of presentation of an alternative understanding of the theory of justice. The movement back and forth between these two positions would enable one to reach an

² Note that this question does not lead to a conclusion that there is no notion of self. Indeed, there is. Its constitution, scope and validity will be discussed subsequently. However, the point is to avoid conversing with the critiques in the framework that they have chosen. A substantive defence is free to frame alternative frameworks to make its point, without losing the relevance of the critiques claims.

equilibrium point. The significance of this point is that there would be considerable movement from both the starting points. Once this equilibrium point is reached, one is favorably placed to understand the *Theory* more clearly.

A few remarks are in order, with respect to the sources that is available from Rawls's writings. While it is true that, much of the communitarian critique focuses on *Theory*, it gradually extends to other writings of Rawls since 1971. With the result that the commentators have seen Rawls's writings as at least partly responding to the critiques. How plausible are these claims remain to be seen. This has also led to a situation wherein the defenders of Rawls tend to rely more on the subsequent writings of Rawls rather than *Theory*.³ The effort here would be to rely more on *Theory* itself, with helpful insights of the later writings. The belief is that this would be a sounder base for a viable defence of Rawls's position.

Having set out certain preliminary remarks about the method and the sources used, it is only appropriate now to carry forward the task of achieving the 'reflective equilibrium' in the place most favored by Rawls and his critiques- the Original Position.

Section – A

I

The arguments of Sandel will not be repeated here. It would suffice to note that Sandel's main theoretical problem could be separated into two. They are- the interpretation of the original position and secondly, the content of the two principles of justice. In the interpretation of the original position, he discovers the unencumbered self. In the content of the two principles of justice, he comes across an intersubjective self, which he claims that Rawls does not adequately recognize. So, Sandel claims that the mismatch between the two aspects leads to a breakdown of the foundations of *Theory*, which in turn

³ This is particularly evident in Mulhall and Swift (1992).

crumbles the primacy of justice that Rawls claims. In this section, the focus would be on the first aspect of Sandel's critique.

The Original Position – Recruiting the Self

The most common entry point for the critiques to read a particular notion of self in Rawls is that of the original position. The description of the parties in the original position has led many to believe that it is a representation of the self without any constitutive attachments that deliberates on the principles of justice. The important question is, whether the parties can be considered as representing a particular notion of self as Sandel claims. The answer that would be defended here is no. It would be useful to examine Rawls's text more rigorously to substantiate this answer.

The exact status of the parties is never specified fully by Rawls in *Theory*, at least. Introducing the main idea of the theory of justice, he says, that '...we are to imagine that those who engage in social cooperation choose together, in one joint act, the principles which are to assign basic rights and duties and to determine the division of social benefits.' (Rawls 1971: 11). Here, the word 'imagine' and the phrase 'those who engage in social cooperation' is significant and needs to be noted. For the act of choosing the principles of justice is undertaken from a position that is hypothetically constructed. Further, social cooperation is taken as an inevitable norm as '...[it]. makes possible a better life for all than any would have if each were to try to live solely by his own efforts.' (Rawls 1971: 126). The idea, therefore that gets distilled from these two propositions (imagining and social cooperation). is that in order to have a meaningful life together in a society, it is essential to agree to certain principles that would be integral to the public institutions. However, the agreement on the principles cannot be a prudential agreement or one based on the existing social and natural contingency. It has to stem from a position of equality. This position of equality is represented by the original

position, through a *construction* of persons in that position. In other words, it has to be imagined.⁴

An additional feature of the original position is the 'veil of ignorance', whereby the parties are precluded from having any information that would particularly bias their decisions towards a specific self interest. Here the knowledge of one's class, caste (if applicable)⁵, gender, social status etc. is ruled out. (Rawls 1971: 136-142). The parties are to affirm the principles of justice given these constraints, which Rawls calls as the constraints of the priority of right.⁶ (Rawls 1971: 130-136).

Sandel takes this *construction* to be representative of people found in a society. For he concludes his account of the self in the original position by saying that, '...justice cannot be primary in the way deontology requires, for we cannot coherently regard *ourselves* as the sort of beings the deontological ethic requires us to be.' (Sandel 1982: 65). [Emphasis added]. That Sandel uses the word 'ourselves' is significant. His worry is therefore, if the original position is a *mere* device of representation, then why and how can one agree to such a device? Especially, a device that does not seem to incorporate any tangible features of a self that the latter is otherwise familiar with in daily life. In other words, this worry translates into the question- how is it possible to imagine oneself in such a situation, as the original position, being as it were *thickly* constituted by all the constituent traits of the self? The moot point here is the constitution of the self and how is one to understand the same.

⁴ Sometimes the simplicity of Rawls's arguments is easily overlooked. Yet, they are powerful when adequately recognized. Rawls is not stating a profound truth. It is a simple fact of life that co-operation is definitely a better norm than constant feuds. The question naturally therefore is how to achieve co-operation in a manner best acceptable to all.

⁵ Rawls does not specifically mention caste. However, he does explain how from the original position the rational parties will not choose caste as a form of organization. He explains that 'The natural distribution is neither just nor unjust; nor is it unjust that persons are born into society at some particular position. These are simply natural facts. What is just and unjust is the way that institutions deal with these facts. Aristocratic and caste societies are unjust because they make these contingencies the ascriptive basis for belonging to more or less enclosed and privileged social classes' (Rawls 1971: 102).

⁶ A discussion on the priority of right over good will follow later.

There are two ways in which one can disagree with Sandel and state the case of Rawls's exercise more forcefully. One is to stress the objective of the device of representation, that is the original position and the veil of ignorance. The objective is to arrive at a decision to regulate the basic structure of society's public institutions. In a liberal society, it is understood that the public institutions have to be fair and impartial in its conduct and interaction with its citizens. Given this understanding, it is only natural that the procedures governing the institutions be arrived at in an equally fair and impartial manner. One way of doing it is through the device suggested by Rawls. Two, a way to ensuring fairness and impartiality in the governance of the institutions has to be arrived at keeping in mind the multiplicity of plural conceptions of the good present in a liberal society today. It is extremely difficult, if not impossible, to agree on an agreement on principles of justice, if each conception has to be taken into account. This raises the additional problem of how many conceptions and what aspects of the same have to be considered. This leads to a recursive series of questions that is interminable. To avoid this cumbersome process, a veil of ignorance is designed to arrive at what can be called - as 'elemental commensurability' between the different conceptions of good. An understanding of this elemental commensurability ensures that the parties recognize each other as having a claim that cannot be overridden.

For Rawls, this is a crucial difference between justice as fairness and utilitarianism. The latter tries to find this ground of common interests between persons by ascribing to each person a psychological propensity to acquire pleasure and to avoid pain. Thereby, computing a uniform conception of the good to all. The problem is, though it is supposed to be applicable to all, it does not get distributed equally. This is because it is possible to have a system functioning, under utilitarianism, which favors the majority of people having a particular preference over a minority who may have a different preference. Recognition is crucially lacking in utilitarianism. Rawls has explained this by saying how it fails to acknowledge the distinctness of persons.⁷

⁷ The theory of justice was in the first place intended as a systematic coherent articulation of an alternative to utilitarianism. 'During much of modern moral philosophy the predominant systematic theory has been some form of utilitarianism' (vii). At different points therefore, Rawls arguments take the specific form of distinguishing it from the utilitarian arguments. It is therefore very difficult to summarize his problems with

For Rawls, the status of the persons 'constituting' the original position does not really matter. Michael Walzer admits as much when discussing the communitarian critique of liberalism in general, that, 'The central issue for political theory is not the constitution of the self but the connection of constituted selves, the pattern of social relations....'⁸ (Michael Walzer 1990: 21). The sole object of the exercise is to argue for the two principles of justice and how it is proved that it is better than the alternatives offered either by utilitarianism or perfectionism.⁹ The two principles of justice are derived more from the constraints placed on the scheme of choice available, rather than a specific conception of the person. In other words, the theory of justice does not depend on a conception of the person or a self to give rise to the principles, much less an unencumbered self.¹⁰ William A. Galston, in quite different circumstances¹¹ also alludes

utilitarianism. What is meant here is that utilitarianism conflates the desires of all into one and presents a theory. In other words, the choice decision of one, which is rationalized, is extended to the entire society as the choice decision of all rational persons. For instance, if the rational choice rests on pursuing excellence, then the system of rewards and punishment will function in such a manner that it rewards excellence of a certain kind and thereby completely ignoring other spheres of life. This is why Rawls says that 'utilitarianism does not take seriously the distinction between persons.' (Rawls 1971: 27).

⁸ In the same article, he goes on to add that 'Liberalism is best understood as a theory of relationship, which has voluntary association at its center and which understands voluntariness as the right of rupture or withdrawal.'

⁹ It is true, however, that the model conception of the person occupies an important role in his ideas since the 'Kantian Constructivism in Moral Theory', (1999: 303-359).

¹⁰ It is interesting to ask the question, if the *Theory* does not depend on a notion of self, then does it depend on a notion of community or some other form of social union? Only a tentative answer can be attempted here. The edifice of the theory of justice is located in certain intuitions and beliefs of the liberal practices of some of the democracies of the world. By not formulating a very specific conception of a person, Rawls avoids the debate of characterizing that person. He leaves this area of conception of person open in such a manner that it is possible to find the idea of justice as fairness as attractive, irrespective of the conception of the person that each one may possess. To preempt the conclusion of this dissertation partially, it is possible for a communitarian conception of the self, considered to be embedded in social practice to find this idea attractive. However, there is one area of ambiguity that still remains. That area is the distance between a particular moral comprehensive conception (like the communitarian one for instance), and the idea of justice as fairness as another comprehensive conception. Rawls is very clear that he does not intend his theory to be a comprehensive conception like that of the other conceptions. In order to bridge this gap, he takes recourse to specifying the political nature of his arguments, rather than stating it baldly as just another moral conception. This forms the core of his *Political Liberalism*.

Returning to the main question asked here, Rawls formulates a coherent conception of an idea of justice that would appeal to individuals and society at large with all their attendant complexities. It therefore does not depend on a *particular* conception of the person or the society. Like all normative theories, it has a vision (for instance, his famed 'social union of unions'). But the underlying structures are profuse with assumptions that are deep rooted and are irreducible to either an individual or a community.

¹¹ Different circumstances here means that his argument in this article takes the form of differentiating Rawls's theory of justice from his Kantian Constructivism in Moral Theory. (1999: 303-359). He understands the difference as the conception of person assuming prominence in the latter, and not in the

to similar thinking, when he remarks that, 'In a *Theory of Justice*, then, an ideal of the person enjoys at most derivative status. Choices in the original position generate principles of justice, which may in turn be employed to define a "partial ideal of the person." The ideal of the person is not the foundation, but rather the outcome, of the theory of justice.' (William A. Galston 1982: 496).

Indeed, consider if the theory of justice were to be restated in a form devoid of the original position and the veil of ignorance. The consequences would be interesting. For one, the theory would lose its moral content but not the substantive content. The argument for equal liberty and equality of opportunity along with the difference principle would lose its moral flavor but considered from a perspective of indifference (as it were), then it would still stand on its own merit. For, intuitively the ideas of fairness and impartiality appeal to one's senses. Similarly, if given an option to choose between utilitarianism in its classical or neo-classical form and justice as fairness, it is highly possible that the choice would be on justice as fairness, for its substantive appeal is much more comprehensive than the other option. The *Theory* could have been stated in such simple and straightforward terms. However, justice is a moral issue. It needs to make an argument to show that a society's public institutions cannot rest on an understanding derived from calculating the pros and cons of a particular choice. Rather, it needs a deeper argument to believe in those institutions and the values on which it builds. Only this can secure a firm bonding and commitment of the people. Rawls is clear that such a morality should incorporate the values of liberty and equality and accordingly prioritized.

Having noted the requirement of the original position in terms of lending moral credence to the entire exercise of formulating principles of justice, it is now imperative to make the link between a person living in a society at a particular point of time and the theoretically defined individuals of the original position. Amy Gutmann's point is valid here. She remarks that, 'The resulting principles of justice, then, clearly rely on certain contingent facts: that we share some interests (in primary goods such as income and self respect),

former. While it is true that a conception of the person is discussed extensively by Rawls here, it is not possible to agree with Galston's substantive conclusions in the article. However, these cannot be discussed here.

but not others (in a particular religion or form of family life).; that we value the freedom to choose a good life or at least the freedom from having one imposed upon us by political authority. *If we do not, then we will not accept the constraints of the original position.*' [Emphasis added]. (Gutmann 1985: 312). Sandel however, makes a connection between a general understanding of liberalism's conception of the individual and society and its representation in Rawls's original position. Sandel does not perceive any break between the two. The question is - Is this valid?

No. Sandel conflates the distinction between the motivation of a theory of justice and speculative consequences¹² of a theory of justice. By assuming a unilinear relation between the constitution of the parties in the original position and the kind of society that such constitution would lead to, is a disastrous connection to make. This distinction can also be stated in terms of liberal theory and practice. In the practice of liberal theory, one finds that there are various restrictions and conditions associated with the freedoms guaranteed under a liberal Constitution. Liberalism flourishes best when it functions under reasonable limitations. However, this does not obscure the moral and the normative dimension of liberal theory, which promises much more than it can actually achieve. Rather, it is this vision that informs and enriches the practice of its ideals and values.

The original position is a way of argument to establish the moral and normative dimension for a theory of justice. As argued earlier, it has a persuasive force and on consideration, it has an attractive appeal. This is the point. Further, it can appeal not only to a liberal perception but also less liberal perceptions.¹³ The consequences of the theory may not result in which Sandel fears, namely a community of total strangers. For the theory is designed to regulate a society and not merely individuals. The element of the social is quite strong in Rawls. Exactly how this is so will be pursued elsewhere.¹⁴

¹² Use of the phrase, 'speculative consequence' is deliberate here. It simply means that consequences of the theory of justice as Sandel seems to understand is at best speculative and not grounded on a proper understanding of the theory.

