

**THE DISTRIBUTION OF NATURAL TALENTS
AS A SOCIAL ASSET**

Macpherson suggested that English political thought from the seventeenth to the nineteenth centuries had an underlying unifying assumption, which he called 'possessive individualism' and he went on to suggest "that central difficulties of liberal-democratic thought from John Stuart Mill to the present might be better understood if they were seen to have been set by the persistence and deep-rootedness of that assumption."¹ (1962, p. 111) According to him it presupposes "the conception of the individual as essentially the proprietor of his own person or capacities, owing nothing to society for them." (1962, p. 3) In his analysis, since the individual is the sole proprietor of his own person and he is free from any but self interested contractual relations with others, his society is nothing but a series of relations of exchange i.e., a series of market relations (1962, pp. 271-272). This doctrinal intimacy of liberalism with capitalism was seen as fatal for the former since it undermined the very basis of political obligation in our times. According to Macpherson two assumptions are needed for a valid theory of political obligation. Firstly, "individuals of whom the society is composed must see themselves or must be capable of seeing themselves as equal in some respect more fundamental than all the respects in which they are unequal". (1962, p. 272). Secondly "there be a cohesion of self-interest among all those who have a voice in choosing the government, sufficient to off set the centrifugal forces of the possessive market society." (1962, p. 273). Both

Received : 15-12-86

these assumptions are invalid today according to Macpherson. The rising industrial working class no longer see themselves fundamentally equal in subjection to the determination of the market. Even the system of market is seen neither as inevitable nor as rightful and with the universal franchise there is no longer the assurance of cohesion among all those with a political voice (1962, pp. 273-74).

Rawls of course does not mention Macpherson or his diagnosis of the difficulty of justifying liberalism, yet he can be seen as having responded to this very challenge. He tries successfully to sever the doctrinal connection between liberalism and capitalism by making his principles of justice independent of the possessive individualism.

Rawls in his *A Theory of Justice* writes "We see then that the difference principle represents, in effect, an agreement to regard the distribution of natural talents as a common asset and to share in the benefits of this distribution whatever it turns out to be. Those who have been favoured by nature, who ever they are, may gain from their good fortune only on terms that improve the situation of those who have lost out... No one deserves his greater natural capacity nor merits a more favourable 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." (pp. 101-102). In a later article also Rawls argues, "we must ask: In the light of what principle can free and equal moral persons permit their relations to be affected by social fortune and natural lottery? Since no one deserves his place in the distribution of talents, nor his starting place in society, desert is not an answer... Now when the maximin criterion is followed the natural distribution of abilities is viewed in some respect as a

collective asset. While an equal distribution might seem more in keeping with the equality of free moral persons, at least if the distribution were a matter of choice, this is not a reason for eliminating natural variations, much less destroying unusual talents. To the contrary, natural variations are recognized as an opportunity, particularly since they are often complementary and form a basis for social ties. Institutions are allowed to exploit the full range of abilities provided the resulting inequalities are no greater than necessary to produce the corresponding advantages for the less fortunate." ³ (1974, pp. 144-145).

In the possessive individualism a man's talent was accepted as his own asset. This assumption, which was implicit in Hobbes's claim in *Leviathan* that, "a man's labour also, is a commodity exchangeable for benefit, as well as any other thing" ⁴ (Ch. 24, p. 189) was stated categorically by Locke in his second *Treatise on Government*, "...every Man has a *property* in his own person. This no Body has any Right to but himself. The *Labour* of his Body, and the work of his hands, we may say, are properly his." ⁵ (sec. 26) Rawls has directly challenged this axiom of the classical individualism, an axiom which has been accepted in toto by the modern day libertarians, including its arc champion Robert Nozick.

No doubt Nozick was the first thinker to comment on the view that the distribution of natural abilities be viewed as a "collective asset." He complained, "People will differ in how they view regarding natural talents as a common asset. Some will complain echoing Rawls against utilitarianism that this "does not take seriously the distinction between persons," and they will wonder whether any reconstruction of Kant that treats people's abilities and talents as resources for others can be adequate. "The two principles of justice... rule out even the tendency to regard men as means to one another's welfare."