¹³ How far this is plausible depends on the extent to which perceptions are less liberal. Further, it is necessary to qualify liberal here. It means in the broadest possible sense, respect for individual rights, integrity and dignity along with certain basic civil rights and equality.

Further, the self has varied features that constitute it. It is very difficult to even begin enumerating on all its various aspects. Given such heterogeneity within one 'self', it is but natural that certain features assume salience when discussing matters that affects the self. So, for instance, when discussion centres on playing a game of cricket, the aspects of physical fitness, natural talent to suit the various specifics of the game, keen sense of the game, etc. would be taken into account. Accordingly, a discussion on the player's religious belief or his customary practices of his family would not be taken into account. In the same vein, Rawls argues that justice as fairness has to consider certain features of the self that would not be all inclusive of that self, but rather is just enough to help the self agree to the principles of justice. In this process, the identity of the self is effaced. This is required to bring out the resultant features of justice as fairness.

Herein lies the crucial point between Rawls and the communitarians. Given the object of Rawls's enterprise, which is to regulate public institutions according to the two principles of justice, what should be the character of these institutions? Can these institutions embody the constitutive features of the self, which may be given by its community? Would such a system be more welcome than the one that Rawls is proposing? The belief here is that this issue divides Rawls and Sandel (and generally communitarians) with respect to the status of the self in the original position. For Sandel seems to believe that since a self is 'asked' to move away from its constitutive features and rely on certain cognitive faculties like rationality, it completely ignores the complexity of the socio-cultural framework within which the self is located. However, Rawls's position is more complex than Sandel recognizes.

The issue is not to completely dissociate the self from its constitutive features to arrive at a consensus. Rather the more difficult task is to work through these features to find a common ground on the basis of which a consensus can be reached. This difficult task can be done in two ways. One is an empirical approach and the other is a conceptual approach. The former would include conducting an empirical-historical survey of all the leading conceptions of good life (provided of course that they are easily articulate). and

¹⁴ This point is discussed in Section – B which follows shortly.

then find a common ground among those conceptions. However, this is an extremely difficult if not impossible task. For one, it would be a *modus vivendi*. It would be an arrangement born out of compulsion and based on contingencies that can change any time. Once the contingencies change, then the arrangement automatically changes. This would result in a division of benefits and losses with the latter not being compensated. Rawls's argument is that given the intuition that generally there should not be losses, but if it occurs should be compensated, it is essential that the consensus be reached in a different manner.

Conceptual approach takes the differing conceptions of good life as units, which has certain features. These features mark the distinguishing element that is reflected in the practices of the individuals of that conception. Thus, for instance, a Catholic religiously going to the church and a Protestant not going at all. Now, at the root of these differing practices lies an identity of interests, namely to practice what one believes in (whatever the form of the practice). This *ability* to practice what one believes in is taken as a cognitive unit that serves as a reference point to enable an understanding between differing conceptions of good life.

However, it should be remembered that moral theory makes use of minimum assumptions to arrive at a principle that would best generate the desired results. In this respect, it is just enough to assume that human beings as a species are capable of exercising certain faculty of theirs. Say, rationality for example. Now not all humans are rational. Similarly, not all rational humans are always rational. Some of them may not even be able to exercise their rationality, due to circumstances. In this case, it is reasonable to assume from the point of original position that humans are rational, because it is required to arrive at the two principles of justice. Once they are in place, it can now be seen how to deal with the various contingencies that arise from inadequate exercise of rationality or deliberate non-use of rationality. The real challenge will stem when this ability to be semi-rational or non-rational is shown to be so pervasive and influential that

they can give rise to principles of justice that are stable in the long run and mutually beneficial to everyone. Until then, it is quite safe to assume that humans are rational.¹⁵

Returning to the conceptual approach, it is only by such a process of distillation that a reasonable ground can be reached from where it is possible to arrive at a consensus.

With this preceding discussion, at least one point must be clear. That is, the unencumbered self as described by Sandel is not that unencumbered after all. Indeed, it is not even a self the way Sandel considers it to be and certainly it is not imagined to be devoid of all the constitutive features. The parties in the original position cannot be regarded as representatives of individuals in all their manifest characteristics. Similarly, the restrictions of the priority of right in the original position are not reflective of restrictions that actually operate daily in the society. One must not even attempt to understand the theory that way.

The focus thus far has been on the status of the parties in the original position. Disputing the claim of Sandel that it is an unencumbered self, the argument here has tried to show that it cannot be interpreted that way for two reasons. One, the original position has to be understood as a device of representation (Rawls 1999: 401). as representing not the self as it exists in the society, but rather as a choice problem which exists to choose a best option for the basic structure of the society. Secondly, the original position along with veil of ignorance is favored because it actually works through the different conceptions of the good as units and distills certain basic capabilities on the basis of which a reasonable ground is established and a consensus reached. In this sense, it is not unencumbered. However, Sandel's unencumbered self contains much more.

¹⁵ Of course, it is important to understand what rationality means in each case or in each theory. Rawls uses it strictly in the economic sense. In *Theory*, Rawls's specifically mentions that rationality has to be understood in the strict economic sense, wherein one is making a choice between alternatives under constraints. The best choice that would result by considering all the possible outcomes of those choices is then understood as a rational decision.

II

The Avatars of the Unencumbered Self – Priority of Plurality, the Right and the Primacy of Justice.

Sandel's primary objective is to displace the primacy of justice that Rawls ascribes to. In this respect, he makes three important hierarchical connections. They are of the priority of plurality over unity, the right over the good and therefore the primacy of justice over other virtues of a society (for simplicity sake call it the three priority connection). Underlying these connections is the notion of the unencumbered self. For this self which is supposedly devoid of its constituent features exists independently and prefers procedures over substantive conceptions of the good which makes way for the deontological priority that Rawls wishes to affirm for justice. Further, in the explorations of *Theory*, Sandel argues that the three priorities give way to a direct reversal of at least the first two priorities and by implication the third.¹⁶

In this section, an attempt will be made to argue that the three priority connection and their subsequent reversal does not hold ground, for these three connections depend overwhelmingly on the notion of the unencumbered self. Once the idea that the parties in the original position are not the selves as claimed by Sandel is understood, the remaining priorities and their subsequent reversal can also be stalled. Indeed, the debate then centers on whether one accepts the deontological notion or the teleological notion. The belief here is that there is no viable rival to the deontological priority as specified by Rawls at least. To validate this belief one really now has to get into the architectonic details of the Rawlsian theory. So, the three priorities along with their implications are taken into account and seen how their reversal does not happen as claimed by Sandel.

Priority of Plurality over Unity

An effort will be made to sketch the skeletal frame of Sandel's arguments. The moot point is that the parties in the original position are characterized in such a manner that

¹⁶ Though what exactly replaces justice is not clear in Sandel's writings.

they have an identity of interests and conflict of interests. Of particular importance is the conflict of interest. This fact ensures that there are plural persons in the original position each having a different conception of the good. The image is thus created of such differentially interested persons who come together and in 'one joint act' *choose* the principles of justice. However, Sandel continues, that there is really no choice made by the parties. For the original position is simply structured in such a way that the principles that Rawls enumerates will be acknowledged. There is no element of choice really. Further, since the parties constituting the original position are similarly situated, Rawls's assumption of plurality is brought into question. The selves are not really distinct as claimed by Rawls. Their distinguishing features have been rescinded from them. In such a situation how can the selves be really different? (Sandel 1982: 122-132). So, Sandel claims that Rawls's enterprise of according priority of plurality over unity of selves falls apart.

Reclaiming Plurality

Since identifying a particular notion of the self or the person is extremely difficult in *Theory* and much less so in the original position, a strong case exists to argue for the presence of plurality rather than a unity of self as claimed by Sandel. It is important to remember the motivation of the parties in the original position, which is to come to an agreement on certain principles of justice (given a choice from a family of principles), in order to accommodate the plurality of conceptions of the good. Restrictions are placed in the form of veil of ignorance such that the two principles of justice are chosen. Since these restrictions are uniform and they apply to all, an impression is generated that after all there must be just one self. For where is the plurality in this case?

This question raises a very interesting point as to how should plurality be represented. Plurality is in terms of contending conceptions of good life. Real life choices, preferences and ways of life are very different. Yet, all of them are faced with a unifying question.

The question of organizing their political life.¹⁷ This lends credence to the idea of a uniform imposition of the veil of ignorance. Plurality of conceptions does not imply a plurality of human faculties.¹⁸ That is why it is possible to conceive of the parties in the original position as having a identical interest in identifying principles of justice and yet having different conceptions of good life.

Rawls is very careful in not conflating the many into one. Infact, this is the charge he raises against the utilitarians. As he explains the main difference between justice as fairness and utilitarians is this. By ascribing pleasure and pain as the sole determinant for a person's well being, the entire sum of all utilities (utils in other words). is added up and divided among the persons. This principle guides the functioning of the system. Interestingly, the persons choosing this principle, themselves are considered as a single unit. In such a system, no individual alone has a stake. As a member of a particular group, a person may flourish or as a member of another group, a person may also suffer. Further, in its actual functioning, no aggrieved member will be able to redress grievances because the root of the problem cannot be found. There are only utils and not persons. This is a serious problem with utilitarianism. Contrastingly, justice as fairness takes into account the distinctness of the persons in the following way:

Firstly, among the few things that the parties are aware of is the notion of primary goods.¹⁹ An important aspect of the primary good is that of the social bases of self respect. This is very significant. For the provision for an esteem of the self is built into a primary good which in turn is built into the original position goes a long way in protecting the salience of the individual. This proves itself as an important layer barricading the conflation of the many into one. Secondly, it is possible to identify the

¹⁷ The use of the word political is deliberate here. Indeed Rawls himself claims in an article that in justice as fairness he failed to stress adequately the political notion of his idea- *Justice as Fairness: Political not Metaphysical* (1999: 388-414). A number of critics claim victory by saying that Rawls's above mentioned article is a response to their criticisms. However, the belief here is that there is sufficient scope to interpret *Theory* to include a notion of the political.

¹⁸ Of course, human faculties can be very creative. They may be extraordinary and rare. Yet, they are not of interest in the question of the basic structure and theory of justice. What is required is a simple ability to recognize a need for organizing a society in terms of certain principles.

¹⁹ Primary goods will be discussed prominently when dealing with the second priority of the right over the good.

breach of provisions of the agreement. Each one agrees well in advance that they would abide by the provisions and no one will take undue advantage of any scope for exploitation. (1999: 60-61). This leads to the third condition, namely, that of publicity. It is public knowledge among all that these are the provisions of the agreement. No one is in the dark about the agreement. Everyone is fully aware of the conditions of the agreement and the consequences of the agreement. Importantly every one has a stake in the system that will be agreed upon. These three ideas are built into the original position to prevent the mistake of the utilitarians. Thus, the principles that are agreed upon is a result of fair procedure that has arisen from conditions that are fair from a position where everyone knows about it.

Of course, the consequences for each individual in the system after the veil of ignorance is lifted may be different. However, each one is aware of the fairness of the system and has no grievance on the ground that she had not known about it. The conditions of the original position reflect the plurality of the persons involved but does not in itself incorporate plurality.²⁰

Priority of the Right – Alienating the Good?

In some ways, the distinguishing feature of deontology from that of teleology is the idea of the priority of the right, over the good. This means that institutions have to be regulated by a procedure that is necessarily prior to people pursuing different conceptions of the good. For Sandel, the priority of the right over the good marks a crucial bridge between Rawls's concept of the self and affirming the primacy of justice. Accordingly, this priority incorporates two features. One is the idea that the self is prior to the ends it chooses. Secondly, the notion of primary goods as revealing a thin theory of the good as opposed to a thick theory of the good. Sandel's contention is that the self cannot be considered antecedently to the good that it affirms. He argues that the self in Rawls eventually takes refuge in an intersubjective notion of the self as also a notion of community. This latter point will be taken up in the next section. As for a discussion on

²⁰ Indeed, if this were so then different groups in the original position would settle with different principles!

the notion of primary goods, Taylor's viewpoint will be addressed, since Sandel does not specifically discuss this aspect.

Recovering the Distanced Self

Sandel contends that the self in the original position is so barren of all its constituent traits and yet is antecedently united. This self is also prior to the ends it chooses. He quotes extensively from Rawls to show how this self is antecedently united. The argument that is advanced here is that Sandel is mistaken in identifying the self in this way. Earlier, in the discussion of the unencumbered self it was seen how the self is essentially not unencumbered and indeed, it is not even a self in the way Sandel supposes it to be. Here the same discussion will be developed and understood more clearly.

In the process of recovering the distanced self, a critical point to focus would be the idea that the self is prior to the ends it chooses. This calls for some explanation. It should be remembered that the term 'self' is used by Rawls while discussing the notion of the good that he deems appropriate to the notion of the right that he enumerated earlier. The idea was to fit a notion of the good with that of the right such that there is stability in the system. So, the way Rawls addresses the notion of the self is very different from the way Sandel understands it to be. Rawls is not addressing a particular notion of the self as in first person terms or in terms of an identity. He very consciously rescinds from building up such a notion. In the analytical construction of justice, it is important to prioritize the right over the good as different from a teleological tradition. Therefore, the person in the original position cannot be thought of in a *strong* manner. Rather, it has to be 'weak'. This means that the faculty of the parties should be accepted by all and if not, at least they can be persuaded to accept that position.

In remarking such, Rawls is treading a very delicate path. He is traversing between the two assertions of complete abstraction (as of Kant for example) and that of describing the parties in almost first person terms (as desired by Sandel for example). It is important to realize that he does not fall into either of these traps. The reason is straightforward. If he

takes the Kantian route, he risks running counter to his own methodology. For remember that the entire exercise of reflective equilibrium is related to formulating certain considered convictions and interestingly intuitions regarding justice. As was noted earlier, Rawls relies extensively on the resources of the democratic culture and practice witnessed for at least two centuries in America. If he has to tap that resource, he cannot accept the Kantian position. Similarly, if he accepts a Sandelian position then his account of the theory of justice would have to be re-stated in a teleological form. For a person considered strongly with all her attributes, her good would assume foremost importance. However, Rawls is very clear that teleological conceptions have serious limitations when thinking about the justice of the basic structure of society. Therefore, the parties in the original position are constituted by factors that are empirically sustainable but do not depend on empirical sources for its validity. There is a very thin line of difference here but nevertheless it is important to explain Rawls's position.

Returning to the idea that the self is distanced from its ends, it is a conceptual distinction that need not be supported by empirical validity. The guiding idea behind such a conceptual distinction being that the self is not *reducible* to the ends it pursues. This idea of irreducibility has to be fully understood in order to appreciate Rawls's position. This point has been totally missed by Sandel. Indeed Sandel admits as much in his book that the self's identity is only partly constituted the community, as pointed out by Kukathas and Pettit (Kukathas and Pettit 1990: 108). Rawls understands that the self cannot be described in some terms which best conveys its conception of the good. Such description will always be limited for a variety of reasons. Such limited descriptions cannot pave the way for constructing the theory of justice. One of the features of such a construction is that the scope of application of the assumptions and distinctions used may be limited. But within that scope, it has to be ensured that it is more or less comprehensive to achieve the desired result. However, a theory cannot be built on assumptions and assertions, which are broader in scope but limited in its application. It is this methodology of Rawls that Sandel completely misunderstands and makes the statement that the self is completely devoid of all its contingent characteristics and is *free* to choose its conception of the good and thereby ensuring that the self is prior to its ends. This conceptual distinction that

Rawls makes should not be extended as if Rawls believes that the ends are really chosen from a given self, antecedently situated.

Another related argument that this distinction between the self being prior to the ends incorporates liberalism's argument for freedom of individuals, is also misplaced. Rawls does believe that revisability of one's ends is one of the important faculties of persons. He makes this argument because it is consistent and compatible with the larger argument of the *Theory*, which guarantees liberty and equality. Revisability of ends is a part of the liberty guaranteed by the basic structure. Nobody should be denied the opportunity, if it exists, to revise one's ends. For one's ends are only revised when one feels a *strong urge* to do so.²¹

Further, revisability of ends only happens when the self is feeling a 'want' that is not adequately addressed by the current pursuit of ends. Perhaps cognitively, the self is not able to associate and feel a part of the end that it is pursuing. Therefore, it looks for an alternative and once it has found one, it appropriates it. The moot point is that the self has discovered a 'want' only because it has involved itself with the ends, and not *distanced*. For if the self is really distanced from the ends it pursues, it is very much possible that the self is not at all interested in revising its ends.²² The argument therefore is that Rawls does not need the priority as expressed by Sandel, of the self being prior to the ends, to argue for a freedom of the self to revise its ends. To the contrary, it is the involvement with the ends that enables the self to think about revising its ends.

In sum, a conceptual distinction does not translate into an empirical distinction wherein the self is considered detached from its ends. The conceptual distinction is arrived at to showcase the principles of justice as emanating from sources that are limited in scope but

²¹ It must be understood that revisability of ends is easier said than done. Whatever the nature of the change, it is extremely difficult to revise one's ends and follow a completely different one. It requires tremendous ability and willingness to live with the change. For example, consider an artist who has spent many years in training herself to be an artist and due to lack of any opportunity decides to switch to business management. One can well imagine the number of years it would take her again to settle down with this adjustment. It may happen slowly. Probably may not as well. It is really scary.

²² There is a possibility that in this case the self may change its pursuit, but that would be a result of contingent preferences and not a self-motivated preference, which it is in the former case.

comprehensive in nature rather than emanating from sources which are broad in scope but limited in nature. Further, Rawls recognizes that it is because the self is attached to its ends in a complex way that the first assumption was made, namely that the self is not reducible to a single end.²³ Linked with this is also the fact that the self might choose to revise its ends. This is guaranteed by the principles of justice anyway. It does not depend on a false empirical distinction of the self being prior to the ends as Sandel claims.

A Brief Note on Kymlicka's Revisability of Ends

It is worth noting Kymlicka's answer to Sandel's charge that the liberal presupposition of self being prior to its ends is false. Kymlicka notes that, 'What is central to the liberal view is not that we can *perceive* a self prior to its ends, but that we understand our selves to be prior to our ends, *in the sense that no end or goal is exempt from possible re-examination.*' Again, '...I can always envisage my self without its *present* ends. But this doesn't require that I can ever perceive a self totally unencumbered by any ends...' (Kymlicka 1989: 52-53). [Author's Italics].

The argument here is slightly different from the one advanced above. Kymlicka agrees that the conceptual distinction between the self and its ends is advanced not to distance the two in irreparable terms, but to understand that the two are linked together. Further, it is not possible to conceive of the former without the latter.

However, lurking behind in the shadows of this argument is an implicit acceptance of Sandel's distinction of the self being prior to its ends. The core of Sandel's argument is to drive a wedge between the self and the ends it pursues. The effort undertaken in the above section has been to remove it very carefully such that the self and the ends are not really seen separate together.²⁴ However, Kymlicka's argument implicitly reinforces that distinction. By emphasizing on the aspect of re-examination of ends, Kymlicka makes use of the *space* generated by Sandel between the two. This does not damage Sandel's

²³ This was the mistake of the utilitarians, which is mentioned repeatedly by Rawls.

²⁴ As has been argued, conceptual separation does not mean that they are *actually* separate.

argument as such, rather it provides one more option for Sandel to critique Rawls. Sandel can respond by saying that if re-examination of ends is meant, then the self has to be identified independently of its ends. Kymlicka tries to circumvent this counter argument when he says that, '...the process of ethical reasoning is always one of comparing one 'encumbered' potential self with another 'encumbered' potential self.' (Kymlicka 1989: 53). However, more explanation is required as this raises a number of questions.

How does a self with a particular set of ends conceive of another set of ends? How does it come across the tools of re-examination? Does it come across from within the given set of ends or does it come across by contact with another self or a collective having a different set of ends? If so, how does it negotiate within the 'given' set and the 'new' set? The point about raising these questions is to indicate that Kymlicka conceives of the problem about the self being prior to the ends in a very simplistic manner.

For Kymlicka, the self is bound to its ends, but the set of ends keeps changing. This is inconsistent with the Rawlsian argument of assigning equal weight to the ends that the self might pursue. For by implication of Kymlicka's argument, the ends have to be taken into account in the original position. In other words, he agrees that the self is not antecedent and has to be related to the ends, which means that the self cannot be considered independent of its ends even in the original position. Curiously, by arguing for a defence of Rawls, Kymlicka lands in the opposite camp by arguing in the language of Sandel!

It is in order to avoid the trap that Kymlicka falls into, the argument was advanced that the self is considered to be irreducible to the ends it pursues. This still does not give the scope for the ends to figure in the reasoning that takes place in the original position. Further, it was also argued that the self is related to its ends and only *then*, it is possible for a revisability of the ends. Therefore, Sandel's priority does not come through successfully.

Before concluding this brief discussion on the self, being prior to the ends, it would be useful to look at the significance of the conceptual distinction of the same and examine if it is strongly linked with the idea of the right being prior to the good. As mentioned earlier, this connection is very crucial for Sandel, wherein he links the deontological priority of the right to a need to sustain an unencumbered self that is deemed prior to its ends. Is this connection valid?

No. Sandel makes a mistake in overlooking a very basic distinction that exists between the two ideas of the right being prior to the good and that of the self being prior to its ends. The notion of the priority of right is an *analytic* argument designed to secure equal protection to all to pursue their respective conceptions of the good as long as it is not in violation of the two principles of justice. Whereas the notion of the self considered prior to its ends (in a Sandelian sense) is an *epistemological* argument that strives to delink the self from its ends so as to ensure a supra-empirical status to the self. This kind of a distinction would hold good for discussing Kantian metaphysics and not Rawls's original position. Further, this epistemological argument cannot sustain the analytic requirement of securing equal protection to all who are pursuing different conceptions of the good.²⁵ For, if all the selves were considered independent of its conceptions of the good then it would create a tyranny of the sphere of the good. Because in this sense, there is no discussion on the notion of the self, as it is antecedently decided. The discussion can only center on the goods that people pursue.²⁶ Clearly, then Rawls's theory cannot be understood the way Sandel wants it to be.

²⁵ It would be appropriate to further qualify this statement and say, all reasonable conceptions of the good, keeping in mind the revisions that Rawls makes later in his writings.

²⁶ This line of argument can lead to interesting conclusions. For consider, if the self is antecedently individuated then the goods that people pursue would be subject to analytic scrutiny. In the process, whatever the standards used to analyze the conception of the good, inevitably a notion of hierarchy develops between them. Thus, this hierarchy slowly would lead to demeaning the persons involved. A good example would be that of the caste system. For the perception existed, that caste system is nothing but division of labour between the four castes. In the Rig Vedic time, it was possible to be a *shudra* and still live with dignity. However, over a period of time, the work or the profession itself developed a hierarchy between them and soon those performing so called menial tasks were relegated from the main social sphere. Therefore, the main contention here is that if Rawls's self is antecedently individuated, then these conclusions are likely to follow.

The link between the self being prior to the ends and the right being prior to the good is thus falsified. These are two distinct priorities. While the former has to be understood as a conceptual distinction so as to avoid reducibility of the self to a single good, the latter has to be understood as an analytic requirement of the theory of justice. The two does not necessarily correspond to each other.

This leads to a question as to whether a notion of the good is not at all present in the theory of justice. Critics have alleged that the entire theory assumes a liberal way of life as a good that is worth pursuing and therefore the entire exercise of the deontological priority falls apart. The short sightedness of this critique is not too far to seek. Rawls's enterprise is not God like. By this, it is meant that he is not trying to create a new world wherein each one would be free and equal and everybody would work for the benefit of oneself and of others. To the contrary, Rawls is trying to provide a defensible set of propositions on the basis of which one can reasonably be persuaded to consider the theory. He is also drawing the resources from the history of liberal practices that have been found abundant in many countries of Europe and in America. He has been able to tap the resources and bring it forward fruitfully in an intelligent way by analytically constructing a theory of justice. Moreover, his task was to define a theory of the right in such a manner that it would appeal to people who are pursuing different conceptions of the good. Of course, the 'good' that his theory advances may be a liberal one. However, it is not a comprehensive moral conception that has to be adhered to by everybody. It is a moral conception to the extent that everybody knows it, recognizes it and accepts it, in a well ordered society. This does not mean that everyone *should* accept the liberal goods in totality. But only to the extent that it extends to the sphere of the right.²⁷ As far as whether this reverses the priority of right that Rawls seems to be advancing, it does not appear so. Yes, the priority of the right includes a certain conception of the good, as it does not exist in isolation from the good.²⁸ However, it is important to understand what kind of good is advanced here. This good is not determining, though influential. It is

²⁷ Rawls does mention that this aspect does not come out clearly in the *Theory*, which is why he felt the need for a change in *Political Liberalism*.

²⁸ This is discussed further in Chapter IV.

indicative and procedural and not suggestive and substantial. It has a moral appeal to a willing reason and does not encroach on an unwilling unreason. More importantly, it informs the comprehensive conceptions of the good and it has the ability to nestle along with those conceptions. That is how the priority of right is maintained intact.

Primary Goods – Critical Minimum or Concealed Maximum?

The notion of primary goods forms an important aspect of the priority of the right. Primary goods are essential goods that the parties in the original position recognize as required, irrespective of their pursuit of particular conceptions of the good. They are also the basis of expectations of the parties. In other words, an interpersonal comparison is made possible by computing these factors. These are, 'rights and liberties, opportunities and powers, income and wealth.' (Rawls 1971: 92). To this list is also added another good, namely, the social bases of self respect. '...perhaps the most important primary good is that of self-respect.' (Rawls 1971: 440).

Taylor insists here that this list of primary goods which forms a 'thin theory of the good' is based on certain intuitions. Once one gets beneath these intuitions and understands, then one discovers a thick notion of the good, rather than a thin one. This argument again questions the validity of the claim that the *Theory* as such advances only a notion of the right without advancing a notion of the good. Taylor's contention is that the *Theory* does not acknowledge its concept of the good that it is advancing. This claim will be examined now.

It has to be recognized that the question of validity raised by Taylor is very important. For, if Rawls is indeed not recognizing that his theory of right subsumes a thick theory of the good, then it is a serious reversal to the priority condition of the right over the good and also that of deontology over teleology.

Two kinds of goods have to distinguished here. One, is a notion of good in itself. For the sake of simplicity, call it the substantive good. Second, is a notion of good for the sake of

many other goods. Again, call it the formal or procedural good.²⁹ It is natural that both these kinds of goods exist in any society at any given point of time. Further, the distinctions may not always hold good at all points of time. For instance, freedom of speech and expression can be a formal good in order to further a substantive good, say being a film critic. On the other hand, the same freedom of speech and expression can be a substantive good in times of national emergency. On this occasion, every effort is made to secure the freedom and not use the latter for the pursuit of other ends. So, the goods in itself become formal or substantive when the occasion demands.