Only if one presses very hard on the distinction between men and their talents, assets, abilities, and special traits. Whether any coherent conception of a person remains when the distinction is so pressed is an open question. Why we think particular traits should be cheered, that (only) the thus purified men with us are not regarded as means is also unclear." ⁶ (1974, p. 228)

Michael Sandel, a critic of contemporary liberalism, cheering Nozick from the wings, not only endorsed these arguments but also turned the claim that Rawls's theory presupposes a conception of the self "... shorn of all its contingently given attributes", into a full fledged instrument of interpreting Rawls's *A Theory of Justice* in particular and contemporary liberalism in general in his *Liberalism and the Limits of Justice*.⁷ And also he added arguments of his own from the communitarian point of view, of which he is an ardent advocate. He argued, 'The liberal's emphasis on sharing would seem to require a strong theory of of community—an account, that is, of the way our identity as citizens is shaped by our common aims and endeavours. But it is unclear how a theory of community such as this could fit with liberalism's individualist aspiration'.⁸ (1948, p. 227) He further argues, "The arbitrariness of an individual's assets argues only against the proposition that the individual owns them or has a privileged claim to their benefit, not in favour of the proposition that some particular society owns them or has a privileged claim with respect to them" (1948, p. 232). Commenting on the Rawlsian claim that the natural talents regarded as social assets be used to arrange the distributive scheme to benefit the least advantaged members of the society, he writes, "First, there is no such thing as 'the society as a whole'... Each of us moves in an indefinite number of communities, some more inclusive than others, each making different claims on our allegiance, and there is no saying in advance which is *the* society or community whose

purpose should govern the disposition of any particular set of our attributes and endowments. Second, if there is no such thing as "*the society as a whole*", taken in abstract, then it would seem unlikely that any particular society, arbitrarily identified, could have any greater claim to some particular set of endowments than the individual in whom they accidentally reside, for surely their location within the province of such an arbitrarily identified community could be no less arbitrary from a moral point of view... Finally, unless it is possible to identify the relevant community, across which "my" assets are properly shared and to establish its credentials,... Rawls's notion of common assets have the effect either of contradicting the central Kantian and Rawlsian injunction against using some as means to other's ends, or evading this contradiction by relaxing altogether the bounds between the self and the other, thus failing to take seriously the distinction between persons." (1984, p. 236).

But the sharpest indictment of Rawls's view has come from Charles Fried, "...Rawls's celebrated maximin proposal is ambiguous about the extent to which a person's talents, ambition, character are or are not social assets only provisionally assigned by the morally irrelevant hazard of what he calls the natural lottery. To the extent that maximin allows the better endowed to hold out for higher income in exchange for their contribution to the situation of the worst-off, it seems to recognize a moral title in those endowments after all. But if there is such a moral title then one wonders how an obligation to contribute what is one's own arises at all. Rawls's suggestion that the better endowed are indeed entitled to enjoy the fruits of their greater endowments but only to the extent that this improves the situation of the least well off hardly lays these doubts to rest, but rather just restates the initial proposition" (1982, p. 92).

In my view Charles Fried has made a mistake. For Rawls allows the better endowed to hold out for higher income not because of any recognition of moral title in endowments but because of considerations rooted in individual autonomy. Justice as fairness forbids any use of force to elicit the use of individual endowments which are social assets even in face of the reluctance of individuals because of their limited sympathy to voluntarily use their endowments for the social purpose, since it recognizes the autonomy of the individual to schedule his capacities in his plan of life. Use of force will violate this autonomy. So the only option left is to give incentive to persons to elicit willing contribution to the social good which in justice as fairness is the maximisation of the welfare of the worst off. Hence those better endowed are allowed to retain higher income so long as they contribute to the welfare of the worst off.

Of course Nozick will reply that it is a false autonomy. "Taxation of earnings from labour is on a par with forced labour... taking the earnings of n hours labour is like taking n hours from the person, it is like forcing the person to work n hours for another's purpose" (1974, p. 169). This argument can be analysed by taking an example given by Nozick himself for a different purpose that Wilt Chamberlain is greatly in demand by basketball teams, being a great gate attraction.... He signs the following sort of contract with a team. In each home game; twenty five cents from the price of each ticket of admission goes to him.... The season starts, and people cheerfully attend his team's games, they buy their tickets, each time dropping a separate twenty five cents of their admission price into a special box with Chamberlain's name on it.... Let us suppose that in one season one million persons attend his home games, and Wilt Chamberlain winds up with \$ 250,000, a much larger sum than the average income and larger even than any one else has',

(1974, p. 161). Now Nozick of course is interested in asking "Is he entitled to this sum? Is this new distribution... unjust? If so, why?" But we will ask and I hope Nozick will not be unwilling to ask himself, whether raking a part of Wilt Chamberlain's income as tax to improve the lot of the worst off is forcing him to labour for others if only for a few hours or not? Now the answer is not so obvious. According to Gauthier, and I think he is right, if Wilt Chamberlain will not play and will decide to retire if he does not get the whole of \$ 250,000, then taking part of that income by tax will amount to forcing him to work.¹⁰ (1986, p. 275). But suppose he will be willing to play for anything from \$ 100,000 and above but will not play for less, then surplus \$ 150,000, over the minimum for which he will be willing to play, if taken as tax will not interfere with his decision to play. (1986, pp. 275-76) Is he still being forced when such surplus is taken away? Rawls's answer will be in the negative. It is perfectly consistent with the autonomy of the person to *force* him to part with the surplus above the minimum for which he will be willing to work, for the benefit of the worst off. As David Gauthier has pointed out this surplus is the factor rent. "If Nozick would treat the right to factor rent as a component of liberty, John Rawls would not only demand its confiscation, but its redistribution so that in effect the surplus represented by rent would be enjoyed by those lacking the factors" (1986, p. 276). And of course Rawlsian move will violate no one's autonomy since freedom to collect factor rent is no part of the autonomy of the individual to use his capacities as he chooses, since "the surplus represented by rent arises only through interaction" in the society (1986 p. 276).