Rawls recognizes the fluidity of the distinction, but the occasion of justice as fairness demands such a distinction. The occasion is to determine the principles guiding the institutions that would influence the life chances of all. Such determination calls for discerning divisions. The distinction mentioned above is one of them. In the original position, the primary goods of income and wealth, powers and opportunities and the social bases of self-respect are considered *necessary* to pursue a conception of good life, whatever they may be. In this respect, they are procedural.

Taylor's point is to scrutinize the intuitions that in the first place give rise to these notions of primary goods. His contention is that such scrutiny will reveal a thicker conception of the good than already acknowledged. Taylor's point can be well taken. Underlying these intuitions is a pregnant conception of good life that requires the primary goods as an important ingredient. However, the *form* of that good life is not discussed.³⁰ In *Theory*, Rawls contends that the primary goods will be the universal, in the sense that whatever conception of good life one might have, these goods will be the same.³¹ Taylor has to show why the primary goods would be an impediment to the pursuit of a particular conception of good life. Unless this can be shown the criticism that primary goods incorporate an understanding of a good life that is not acknowledged will not hold ground.

²⁹ The use of the phrases substantive and formal or procedural goods is deliberate, in order to keep in line with Rawls's argument. Also, it helps in staying close to Rawls's own intentions and understanding.

³⁰ Kantian echoes of formalism can be heard here as well.

Sen's Capability Approach

Amartya Sen with respect to the primary goods makes a pointed interjection. His argument is that the primary goods as listed by Rawls specify *means* to freedom rather than the *extent* of freedom (Sen 1992: 80). For Sen, this is inadequate. 'Since the conversion of these primary goods and resources into freedom of choice over alternative combinations of functionings and other achievements may vary from person to person, equality of holdings of primary goods or of resources can go hand in hand with serious inequalities in actual freedoms enjoyed by different persons.' (Sen 1992: 81). This means that two persons having the same set of primary goods, in their respective functionings (a set of preferences and actions), would end up with very different results. Further, the respective freedoms enjoyed by both may also be different. For Sen, this is a serious anomaly in Rawls.

Further, Sen makes an important distinction between inter-end variation and inter-individual variation. (Sen 1992: 85). The first relates to the variations that exist between the ends, namely the different conceptions of good life. The second relates to the variations that exist between the individuals' capacity to exercise a given set of primary goods or exercise freedom in a fundamental sense. Sen's contention is therefore that Rawls has not paid adequate attention to an individual's capacity to *pursue* their conception of good life.

In a peculiar way, it is possible to play-off Sen versus Taylor and the consequence is that Rawls comes out as the winner! This is how it happens: Sen's contention is that Rawls does not take seriously the distinction between individuals, for the capacity of each individual differs. If the end were to be related to the capacity of the individual to pursue that end, then it is very clear how Rawls's theory relies on a thin conception of the good rather than a thick one. This is so on two fronts. One, the parties in the original position

³¹ In his later writings, Rawls changes this aspect and mentions that the primary goods have to be related to a political notion only.

are not aware of the particular ends that they would pursue and second, they are also not aware of the particular capacities they have or may not have in order to pursue their conception of the good. Taking both these features into account, Rawls's list of primary goods is definitely alluding to a thin rather than a thick one. Therefore, by implication Sen agrees with Rawls in this sense. Consider, if the good of the individual is to be taken into account, it is natural that the individual's capacity to pursue that conception of the good also will have to be taken into account. This is where, Sen's capability approach will yield maximum results. Again, consider Taylor's argument that Rawls relies on a thick conception of the good but is not acknowledged. If Rawls is really relying on an unstated *thick* conception of the good, then the absence of capability of the individual would be a serious anomaly (as pointed out by Sen).

A brief comment on Sen's capability approach before concluding this discussion on primary goods. Sen's account is valid. It cannot be disputed. Infact, this critique can be extended to all the arguments advanced in the theory of justice and subsequent writings. Throughout his theory Rawls does not take into account the inter-individual variations that exist in formulating his principles of justice. However, the question is can or *should* inter-individual variation also figure as part of reasoning about the principles of justice. In other words, should the veil of ignorance include the knowledge of variations that exist between individuals? Again, only a speculative answer can be given. Including this knowledge of variations will mean the presence of bargaining power between individuals. Given this knowledge, there will be nothing to prevent a utilitarian kind of situation in the original position wherein principles are chosen according to the capacity of individuals that exist, particularly of a certain kind. This introduces needless bias, which Rawls is committed to exclude from the beginning.

Of course, this raises a valid objection as Sen has mentioned. However, the anomaly can be worked out subsequently. For instance, considering the physically challenged who may have a large set of primary goods and yet not able to exercise their freedom from as a disadvantaged group and formulating special measures for the same. The point is to consider the claims on the basic structure from positions defined as equally as possible.

Variations and diversities always exist.³² For instance, no two persons can claim to exercise the faculty of rationality in the same way. However, this is no restriction in the reasoning of political and moral theory to not assume them. Diversities cannot dictate the formulation of theory. It can merely inform, enrich and guide its formulation.

Having noted that this priority of right over the good as Sandel makes it out to be does not really stand, it would be appropriate to discuss the third priority of the primacy of justice that Sandel has problems with. However, for the sake of convenience, the discussion on the primacy of justice is postponed to the end of the next section. This is necessitated by the interesting discussion of Sandel's second theoretical problem, mentioned in the beginning. Once this is completed, the discussion of the third priority that Sandel ascribes to Rawls will be more illuminating.

Section - B

The Principles of Justice – A Stark Revelation?

To remind: Sandel's second theoretical problem related to the principles of justice. His contention was that in the contents of the principles of justice he discovers an intersubjective self that is at odds with the unencumbered self found in the original position. Further, he argues that Rawls is required to place the notion of community centrally and not peripherally. The main issue that will be discussed in this regard is the notion of desert and that of community.

Desert – Who Deserves and Why?

Theories of justice have to account for the notion of desert. The question of what one deserves and why, is therefore a central question to be answered. Answering this question determines the nature of distribution that the theories elucidate upon. In Rawls's theory as well, this notion is present and has been a subject of vigorous debate from the two

³² As the popular cliché goes, no two persons are the same.

extreme positions of Marxism and Libertarianism. The focus here, of course, would be on Sandel's critique and how he thinks that the notion of desert is closely linked to the notion of a community, which is neglected by Rawls. One of the important parts of the notion of desert is the question of endowments, especially natural ones. There is a need to examine this aspect specifically.

Natural Endowments – Boon or a Bane?

Reading Sandel and Nozick would certainly make appear that the natural talents are a bane. For they believe that according to Rawls, natural talents and all other attributes have to be a part of a common pool to be necessarily distributed among everyone in the society. The well endowed or the better talented would have no control over their natural assets, whatever they may be. In effect, it would not even be theirs. This criticism gives them the leverage to further accuse Rawls of falling prey to his own criticism of utilitarianism. This is that Rawls licenses people to be used for other people's ends. Thereby, violating the central Kantian injunction of never using people as means but as ends in themselves. The issues stated here are quite complicated and needs to be carefully unpacked. A wonderful critical assessment of Nozick and Sandel is present in the work of Pogge (1989). It would be useful to turn to his arguments.

Pogge points towards three misunderstandings that exist in the question of desert. With respect to the question of 'ownership' of natural assets, he points out clearly that Rawls is not ambiguous on the question as to who 'owns' the natural assets. It is undoubtedly the persons with whom it is residing. (Pogge 1989: 64). Rawls clarifies this point which is much clearer than understood by his critiques, in his *Justice as Fairness – A Restatement*. To quote him at length,

...it is said that we do not deserve (in the sense of moral desert). our place in the distribution of native endowments. This statement is meant as a moral truism.

Again explaining the same in the footnote, he says,

This remark is not made from within justice as fairness, since this conception contains no idea of moral desert in the sense meant. On the other hand, the remark is not made from within any particular comprehensive philosophical or moral doctrine. Rather, I assume that all reasonable such doctrines would endorse this remark and hold that moral desert always involves some conscientious effort of will, or something intentionally or willingly done, none of which can apply to our place in the distribution of native endowments, or to our social class of origin. (Rawls 2001: 74).

Further,

Note that what is regarded as a common asset is the distribution of native endowments and not our native endowments *per se*. *It is not as if society owned individuals' endowments* taken separately, looking at individuals one by one. To the contrary, the *question of the ownership of our endowments does not arise; and should it arise, it is persons themselves who own their endowments*: the psychological and physical integrity of persons is already guaranteed by the basic rights and liberties that fall under the first principle of justice. (Rawls 2001: 75). [Emphasis added].

It is to be noticed that this explanation though appears in a 2001 publication, yet does not mark any change from his statements in *Theory*. As evidence, note these following words: 'No one deserves his greater natural capacity nor merits a more favorable starting place in society. But *it does not follow that one should eliminate these distinctions*. There is another way to deal with them. The basic structure can be arranged so that these contingencies work for the good of the least fortunate.' (Rawls 1971: 102). [Emphasis added]. This clearly shows that Rawls is not committed to obliterating the distinction that obviously exists between persons differently endowed. The real question is how should one deal with them and not who owns what. This question never arises, as Rawls points out.

Pogge notes a second misunderstanding relating to the question of legitimacy of these natural holdings. Nozick seems to be inclined to a Lockean position wherein people are entitled to have holdings flowing from the natural assets that are *legitimately* theirs. Pogge notes discerningly that Rawls is precisely disputing this process whereby people

with natural assets, 'dictate' the processes by which holdings are acquired. As Pogge observes, '..it (Rawls's idea of desert) is not intended to inspire rectificatory interference with the holdings that have arisen under some existing institutional scheme.' (Pogge 1989: 65-66).

A third misunderstanding mentioned by Pogge relates to the question that the critiques ask, namely, why should the better endowed *necessarily* agree to function in a system which benefits the not so better endowed. Pogge's answer is that the better endowed agree to a particular system not because they benefit the less endowed, but because given alternate economic schemes, it is best for both the endowed and the others to work in that system. If a particular system's lowest position were maximal compared to the lowest position in other systems then the former would be preferred. (Pogge 1989: 70). This is an explanation that is easily understood given the notion of rationality that Rawls is interested in.

With these misunderstandings out of the way, with respect to the basic question of ownership of natural assets and endowments becomes clear. It clearly belongs to the individuals in question. However, by that fact of ownership the individual cannot claim to have a superior moral worth or character and therefore deserve a higher reward merely by possession of the same. Once this is accepted, the movement that Sandel ascribes to Rawls from an unencumbered self to an intersubjective self is falsified.

From Commonality to Community – A False Detour?

In his theory of the good, Rawls is not relying on a particular form of a community to make his claim for the difference principle. As is evident from Pogge's explanation, the argument for the difference principle stems from maximizing the lowest economic position *across* schemes and not *intra-schemes*. The natural assets and endowments are themselves not up for consideration. It is the distribution of these assets, specifically the *effects* of the distribution of these assets that is up for consideration.

In common sense terms, commonality implies a conscious shared understanding with each other with respect to certain norms and values. It also includes elements of benevolence and natural sentiment that binds people together. However, explicitly Rawls rules out benevolence (Rawls 1971: 191) and extensive ties of natural sentiment (Rawls 1971: 129). Both of these cannot be part of a conception of justice as he perceives it. This gives rise to an obvious question – whether there is any notion of commonality at all in Rawls. Surprisingly, there is- a different notion. One has to look elsewhere for it.

Primarily as Rawls claims that people in the original position have an identity of interests, ‘since social cooperation makes possible a better life for all than any would have if each were to try to live solely by his own efforts’. (Rawls 1971: 126). The idea of social cooperation is more attractive than living individually. But one has to cooperate with whatever features are given. These features are contingent and morally arbitrary. Once everyone acknowledges that these features are arbitrary and therefore a system has to be agreed wherein everyone is relatively better off in this distributive pattern, one chooses a system guided by the two principles of justice. So, the notion of commonality rests on recognizing the arbitrary nature of human existence. The real challenge is to construct an order out of this arbitrariness. Commonality here is moral. It is not situational or roles specific as the communitarians imagine it to be.

Again, consider the idea of fraternity that Rawls believes the difference principle embodies. (Rawls 1971: 105-106). Rawls does not believe that fraternity implies *only* extensive ties of sentiment among members. Rather the difference principle functions in such a way that the least advantaged are benefited from the actions of the most advantaged. This is only possible because of the universal recognition of moral arbitrariness. Sentiment does not lead to the difference principle. However, the reverse may be true.

The idea that Rawls relies unwittingly on a conception of commonality is not true. Commonality is to be found elsewhere as noted above. Now, to address the second aspect

of Sandel's statement that a community should be central to Rawls's theory rather than peripheral. What kind of community, if at all, does Rawls believe in?

Rawls paraphrases the question of community by describing the well-ordered society as a social union of social unions. (Rawls 1971: 527). It is a union in which the individuals are informed fully about the first principles of justice and formulate their life plans in accordance with such principles. In this society, they also realize their potential of excellences and virtues and willingly cooperate with one another with the sense of fairness being the overall guiding norm.³³ This community displays affections within the groups that the individuals find themselves in. This is never ruled out by Rawls. Sandel misses this point. Rawls is not suggesting that the means of identity available to an individual be only *through* his association in the well-ordered society. All along, Rawls places considerable importance on family for instance. Indeed the parties in the original position are considered to be representative heads of families. It is therefore possible for individuals to be associated in smaller groups other than the system as a whole. Therefore, identities can be multiple and loyalties plural even within a Rawlsian scheme.

In this context, it is essential to reply to some of Taylor's arguments vis-à-vis Rawlsian ideas.³⁴ As noted in the previous chapter, for Taylor it is not possible to consider an individual outside an 'evaluative space', a space wherein certain questions are raised by the agent. It is also a space of constant evaluation. Theories of justice for instance have to take into account this nature of the individual when formulated. Further, the self functions within a 'authoritative horizon' that is not necessarily given or defined in terms of the relation of that self to the state. It can be much smaller groups or associations. Thus, Taylor critiques Rawls for not taking into account this feature of the individual or the self. For Taylor, answers to questions have to be negotiated from time to time and are

³³ On this reading it definitely seems that Rawls is providing for a comprehensive conception rather than just a political conception. Rawls agrees as much in his later book-*Political Liberalism*. He tunes the theory to suit a political conception of justice rather than a comprehensive conception.

³⁴ Indeed, to a very large part, only Sandel's arguments are considered in detail. This is because Sandel presented a detailed critical analysis of *Theory*, to which a sustained detailed argument was required. However, Taylor's substantive (as different from technical). points are very relevant which will be the focus here.

not fixed in time. That is why he has problems with absolute first principles, like that of the principles of justice. (Taylor and Bhargava 1998: 62).

The real question that stands out between Taylor and Rawls (as Taylor understands) is: In the pursuit of organizing economic and political institutions, can one consider persons bereft of their contextual situation which determines their identity and dignity? Related to this, Taylor can also ask whether the well-ordered society in the Rawlsian sense can replace or even substitute this notion of dignity and identity that a smaller association otherwise gives to an individual?

A partial answer has already been given earlier wherein it was said that it would be possible to have plural loyalties and multiple identities within a well-ordered society as long as it is *informed* by the two principles of justice. The word 'informed' is crucial to the discussion here. The disagreement of Taylor also relates to what extent the principles have to inform. It is interesting to note that Taylor does not have any dispute with the two principles per se. Infact, he credits Rawls for deriving the two principles of justice from within a conception of a thin theory of good, though he had disagreements with the same.³⁵ (Taylor 1989: 89). Rather his problem is considering supreme first principles, obliterating other goods.³⁶ It is difficult to dispute this claim of Taylor. Rawls certainly considers an extended role of the two principles of justice. Whether it assumes a pivotal role in an individual's moral framework is open to interpretation. Rawls closes some of this space in his *Political Liberalism* and claims that his conception is a purely political one and not a comprehensive one.

Finally, in response to Taylor it can be said that Rawls does not disagree with Taylor's understanding of human agency. However, with respect to the claims on the basic structure of the society, only the claims, which are basic to all individuals, can be taken into account. Specific features can be accommodated later in the theory. This would be Rawls's position.

³⁵ This point of Taylor has been discussed in the section on primary goods.

³⁶ Infact, he calls them 'moral maniacs'! (Taylor and Bhargava 1998: 64).

With this in place, it is imperative to discuss the third priority that Sandel ascribes to Rawls, namely the primacy of justice.

Justice – The Highest Virtue?

Only a brief comment is made here on this issue. This question has already arisen in the previous discussion. Rawls makes a strong claim that ‘justice is the first virtue of social institutions’. (Rawls 1971: 3). He also talks of how the principles of justice inform the individual lives that persons lead. However, it is not primary or it does not acquire primacy in questions, which occur in spheres, defined differently. For instance a family, whose example is given by Sandel. The ties of sentiment and benevolence that is present in a family (ideally) is not assumed to be present in the society at large. There is no need to assume therefore that families will be torn apart because of the theory that Rawls propounds. This is far from the truth. Again, in questions of gender justice within a family, for instance, it is possible that the principles of justice have a role to play. For in this case there is a grievance which needs to be addressed. The nature of the grievance is such that, possibly an individual’s integrity and dignity is attacked. This is a violation that an individual should not swallow irrespective of the kind of association she is in. Equal citizenship does not mean differential treatment in the public and private.

The Task Ahead

The chapter began by asking an important question – whether the characterization of self in Rawls, by the critiques, is valid enough. Further, a methodology was suggested whereby a reflective equilibrium could be imagined by considering Sandel’s critique as considered judgment in the light of the presentation of an alternative understanding of justice. What has been the result?

The course of the discussion has suggested that the categories in which it has been described and discussed is not really valid. This is especially true of Sandel whose three

priorities fail to hold up consistently. This raises a delicate issue. If the three priorities and their reversal do not hold up, then does it mean that the three priorities were valid in the first place? Except for the third, namely the primacy of justice, the other priorities did not have much scope or strength to be argued for. Of course, Rawls does argue for the second priority, namely the priority of the right over the good. However, it is independent of the two priorities that Sandel mentions. Taylor's arguments though valid, it was suggested that they can be absolved in the arguments of Rawls subsequently. With respect to the question of reaching a reflective equilibrium, only half the journey has been completed with some success. The remaining half will be completed in the next chapter.

CHAPTER – IV

Resettling the Notion of the Self in Rawls – An Attempt

The primary task in this chapter is to try and articulate an understanding of the notion of self in Rawls, having disagreed substantially with Sandel and Taylor. To a large extent, the effort in the previous chapter has led to an understanding of what the notion of the self is not, in Rawls. It is time to explicate a positive exegesis of the same. As part of the reflective equilibrium process mentioned in the last chapter, the idea is to provide for an understanding of the self and identify its perspective in the *Theory* as a whole. The secondary task of this chapter is to note the peculiar feature of the liberal-communitarian debate with regard to the notion of self. This peculiar feature can be termed as genesis of ‘parallel discourses.’¹ While the first section of this chapter is devoted to rendering an account of the self in Rawls, the short second section discusses the idea of parallel discourses and some problems associated with it. With this account completed, it would be appropriate to proceed to a general conclusion in the concluding chapter.

Section - I

Understanding the notion of self involves unraveling the various overlapping levels amidst which the concept of the person is intricately entangled. As a first statement, the idea that is defended here is that there is no simple understanding of the issue. The concept of the person is not developed separately by Rawls in *Theory* to enable a critical assessment of the same. As noted in the previous chapter, effort has been made by the communitarians to *read* a notion of the self from the given elements of the right and the good. So such a reading is and can always be subject to interpretation and re-interpretation which is why this dissertation has been necessitated.

This complexity of the notion of self in Rawls can be expressed in four distinct but interrelated levels. These four levels raises appropriate questions about the notion of the self and in turn help in a positive understanding of the same. Each of these levels will be discussed separately. However, a brief outline of the nature of questions asked would be a helpful marker.

The first level raises the question of the importance of a notion of self in the theory of justice. How important is the idea of the self for a conception of justice as fairness? The second level raises the question of what aspect of the self should be considered in order to frame a reasonable exposition of moral and political thought. The third level raises straightforward questions. What are the implications of a theory like that of justice as fairness on an understanding of a self? To what extent does this conception of justice, bear on shaping and understanding a self? And, the fourth level raises questions that relate to understanding the extent to which the notion of the self is constitutive of the liberal arguments of liberty and equality as proposed by Rawls. In all these differing and yet sometimes overlapping levels, a notion of self is present which needs to be explicated and understood.

An important reminder has to be noted here. Coursing through these above-mentioned four levels will not and should not be seen as building a *particular* notion of self. Such an effort will at best lead to a partial rendering of the account. It will always be limited. The effort of Sandel especially has met this fate. It is in order to avoid such a partial reading that the four levels have been identified and is in consonance with Rawls's own very limited answer to Sandel's critique.² The picture that one gets at the end of this explication would therefore be very different from that offered by the communitarians.

¹ The meaning of parallel discourses will be explained fruitfully in the discussion of the same in the second section.

² This response will be noted very shortly.

The First Level

The central philosophical question raised here is – how important is a notion of *self* for the concept of justice as fairness. Certain clarifications are required here when this question is raised. Traditionally, liberalism is associated with identifying itself with a particular notion of an individual. Kant, for instance, delved extensively into the nature of man and argued for his political and moral philosophy systematically, keeping in mind this conception of the person. Later liberals, like J.S. Mill, Adam Smith and others formulated theories keeping in mind a person who was considered completely free from all contingent attributes and factors. Therefore, Adam Smith was able to formulate the theory of the invisible hand and argue for capitalism on the basis of a principle – ‘every man for himself.’ These formulations of ‘classical liberalism’ directly depended on a conception of the person, for whom the theorists considered was directly applicable to. On the contrary, contemporary liberalism does not appeal to any express conception of the person. This is particularly evident in Rawls. Further, another point to be remembered is that here, a specific *understanding* of the notion of self is not referred. Instead, the question is asked whether an idea of the person effectively forms a base from where a theory of justice proceeds from. The answer is no.

For Rawls, therefore, the notion of the self understood in the traditional sense is not central to this conception of justice. Explaining that the original position is a device of representation, he says that, ‘[T]he veil of ignorance, to mention one prominent feature of that position, has no metaphysical implications concerning the nature of the self; it does not imply that the self is ontologically prior to the facts about persons that the parties are excluded from knowing. ... *our reasoning no more commits us to a metaphysical doctrine about the nature of the self* than playing a game like Monopoly commits us to thinking that we are landlords engaged in a desperate rivalry, winner take it all.’ (Rawls 1999: 402-403). [Emphasis added]. The thrust of the argument being that there exists no ontologically prior, morally ‘superior’ individuals or a specific nature of the person on

the basis of which the conception of justice is constructed. As mentioned in the previous chapter, the edifice of the *Theory* is not reducible to an individual.

This formulation begs a question regarding the moral capacities of the individuals that Rawls assumes in arriving at the principles of justice. Is this not assuming a certain character trait and thereby a part of the nature of the persons? Further, does this not form a base from where an argument for justice is made? Yes. The twin moral capacities of a sense of justice and ability to pursue a conception of the good is put forward as a claim that is assumed to be present in people *or* it can be *persuaded* to be considered to be present in persons. These are important traits that have to be present in persons. However, this does not mean that persons are *solely* constituted by this trait and everything else is *subordinate* to it. This is akin to saying that a steering wheel is necessary for a car. Every car *should* have a steering wheel to be able to move, maneuver, and therefore is an indispensable feature of a car. However, this does not mean that the entire features of the car are solely derived from the steering wheel. Just as the idea of a car denotes an idea of a steering wheel, the idea of a person, *for* a conception of justice, denotes an idea of a moral person with the capacity for a sense of justice and pursuing a conception of the good.

Two further issues have to be clarified in this respect. One is the issue of attributing these twin moral capacities *intrinsically* to all individuals. This is the issue of essentializing human nature. Rawls treads this area very carefully and avoids essentializing human nature in this way. Remarking on the principles to be chosen for individuals, Rawls says, that, '[F]rom the standpoint of justice as fairness, a fundamental natural duty is the duty of justice.' (Rawls 1971: 115). [Emphasis added]. It is interesting to note that fundamental duties are defined in relation to the public institutions but only from the point of view of justice as fairness. Of course, the ambiguity exists about the concept of justice as fairness existing as a comprehensive conception or as a political conception, which it becomes later. However, that Rawls chooses to mention the perspective of

justice as fairness is indicative of the specific purpose for which the duties have been formulated.³

The second issue stems from the extremity of the first. If the moral capacities of the self are so 'purpose oriented' and are specific for the concept of justice only, does this not make the entire concept of justice itself so contingent⁴ rather than lasting and insightful? Again, Rawls avoids this kind of fluidity in his descriptions. It should be remembered that the twin moral features that he mentions is not an invention. The exercise he is engaged with is to articulate moral sentiments and characterize them in a manner that it leads to a coherent rendering of a theory of justice. In this process, for the sake of justice certain features are highlighted and prioritized. So, in the consideration of questions of justice such features cannot be ignored. At the same time in consideration of other kinds of questions such features may recede and yet not disappear totally because they are a part of any person's ethical structure howsoever formed or partially deformed even.

Therefore, the point is that the moral capacities are not essentialized to the extent that claims to the effect – all humans necessarily possess this and therefore it is possible to construct a theory of justice, is made. At the same time, the opposite extreme of dispensability of such features is also not encouraged. They are assumed to be present and are in a constant state of being prioritized or are receded.

Philosophically, then the self's moral capacities are abstracted from its other capacities in order to help arrive at certain principles of justice. It is not a self therefore to be understood in a complete sense. This is necessitated by the analytic requirement of the theory of justice.

³ The issue is then to what extent such requirements permeates other sphere of the lives is a different question.

⁴ The use of the word contingent here is very context specific. Rawls's theory in general is not considered contingent and contextual. However, the point made here is that if the self is ascribed features which are analytically suited to a certain conception of justice, then will it not suffer from acute myopic dysfunction, in the sense, that people could reject the entire analytical construction and with it the features of the self as well. In other words, how strong is this feature of the self that Rawls describes? This is the question.

Given this clarification, it would be helpful to briefly revisit Sandel's arguments here and examine how he reads the notion of self as central to Rawls's theory and understand how it could be mistaken to consider it that way. Sandel approaches the notion of the 'self' in Rawls, in the original position via the principles of justice. Sandel understands that the principles of justice would need a conception of the person to support its contents. Therefore, he finds an 'unencumbered self'. This has been discussed extensively in the previous chapter. The point is, whether this reading is called for in the first place and if it is not, then how is it mistaken.

The fundamental mistake is the premise from which Sandel has approached namely that the *Theory* for its legitimacy and argument depends on a particular construction of a notion of the self. However, such an approach leads to a description of the self in such *complete* terms as if permeating all the spheres of life. This is not warranted in an analysis of the *Theory*. Spheres of life are kept distinct. Again, this is not to imply that Rawls means to ontologically separate the spheres of life in a manner that they are actually distinct. Rather, the effort is to recognize that for a harmonious coordination between those spheres, a viable and stable conception of justice is required. For this conception of justice to be adhered to by all, requires prominence of a certain sphere of life, namely that of rationality, sense of justice and ability to pursue a conception of the good.

Therefore, it is not quite appropriate to claim centrality of a notion of self in the conception of justice as fairness. It is more appropriate to claim that certain cognitive and sentimental features⁵ are required to agree to a conception of justice. These features are definitely an important part of the self, though not all encompassing.

Interestingly, Taylor does not accord centrality of a notion of self in the *Theory*. As pointed out in the earlier chapter, he also does not have a problem with the principles of

⁵ In using the words, 'cognitive and sentimental', there is a heavy reliance on Rawls's own characterization. It may be recalled that Rawls calls the theory of justice as a 'theory of moral sentiments'. (Rawls 1971: 51). Among the cognitive aspect, rationality would be a central feature. The sense of justice and the ability to

justice or the derivation of it. His main problem is in the possibility of considering a self outside an evaluative space. This problem is deeper than Sandel's. For Taylor, it is extremely difficult, if not impossible, to even conceptually consider a self with *certain* features deliberating and arriving at principles of justice. So, Taylor's problems relate to the conception of human agency⁶ that can at *will*, move out of evaluative spaces and return to it. For Taylor, justice cannot be coherently articulated if one conceptualizes such a self.

While the first level has shown that a notion of self is not *necessary* for a conception of justice as fairness, nevertheless, certain features of the self are essential for the same. Having noted this, it is time to move to the second level of questions, which reveal another layer of the notion of self.

The Second Level

Along with certain cognitive and sentimental features of the self, the notion of the good is also essential. Rawls's *primary* interest is to protect the individual's conception of the good and ensure that an individual is able to pursue that conception. In this respect, society has to be regulated by certain principles which best ensures such pursuit. This aspect is very interesting. The way it has been formulated, it seems as if it is the *good* that matters and *not* the right. In some ways, then the priority of the right over the good that Rawls himself affirms seems to be overridden with this contention. However, this needs explanation.

Considerable confusion has been generated by the distinction between teleology and deontology. One of the ways in which it is distinguished is the difference over the priorities of the right and the good. It is said that theories which assigns priority to the

pursue a conception of the good would be a part of the moral sentiments. In fact, Rawls discusses the various features of moral sentiments in sufficient detail. (479-485).

⁶ This statement may sound surprising, given the fact that in chapter II, it was seen how Taylor's conception of human agency do not agree with an idea of Rawls's conception presented in its barest terms. However, it must be noted here that Taylor's conception of the self do not agree with the Rawlsian *idea* of

right over the good is deontological and those which assigns priority of the good over the right is teleological. In this respect, Rawls's theory is purported to be deontological and is seemingly arguing against a utilitarian ethic that is teleological. The confusion relates to Kymlicka's interesting discussion on the issue, wherein he argues that Rawls has misunderstood the distinction between the two and also presents a *wrong* picture of the teleological doctrines. Further, Kymlicka claims that the so-called teleological doctrines are also deontological. (Kymlicka 1989: 21, 24, 26). Before delving into the claims of Kymlicka, mention must be made of Samuel Freeman who holds that the distinction as made by Rawls between teleology and deontology is very adequate and it is Kymlicka who has *misunderstood* the issue. So, there is considerable cause for confusion. An attempt to map out the confusion and arriving at some clarity would help in locating the importance of the good in Rawls's theory.

Kymlicka claims that Rawls confuses between two issues. 'One issue concerns the *definition* of people's essential interests. The other issue concerns the *principles of distribution* which follow from supposing that each person's interests matter equally.' (Kymlicka 1989: 21-22). [Author's emphasis]. He explains the second issue, wherein he thinks that the primary concern is the '*equitableness*' of distribution. Here, Kymlicka means the equitable consideration of all the people involved in distribution. This means that no one should be considered as more than one and everyone's claims should be equally considered. On this view, Kymlicka claims that Rawls's distinction between teleology and deontology falls apart. For according to Rawls, the distinction is between the weightage given to different person's interests. If the aggregate weightage is such that it is balanced against that of some persons, then it is unfair. In this respect, these theories are called teleological. While those theories which takes into account the interests of every one is deontological. Kymlicka explains that this view of teleology and an instance of the same in the form of utilitarianism is at best a partial reading. Kymlicka argues that utilitarianism also considers person's interests *equally*. He explains that though maximization of utility is an important consideration, yet '*..it is the concern with equal*

justice itself. Therefore as a derivation, Taylor's conception of the self does not cohere with a notion of self present in Rawls. The two issues should not be confused.

consideration that underlies the arguments of Bentham and Sidgwick' (Kymlicka 1989: 25).

The first issue of the definition of people's essential interest relates to the importance of ends in one's life. Kymlicka explains that Rawls distinguishes between perfectionist theories and deontological theories as that which defines a dominant end and that which does not, respectively. Instead, the latter is purported to express primacy to the capacity to revise one's ends. (Kymlicka 1989: 34-35). Again, Kymlicka claims that Rawls misunderstands the teleological perfectionist theories. (Kymlicka 1989: 35). On Kymlicka's reading, Marx considered as a perfectionist would not allow such maximization of a dominant end. It would only be allowed provided it is consistent with everyone's interests. (Kymlicka 1989: 35).

For Kymlicka then, '...neither issue concerns the priority of the right or the good.' (Kymlicka 1989: 36). This is because on the basis of the priority assigned between the right or the good does not indicate the differences between teleological and deontological theories. Further, the forcefulness of the arguments lies elsewhere and is inappropriately discussed under the heading of right over good. (Kymlicka 1989: 37-38).

The main interest in Kymlicka's discussion is the idea that comes across, namely that of the good, which is essential for a person that forms an important element in the formulation of the principles of justice. Kymlicka explains that, 'Mill and Rawls both say that the *good is the satisfaction of informed desire*, and both give similar accounts of the value of liberty in promoting that good.' (Kymlicka 1989: 43). [Emphasis added]. Thus, the value of the good is underscored by undermining the foundational priorities of right over good.

Samuel Freeman critiques Kymlicka and argues that the latter is mistaken in setting out to collapse the priorities of the right over the good. Samuel Freeman proceeds to make

effective substantive claims in his critique.⁷ Of them the most important here, is the claim that Kymlicka confuses the idea of deontology with a related idea of the *priority of right*. (Freeman 1994: 317). This is interesting because as was seen in the previous chapter, the priority of right assumed prominence in the light of Sandel's characterization. However, Freeman argues that Rawls does not assign such importance to the priority of right as much as Sandel's misreading purported to show. (Freeman 1994: 317).

Explaining the difference between the two concepts of deontology and priority of right, Freeman says, '...these are different concepts. Like deontology, the priority of right describes the structure and substantive content of a moral conception, not its procedural justification.' (Freeman 1994: 335). Further, '...the priority of right does not describe how moral principles of right internally relate the concepts of the right and the good. Rather, it describes, in the first instance, the place of principles of right in the *practical* reasoning of moral agents motivated by a sense of right and justice..' (Freeman 1994: 335). Seen in this light, deontology does not *only* mean priority of right as Sandel understood it to be and as Freeman says even as Kymlicka understands it. Deontology, for Freeman involves, 'Abandoning a completely rational morality...' (Freeman 1994: 313). Deontology, thus strongly is averse to the idea of a 'single rational good in practical deliberation and in the formulation of moral and political principles.' (Freeman 1994: 313).

Freeman argues that Kymlicka in fusing deontology and the priority of right obscures the distinct place that the latter has in Kantian conceptions, like that of Rawls. (Freeman 1994: 334). The priority of the right is specifically related to not considering any particular dominant good in times of formulating principles of justice. He goes on to elaborate the specific role of this priority in Rawls's theory.⁸ Likewise, deontology has to be distinguished by the idea that '...it does not consider any single rational and ultimate good in terms of which all other values and activities are to be ordered and justified. Morality cannot then be reduced to an overriding duty.' (Freeman 1994: 349).

⁷ These substantive claims extend beyond the scope of this dissertation to warrant a mention here. It is the more pertinent aspect of his critique, which is of central importance to the discussion here that is discussed.

⁸ Enumerating these roles would be beyond the scope of this dissertation.

Without going into the greater and richer specifics of Freeman's rejoinder to Kymlicka's critique, it is possible to discern at least two points from this sketchy presentation. One, is that *both* Freeman and Kymlicka agree that Rawls's principles of justice are not formed bereft of any information of a theory of the good. While this was noted in the case of Kymlicka, Freeman also notes it. '...contrary to Sandel, the priority of right does not aim at justifying a moral conception "aloof from prevailing values and conceptions of the good."' (Freeman 1994: 335). The second point is that the priority of right is important and does not collapse, as Kymlicka would have liked. This also indicates that Sandel's original characterization of the priority of right and their alleged subsequent reversal also does not stand.⁹

In the light of the discussion above, an important question arises with respect to the notion of the self. What is of *primary* importance to a self according to Rawls? Is it the idea that one has to assign primacy to a sense of justice independent of a notion of the good? Or is it a priority of the good that leads Rawls, in the first place to assign priority of the right? The latter question is tricky, while the former question, if answered in the affirmative becomes ideal fodder for communitarian critique. To explain, it would seem as if Rawls is claiming that persons have to be *primarily* characterized by a sense of justice and an ability to pursue a conception of the good and further, this characterization assumes prominence and priority in all the circumstances. This is *not* claimed by Rawls. It may be recalled here, the circumstances of justice that Rawls enumerates which necessitate a conception of justice. '...men suffer from various shortcomings of *knowledge, thought and judgment*. Their knowledge is necessarily incomplete, their powers of reasoning, memory and attention are always limited, and their judgment is likely to be distorted by anxiety, bias and a preoccupation with their own affairs. ...they are simply part of men's natural situation.' (Rawls 1971: 127). [Emphasis added]. Rawls understands this to be the reason for the existence of 'a diversity of philosophical and religious belief, and of political and social doctrines.' (Rawls 1971: 127). This is very interesting because given such circumstances, which necessitates a notion of justice, the

⁹ In the previous chapter, an attempt was made to stall this reversal.

actual conception of justice does not aim at *redressing* these circumstances. Instead, it is viewed as the source of diverse contentions and that, which cannot be changed in the normal course. In other words, no 'social engineering' is attempted by Rawls in enumerating his conception of justice. Mention had to be made of this to understand that the notion of the self is very complicated and is entangled in such diverse and multiple ways that it is most *reasonable* to formulate principles of justice in consonance with such multiplicity. Any attempt to simplify the complexity would call for serious disputes.

So, as Rawls puts it, 'accepting men's natural condition,' and read in conjunction with Freeman and Kymlicka's account above, it is clear that a notion of the good is not divorced from the conception of the right. The good is not derived *independently* of the right. At the stage of formulating principles of justice, regulated information on the notion of the good is allowed to facilitate the acceptance of the principles. This gives rise to the second question raised above. Is it the ultimate concern for the good that drives Rawls to effectively pursue a priority of the right?

The answer to this question has to be a measured one. For, if the answer is yes, then the sting is taken out of the communitarian critique, that Rawls's theory is divorced from a concern for the good at all. Rawls understands that diversity stems from limitations.¹⁰ This limitation has certain affinities. One of them is a conception of the good. In order, to protect this conception, there is a need to agree on an idea of right. The crucial point here is that Rawls is *aware* of these limitations and then proceeds to conceptualize an idea of justice. So a definite answer cannot be given at this stage, what is of utmost importance. In fact, it may be that the recognition of this 'limitation' that is of primary importance. And then, how does one proceed from there is a different story.¹¹

¹⁰ This statement has very strong philosophical implications. Plurality, diversity and multiplicity are values that are cherished in its *own* right. They are said to enhance the richness of human life and a case is made for their preservation. This is the argument of the multiculturalists. To the contrary, Rawls is making an assertion here in the context of a theory of justice, the diversity and differences that exist stem from limitations of human thought knowledge and judgment, as already noted above. This is fascinating and calls for greater philosophical reflection, which unfortunately cannot even be attempted here.

¹¹ This point of recognition of limitation will come up again in the conclusion where a comment is made on whether the communitarians recognize this.

This brings up the question raised at the beginning of the second level, namely, the question of the priority of the right and the good. The priority stays intact. However, a *deeper* connection is made with the conception of the good. It plays a much greater role than what is suggested by the commentators and critiques. This is an area, which needs further exploration extensively.

So, the understanding of the self in Rawls has to be conjectured with a conception of the good. However, within this sphere of the good the regulative principles of justice do have an important role to play. This is dealt in the third level of questions raised regarding the notion of the self.

The Third Level

This level of questions naturally follows from the second level. Once the idea that a notion of the good is reasonably important is established, then the question is whether persons are allowed unrestrained freedom in their sphere of the good or whether they are considerably restrained by the principles of justice. The simple answer is persons are restrained by the principles of justice. Respect for persons and their liberty, the conditions of fairness and the difference principle regulates broadly the framework within which persons pursue their conception of the good.

This level can be broadly called the implicative level. A very interesting feature has to be noted here. Even as questions regarding the notion of the self are getting richer in terms of descriptions of the self, yet it is slowly receding from the centre of the arguments of the theory of justice. Therefore, the moot question here is to what extent, the principles of justice implicate on the choices that an individual makes.

In order to address this issue and avoid venturing into pure speculation, an attempt will be made to examine the *weight* of these principles. By weight, it is meant here the heaviness or the denseness of the principles, which is said to percolate down to the life choices of

the persons.¹² Here, it is difficult to avoid the analogy with Kant's categorical imperative, which had the same form of formalism with seemingly no substantive content. However, considerable difference exists between critics and commentators on this question.

Rawls's principle also seemingly has the form of this formalism. However, is it just a form without any content to it? As Rawls says, 'The definition of the good is purely formal. It simply states that a person's good is determined by the rational plan of life that he would choose with deliberative rationality from the maximal class of plans.' (Rawls 1971: 424). This choice of plans or of good life is thus, first subject to the rationality constraint. And in their pursuit of this good life, they will have to respect other person's interest in her conception of the good as well. This much is ensured by the first principle of justice. Choice of the conception of the good is not thus uncluttered. Though again, this does not specify the *actual* content. As Rawls remarks, again, 'The actual course that a person follows, the combination of activities that he finds most appealing, is decided by his inclinations and talents and by his social circumstances, by what his associates appreciate and are likely to encourage.' (Rawls 1971: 430).

However, the strength of the implications of the principles is that it is not possible to ignore the principles in actual life choices, especially in matters of justice. This is because, any disputes with the principles can be rationally discussed and deliberated. The entire argument of arriving at principles of justice was to appeal in such circumstances. In this respect, questions regarding natural assets, forms of different conceptions of the good and the ultimate value of choice arise. Each of these questions will be discussed below.

¹² The use of the word choice and choices might seem intriguing at this point. The moot idea is that the ordinary day-to-day life has to be described in some universalizable, though not in a reductionist, terminology that would be reasonably acceptable. Choice seems to be such a reasonable option because at every point of time, some idea of choice is operating and Rawls's ideas is most effective in an arena where constant choices are being made. This is why choice is taken as a central element of the individual life. This might seem unfairly biased towards a prenuptial alliance with liberalism. However, this idea is not as simple as it seems. Even the communitarians and others who believe in a strong notion of tradition and community would agree that choices are made within the community life as well. But, how are the choices made, under what conditions and according to whose interests is a big question. In other words, the structure behind a choice has to be properly explored. For the sake of the discussion here, it is assumed a simple concept of choice wherein an individual keeping in mind her interest makes certain decisions.

An important issue is that of the possession of natural assets. In the original position, it seemed as though Rawls considered the natural assets to be a part of common pool and not as specifically belonging to anyone. This prompted Sandel to read a notion of community in that common pool which Rawls apparently did not recognize. It is now clear, how far-fetched this claim of Sandel is. However, the point still remains that the natural assets which is 'influential' (Rawls 1971: 430) in a person's life choices, would nevertheless be subject to the constraints of the principles of justice. Natural assets are valuable to the extent that it nourishes the individual as explained by the Aristotelian principle (Rawls 1971: 426), however only when it is nestled with the constraints of the principles of justice. This is necessary to ensure that no one has a legitimate ground to claim that she has been treated unfairly or unjustly.

Another related issue arises in this respect. This is the issue of evaluating the choices made by different individuals. – as a case in point, an example raised by Kymlicka is pertinent here. Kymlicka imagines a situation wherein a gardener who has made a conscious choice gardens all day and earns enough resources, due to the free-play of market forces. While her neighbour is interested in pursuing tennis and therefore only plays tennis all day. Soon, things reach a state wherein the tennis player, bereft of resources, qualifies as Rawls's category of least advantaged, while the gardener is well off. Via the difference principle, therefore, it is required by the government to transfer some resources from the gardener to the tennis player. Arguing that this amounts to subsidizing the choices of the individuals and that it does not inculcate the virtue of responsibility in the individuals for their choices, Kymlicka critiques Rawls's distribution system for not being 'ambition-sensitive', while being 'endowment-sensitive.' (Kymlicka 1992: 73-75).

This sketchy presentation of Kymlicka's example raises the question of the responsibility of the choices made by individuals and the cost paid by them. It also raises the question of the use of the natural talents and attributes by the individuals. Without going into the specifics of Kymlicka's example and examining whether it is valid or not in the first place, a different line of reasoning is sought to be read into this. This is the point of using

the natural talents in a manner *consistent* with the general conceptions of good life in a society. For instance, it is not wrong to be a tennis player and practice all day in order to be an excellent tennis player. In fact, it would be consistent with the Aristotelian principle as mentioned by Rawls, wherein each individual, 'enjoy the exercise of their realized capacities...and this enjoyment increases the more the capacity is realized or the greater its complexity.' (Rawls 1971: 426). However, this activity of the tennis player should be consistent with the notion of deliberative rationality given by Rawls. This states that individuals should make a choice between plans in the rational manner possible, in the sense that which gives them the best returns. Read in conjunction with deliberate rationality, then the tennis player is perfectly justified in playing tennis all day just as the gardener is justified in gardening all day. In a Rawlsian schema, there would be returns guaranteed for the tennis player as well (to remind, if it is part of a long-term rational plan).¹³ However, these choices, use of talents and their subsequent rewards are not *outside* the scope of the sphere of justice. They will be subject to the constraints of the principles of justice. Rawls is particularly interested in this distribution. The issue is not therefore of the natural assets, as was also made clear in the previous chapter.

A second issue is that of the forms of the different conception of the good life. It is often suggested that this *Theory*, by its very definition of the requirements of good life is unfairly biased towards conceptions of good life which does not share the premises of liberalism. Therefore, it is said that Rawls's theory is not *neutral* between contending conceptions of good life. Rather, it only encourages certain conceptions of good life. This question bears importantly on the notion of self. The point is whether the principles

¹³ It is unavoidable here to mention that Kymlicka has some basic misunderstandings of Rawls, which is reflected through this example. For instance, to be identified as least well off, a person should be identified as one who is already in an economic system. Not outside of it. For instance, a young teenager of 16 years who plays tennis all day cannot be considered as least well off, in relation to a thirty-five year old gardener neighbour of hers. Least well off is in terms of primary goods and only such persons can be considered who is a part of this economic system. The notion of deliberative rationality is also left out of this example stated by Kymlicka. As mentioned in the text above, this notion is crucial for Rawls to examine whether the plans of life chosen are rational and long term. These must not be just fancy decisions. If they are, then they are left out of a Rawlsian schema. A Rawlsian system cannot be answerable or accountable to a society where a considerable section drinks wine and gamble all day. To Rawls, this would be *irrational* in all respects.

impose a requirement on the conceptions of good life in a manner to warrant a charge that ultimately such conceptions are manipulated.

This charge is very serious, for if this conception of the good is *fundamentally* manipulated, then it can be shown that it runs counter to the Kantian maxim of autonomy as interpreted by Rawls. Further, it breaches the notion of choice that Rawls believes in. However, is this really so?

The belief here is, no. Rawls's principles require a commitment to certain fundamental values of respect, dignity, freedom and equality. These are liberal values, though considerably recast. However, it is difficult for a conception of good life to *ignore* such values as well, whatever their form. If a particular conception as embodied in a tradition and practice believes that children should never be separated from their parents, then it is quite possible that there would be considerable consternation and suffocation experienced by some children at least. Their yearning then would more often take the form of a rebellious nature. It is here, that the values of liberty and respect are recognized. Soon, the group would realize (over a period of time) that it is only with such liberty and respect, is it possible to maintain healthy relationships.¹⁴ Considerable and justifiable reasons have to be given by conceptions, which do not agree to a commitment to such values. Only then, a rational discussion is possible.

It is very important to identify such features in a conception of good life, which do not necessarily require a commitment to such values. It is only in the light of such articulations, can liberalism in general and Rawls's theory in particular can respond effectively.

¹⁴ The hypothetical account stated here is very vague and sketchy. It seems to make far too many sociological and psychological assumptions that it does not seem to have any grounding. However, recognizing this limitation, it is urged to consider a situation wherein the element of choice and the values of respect and individuality is gradually recognized even in a closed group. It is this kind of thinking for instance which has helped the woman's movement to make considerable strides in their demands and achievements having come from such 'closed' environment of patriarchal control in all spheres.

A third issue is the importance of choice itself. This flows from the discussion of the issue of natural assets and forms of conceptions of good life. It is recognized by Rawls that choice is central to a person's life, though he does not discount the influences of other factors in making this choice. Here, there is a crucial point that has to be negotiated. If the person is seen as making conscious choices with just peripheral support from influential forces, like the family, community, then it amounts to almost discounting the latter. It also leads the communitarians to charge that Rawls fails to recognize the importance of these influential forces in making a decision.

Rawls is definitely forwarding a particular way of living. This way is consistent with certain liberal values, whose barest representation has been made above. He perceives the individual as the bearers of not just rights, but also dignity, integrity, realizing one's self and above all a concern for others.¹⁵ A Rawlsian answer to the above question would be that from the perspective of justice as fairness, an individual, *irrespective* of the group or the community she is in, is also an integral part of the conception of justice, with all its attendant features. Therefore, the basic liberties and fairness of opportunity cannot be denied to her. Finally, Rawls would say that if the individual fairly recognizes these values and also recognizes the values of the family or community of which she is a member, then it is up to her to negotiate, in case of a conflict. The institutions would protect her on legitimate grounds.

An immediately related question arises with regard to the preservation of tradition and culture and cherish the same for its own sake. This is a debate, which is not very central to Rawls's concern.¹⁶ This involves negotiation and redrawing of various boundaries between the individuals and the communities, they are a part of. It also opens up issues of nations as communities, homogenization and consequently the question of minority cultures and their preservation. These multicultural concerns have raised considerable issues that need a separate arena where they can be discussed and deliberated upon.

Therefore, it would be prudent just to note its presence and move on.

¹⁵ Note that, here concern is not meant as benevolence. This is in line with Rawls's arguments.

¹⁶ This does not mean indifference.

Having said this, the notion of the self, in this level is thus very intriguing. The principles of justice seem to be impinging to the extent that conceptions of good life have to be informed if not directly influenced by them. The more interesting aspect is the description of the self. Here, the self is seen as an active agent who is consciously and deliberately making choices, which are governed in the broadest possible sense by the principles of justice. Thus, as noted earlier, the descriptions of the self have become richer in this arena than the first two levels.

The Fourth Level

If the first three levels moved from a molecular description of the self to a cellular one, then the fourth level is of a slightly different nature. Here the issues raised are constitutive. The major issue is whether Rawls in advancing arguments, for basic liberties as specified in the first principle and the lexical priority of equality of opportunity over the difference principle, *rely* on a conception of the person. Consequently, an accompanying question is also that if it does not, then is there a reliance on a community. This is a vexed question as much of the Communitarian's critiques especially Sandel answer the latter question in the affirmative. It is submitted here that there is no such reliance on an individual or a community.

To explain, the first principle of justice states the requirement of equal basic liberties compatible with a like liberty for all. This priority given to liberty has raised many comments. Of primary interest here, is the one, which states that since liberty is primary, then, Rawls is arguing for a system that is individually biased. However, this comment fails to recognize the importance of liberty in an analytical construction of a conception of justice. Apart from its normative value, the priority of liberty has other important functions as well. For instance, this priority ensures that a conception of justice is acceptable to all and if not is at least persuasive. This is not an argument designed to ensure that the individual has liberties irrespective of any other external constraint or condition. Rather, it is part of building an argument for accepting a conception of justice.

Further, the lexical ordering of the priority of liberty and equality suggests that liberty is valued primarily over that of equality and the difference principle. Indeed, Rawls suggests as much when he says, 'liberty is to be restricted only for the sake of liberty.' (Rawls 1971: 244). Importantly, it must be remembered that this liberty is argued for in order to enable persons to pursue their respective conceptions of good life (whatever form they may take). These liberties again are specified as basic democratic liberties that are found in contemporary democratic societies. It should be acknowledged that without these liberties it is impossible to conceptualize a conception of the good or even follow an accepted conception of good life as specified by tradition, for example.¹⁷ For the limited purpose of this dissertation, it is assumed that these rich arguments though substantial would not be an integral part of the topic under consideration.

Thus, the priority of liberty does not depend on any specific conception of the person. Similarly, a notion of community does not play an important role in the formulation of these priorities at least. A group or a community cannot be the analytic unit required in a conception of justice. For the constitution of the group, cohesiveness of the group and various factors of instability come into operation. It is easier to take an individual and eliminate the sources of instability in a much simpler fashion than taking a group as a unit and then eliminating the factors of instability. The latter process would be too cumbersome and open to legitimate objections from various quarters. Therefore, the submission here is that there is no reliance on a community to state the arguments of a theory of justice, in the sense that the latter is not *dependent* on the former.

An interesting issue is raised here by the communitarians. Again, especially Sandel. His point is that Rawls's theory of justice depends on an unacknowledged notion of community. This point was discussed in the earlier chapter as well. A developed version of Sandel's argument states that a political community should have much stronger links

¹⁷ At this point, it is crucial to mention that incisive and rich arguments are presented by a number of critiques and commentators on the issue of priority of liberty. For instance, of particular importance is the critique of H.L.A. Hart (1975). Rawls recognizes that the latter's arguments are particularly devastating and recasts his arguments of the priority condition. Similarly, there are a number of others as well, of which a collection is present in Norman Daniels - *Reading Rawls* (1975).

than allowed for by Rawls, or acknowledged by Rawls. Further, Rawls's own two principles requires a stronger notion of community. This point is pertinent with respect to the notion of the self in the sense that the communitarians argue that since the self is culturally embedded (MacIntyre, Sandel) and is inextricable from an evaluative space (Taylor), a notion of strong political community is in consonance with the nature of the self.

The central question therefore, is whether the two principles of justice *needs* a strong notion of community. A major problem here is in defining a community. Invariably a community seems to include an idea of commonality, even homogeneity and even may be a hierarchy. Given these broad inclusive features, it is possible to identify sentiments and attachments that one tends to develop within such a community. Certainly, by any account the difference principle does not need such reliance. For the choice of economic systems is not based on such sentimental factors. As mentioned in the earlier chapter, the difference principle in turn might lead to development of sentiments. That is not ruled out. Primarily the sentiments being a motivating factor of the difference principle is definitely ruled out. Further, this is evident in the reasoning of the parties in the original position. From within the veil of ignorance, the parties are not bound by any prior commitment towards each other in order to choose the difference principle. This is constructed deliberately so as to avoid the intrusion of benevolence in the choice of principles. This is also keeping in line with a Kantian interpretation (again, as noted in the earlier chapter). Ultimately, the difference principle stands on its own merit. It is a powerful argument, which needs to be analyzed in proper perspective and an examination of its dependence on a community is certainly far-fetched. The point earlier made, namely that the arguments for a theory of justice is not reducible to an individual or a community needs to be reiterated.

The implications of this on the notion of the self are significant. The arguments of liberty, their priority over that of equality and the difference principle is *not constitutive* of a particular notion of the self. The two are not intrinsically linked. An agreement is made on those priorities via a particular representation of a *part* of a self. However, this does

not mean that the self is homogenized in its constitution and implicative aspects in all the spheres of life. Distinctions have to be maintained.

With this account of the four levels of questions completed, it is very clear as promised initially, that there is no monolithic account of a unified picture of the self emerging. In fact, it is diverse, interrelated and operates simultaneously on all these four levels. Strangely, even here it has been difficult to explicate positively the notion of self. To a large extent, it has acquired the form of negating some of the arguments made on behalf of a self by the communitarians. This is unavoidable. For the belief here is that there is no single picture of self that emerges in order to have a substantial discussion on or generate considerable critical literature.

Ironically, this lends strength to a positive claim on the notion of self in Rawls. A discourse on the conception of self as such is decisively *diffused*. In other words, Rawls displaces the discourse of a notion of self. By not relying on a *particular* conception of the self, Rawls steers the attention of all towards building an argument that would be applicable and persuasive to different understandings of the self. Even as this is written, one can almost hear the distant beat of the rhythm that Rawls's writings have produced later, especially *Political Liberalism*. There would be no venturing into the arguments of this work, yet one knows that it is in tune with the way Rawls has dealt with the notion of the self in the *Theory of Justice*.

Section - II

Unsettling Parallel Discourses – Need to Recast the Arena of Dispute

A parallel discourse is meant in a specific way here. The arguments advanced to dispute Rawls's claim by the communitarians relies on a specific reading of Rawls, which as witnessed above may not be called for in the first place. At the point where the critics claim that Rawls is the weakest, for instance, seems to be the point that Rawls never intended or said at all. It is this crevice that exists between the point of criticism and the point of rejection or negation of the same idea or thought, which gives rise to a parallel

discourse. For after this the nature of the debate assumes parallel proportions. The critics continue to build their arguments and give rise to a series of literature based on a part of the crevice that they created and the 'criticized' produces works that is in line with the original idea and proceeds as though the critique never happened. This is symptomatic of a parallel discourse. Where a debate is assumed to be present, at least one of them does not even recognize that there is a debate.

Ideally, a debate is meant to be intellectually nourishing and providing critical inputs in order to sharpen and focus thoughts that helps in understanding and living in this world in a better manner. Further, a debate opens up alternatives and soon one starts considering the plausibility and feasibility of the alternatives with which one is able to analyze and understand. Therefore, for the sake of the discipline, it is crucial that a debate is formulated in terms which best correspond to each other in a manner that there is communication through disagreements. However, in the case of a parallel discourse, sadly, the communication is missing. For the object of communication (a contentious point, say) is itself subjected to critical scrutiny such that the point's existence seems to be in question. With the result, the debate tends to assume an indeterminate form whose ends fritters away into emptiness.

In the debate between Rawls, Sandel and Taylor, it was seen that many critical arguments were seen as being misread or misunderstood or misquoted. This has been especially true of Sandel. Pogge, Kymlicka, Kukathas and Petit, Amy Gutmann among others have testified to Sandel's misreading of Rawls. John Rawls himself has said how the interpretations of Sandel may not be called for in the first place. (Rawls 1999: 403). This gives rise to an important question – how is this misreading possible, in the first place? For misreading is easy, however to build up an entire argument for communitarianism and writing a book which is cryptically regarded as the 'communitarian manifesto' (Taylor and Bhargava 1998: 66) is an extremely difficult task. This process is very difficult and it needs to be examined with serious rigor than has been seen so far here. However, it is an important point to ponder about.

Returning to the nature of the debate in concrete terms, the effort in the previous chapter and in the first section of the present chapter can be described as a process of shutting the entry points for the communitarians and thereby refuse access to Rawls's theory. By addressing the finer points of Sandel's critique on the notion of the self, an attempt was made to reply to those criticisms and reverse the reversal proposed by him. Regarding Taylor, there was a broad agreement with respect to the notion of the self as he enumerated (Chapter II). However, his problems with primary goods, primacy of justice and disagreement regarding searching for first principles were replied to in a very limited manner. This limitation stems from Taylor's own excellent comprehension of the philosophical and political issues involved as also Taylor's agreement with Rawls very broadly. What makes Taylor a significant critique of Rawls is that he does not agree to the enterprise of Rawls *fundamentally*. This is another disagreement from where much progress cannot be achieved in terms of a rich debate.

It is perhaps more prudent to begin a discourse independently and not necessarily by opposing another idea. Here, the point needs to be stressed that the discourse began by Sandel and elegantly represented in the works of MacIntyre, Walzer, Taylor and others are not trivial. Far from it. It is valuable and needs to be examined for its own merit. MacIntyre's account of practices and virtues, Sandel's account of civic republicanism, Walzer's idea of different spheres of justice, Taylor's evaluative space and hierarchical evaluations genuinely contribute to the richness of understanding and knowledge. They are powerful as well. One cannot ignore their articulations. However, the belief here is that they have to be divorced from the articulations present in the theory of justice. Even if a debate is attempted, it should be able to communicate effectively. For this to be effective, therefore, there is a need to recast the arena of dispute.

The arena of dispute as defined by the communitarians is deserted. It has to be recast in terms where there is a fundamental understanding or commensuration with Rawls's theory. Unless that happens, parallel discourses cannot be avoided. Yet, what is the nature of this dispute and how will it be conducted. What form would it assume and what are the assumptions to be made. These are questions that cannot be answered here. They

necessitate further rigor and understanding, a serious lack of which contributes to the present limitation.

Conclusion

This dissertation sought to examine the validity of the communitarian critique of the notion of self in Rawls. Through the discussion, it was urged that the theory of justice does not rely on a particular conception of the self, as the communitarians believe. Instead, a notion of self is present in Rawls, which is found in different and overlapping levels. With the result, there is no single or uniform picture of the self that emerges. Here, an attempt will be made to trace these developments through specific highlights, which would help recapitulate the main issues that have surfaced in this critical landscape.

The strength of the communitarian critique rests on their articulation of a notion of a self in Rawls. This articulation made certain assumptions on the basis of which both Sandel and Taylor presented a powerful critique. The effort in this dissertation has been to examine these assumptions of the critiques. A critical examination of the same revealed that these assumptions were not called for in the first place.

The communitarian reading sought to displace the primacy of justice that Rawls assents to and in the process point out the incoherence, which they claim is present in Rawls's *Theory*. This incoherence related to the 'discovery' of an unencumbered self by Sandel and the non-recognition of the evaluative space within which a self is invariably located by Taylor. Sandel's characterization of the unencumbered self contained the priority of self over the ends, the right over the good and therefore the primacy of justice. While Taylor's conception of human agency would not allow for any form of abstraction of the self from its constitutive and evaluative characteristics. Consequently, justice cannot be formulated in terms of first principles and immutable in time. It has to be context and time specific. Given this kind of critique, it was imperative to examine the assumptions that Sandel and Taylor made.

It was found that the validity of the assumptions made by Sandel were open to reasonable questioning. These questions related to the status of the self in the original position. Its constitutive characteristics were found to be at variance from that of Sandel's. For

instance, it was argued that the idea of a self being prior to its ends was not to be interpreted in the sense that it was epistemologically prior. Rather, it has to be understood as an analytic requirement for a theory of justice. This necessarily does not have epistemological and philosophical implications. Further, it was urged to consider this analytic requirement as advancing the argument that the self is not *reducible* to the ends it pursues. This paves the way for arguing that the self cannot be identified just in terms of the ends it pursues. Consequently, in opposition to a utilitarian doctrine, the self is not tied to any particular end.

The priority of the right over the good is an important one for Rawls. This follows from the Kantian interpretation of justice as fairness, as explained by Rawls. This Kantian formalism enabled Rawls to provide a theory of justice incorporating sufficient formal conditions and yet having a substantive value to it as well. As explained in the first chapter, at points where Rawls is seemingly close to Kant, simultaneously Rawls departs from Kant in substantive terms. This gives Rawls's theory enough leverage to accommodate the complexities that Kant seems to have ignored.

Sandel believed that this priority of the right over the good depended on the unencumbered self in the original position. This belief is based on misreading Rawls. For in the first place, the self is not prior as Sandel understands it to be and secondly, the priority of the right is influenced by Kantian elements in order to secure equal protection to different conceptions of good life that may exist at any given point of time. The basic idea being that the self is not reducible to the ends it pursues and further that the self is heterogeneous. Contrary to Sandel, it is not an unencumbered self that gives rise to the priority of the right. Rather it is the recognition of a fully encumbered self that gives rise to the priority.

While these issues relates to the ideas of the right, Sandel believed that the theory of the good as given by Rawls also suffers from incoherence. This is because the requirements of the principles of justice demand a stronger notion of community rather than a weak notion as enumerated by Rawls. Here Sandel targeted the ideas of natural assets and the

related notion of desert to argue for his point. However, it was found that Sandel again misinterpreted these ideas. A notion of community in Rawls's theory is informed richly by Aristotle's conception of excellence and virtue. This is a point that is completely missed by the critics. Again, in the first chapter, the Aristotelian roots of Rawls's conception of the good was discussed to point out that the social union is strongly influenced by ties of sentiment and an urge to excel and flourish. The difference is that in the formulation of the principles of justice, these ties benevolence and natural sentiment are not accounted, for various reasons. This is again a Kantian feature, as noted earlier.¹ It was urged that the principles of justice, for its derivation and validity do not depend on a stronger notion of community. It is derived on the basis of instrumental rationality, which is reasonable to assume. Indeed, the belief here is that this is a reasonable position to argue for and defend a conception of justice. It is also recognized that the principles of justice may actually give rise to sentiments. This is not disputed.

Taylor does not have a problem in the derivation of the principles of justice. For Taylor, the search for first principles and the process of abstraction is uncalled for. Taylor firmly believes that the self which is constantly in an evaluative framework cannot move out of this framework. Similarly, this framework provides identity and dignity to the self, which is inextricable from the self under any circumstances. Further Taylor argues that Rawls in assuming a thin theory of the good, in his account of primary goods, is actually relying on a veiled thick conception of the good. Therefore, Taylor has a problem in such procedural theories, which does not acknowledge its own *thicker* conceptions of good.

At the outset in Taylor's account, which was presented in chapter II, it was maintained that he does not have a problem with Rawls's theory completely. Rather, his specific critiques are very limited. The strength of Taylor's critique was in the presentation of an alternative understanding of the conception of human agency. Taylor does not have a problem with the derivation of the principles of justice either. As far as extricating the self, from its evaluative space is concerned, it was urged that the original position was merely a hypothetical thought experiment that does not do away with the strong

¹ See Chapter I.

framework that a self is located in. In fact, it was even suggested that Rawls would not have a problem in the conception of human agency as articulated by Taylor. Rather, the real question is, arguing for a conception of justice which, would at best be fair, impartial and give equal consideration to the different conceptions of the good. Rawls is at variance with Taylor here and urges that a hypothetical thought experiment is essential.

Again, with respect to not acknowledging the *thick* conceptions of good, it was urged that the right is not completely divorced from the good. The right is linked to the notion of the good. This was also emphasized in the discussion of Kymlicka and Freeman that was presented in the fourth chapter. The moot point is that a notion of good is definitely advanced. However, whether that notion is completely inhospitable to other different conceptions of good life is a question whose answer was not very clear. For the responsibility for such articulation rests with Taylor. Here, the influence of Kant is again present. The notion of good life is advanced with sufficient conditions of the right regulating it and thus the good is not made indeterminate, as explained by Rawls. So, it is imprecise to claim that Rawls does not acknowledge a conception of good in his theory.

By reviewing these issues, it was clear that a notion of self is not uniform which is easily identifiable and therefore open to criticisms. The notion of self is rather to be found in different overlapping levels. These different levels raised different questions about its presence and validity, each of, which surfaced an answer that did not lead to identifying a single self.

It is the firm belief here that Rawls never intended to provide a notion of self, because that would have been antithetical to the endeavour of the analytical construction of justice. The theory of justice was specifically designed to answer the question – what is the best arrangement to accommodate the different conceptions of good life in a society. Given such a question, it was fairly obvious that the good life would also include different conceptions and understandings of the notion of the self. It was essential to proceed from an understanding that there are different conceptions of the self and then find a viable way to arrive at a consensus regarding the principles of justice. In this

respect, it was essential to consider certain features of the self that can be generalizable and from where a viable theory could be articulated. Thus, a theory of justice was presented.

An uncomfortable question arises in one's mind, when one says that Rawls never intended to provide for a notion of self. In which case, the necessity of this dissertation is open to legitimate question. As stated in the introduction, questions raised by Sandel were irresistible and the account provided by Taylor was powerful. Given this, it was essential to examine the validity of the claims that they made on Rawls. However, through this examination, it was found that a notion of self as claimed by them might not be present at all. That is how, a different understanding of a notion of self in Rawls was presented in the fourth chapter.

It would be fruitful to end this dissertation by considering two important implications of this kind of understanding. One, this understanding of the notion of self extends later on where Rawls articulates his *Political Liberalism*. The belief here is that this treatment of the notion of self is reflected in this later work, wherein he proceeds from the starting point of different conceptions of good life. Second and more importantly, a conviction is forwarded that Rawls has effectively displaced the discourse on the individual or a self and has invariably dictated the movement of contemporary liberalism in a direction beyond that of an individual orientation. Its full potential is yet to be tapped.

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