Since the distribution of factors is arbitrary from a moral point of view, Rawls does not give the right to collect the factor rent to the individual, for this will be to give individuals which

they do not deserve. Here Sandel's objection comes to the fore. Arbitrariness of the distribution of natural talent is an argument against individual ownership of the talents and hence against the individuals right to collect the factor rent. But it does not automatically mean that the society owns the factors and hence has a right to factor rent.

I think Rawls's reply will be that "Nor, ... can we view the abilities and talents of individuals as fixed natural gifts; even if there is an important genetic component. The abilities and talents cannot come to fruition apart from social conditions and as realized they always take but one of many possible forms. An ability is not, for example, a computer in the head with a definite measurable capacity unaffected by social circumstances. Among the elements affecting the realization of natural capacities are social attitude of encouragement and support and the institutions concerned with their training and use. Thus, even a potential ability at any given time is not something unaffected by existing social forms and particular contingencies over the course of life up to that moment." ¹¹ (1977, p. 160) It is society's contribution to the development of the natural talent that makes it the owner of the talent and hence it the right to factor rent which again arises only through interaction in the society. It is surprising that Gauthier objected, "That each individual's capacities are actualized within a social nexus does not make them collective rather than individual assets, or afford any ground for treating them as part of the common capital of the group within which the individual is formed. In putting those assets to his own use the individual does not take from others what is rightfully theirs since those others do not own him, although it does not follow that he simply uses what is rightfully his own" (1986, p. 253). It is correct that prior to our deciding it the individual's capacities are neither "rightfully his" nor

"rightfully society's." So the question is how to balance the conflicting claims. To settle in favour of individual is as arbitrary as to settle exclusively in favor of society. So Rawls's solution is that the society has the ownership of the talents and hence has the right to collect the factor rent while individual has the autonomy to use the capacities as he chooses and hence has the right to collect the payment for costs arising from opportunities forgone. The classical individualists like Hobbes and Locke and Modern Libertarian's like Nozick have failed to recognize any claim of society on the distribution of natural talent, which is very one sided and arbitrary.

Now we must face the question : which is " the society as a whole " or the single " ultimate " community to own the natural talents? Here we must concede to Sandel that liberalism in general and Rawls in particular has failed to give a satisfactory answer to this question. Rawls's just society turns out to be the nation state. (1971, p. 378) which is not only an accidental product of history and hence arbitrary from a moral point of view but also quite parochial. He is open to the charge made by Sandel, " it would seem unlikely that any particular society, arbitrarily identified, could have any greater claim to some particular set of endowments than the individual in whom they accidentally reside, for surely their location within the province of such an arbitrarily identified community could be no less arbitrary from a moral point of view. " (1985, p. 236) But it is not impossible to give a Rawlsian answer to the fundamental problem raised by Sandel within Rawlsian framework. Since according to Rawls, " it is precisely the moral persons who are entitled to equal justice " the capacity for moral personality i.e., having capacity for a sense of justice and capacity to understand one's conception of the good is a sufficient condition for membership of just society. Hence the pre-eminent society who must

own the talents can be nothing less than the society consisting of all the persons having the moral personality, which includes, barring fringe cases, the entire human race. This world society is the only society consistent with Rawlsian liberalism, in fact with any liberalism.

By treating the natural talents as social assets has Rawls violated the Kantian precept which says : " Act in such a way that you always treat humanity, whether in your own person or in the person of any other never simply as a means, but always at the same time as an end. " ¹² (Kant, 1969, p. 91) ? Of course one can question beggingly give this precept a meaning so that it cannot be satisfied unless the natural distribution of talents is treated as an individual asset. But what does the precept require in its original meaning ? Kant was quite clear. A person is treated as a means when he is made to do an action such that he " cannot himself share the end of the action " (1969, p. 92) and persons are treated as ends in an action when they are treated " only as beings, who must themselves be able to share in the end of the very same action " (1969, p. 92). But this is merely the negative requirement. The positive requirement of the humanity as an end in itself is that " every one endeavours also, so far as in him lies, to further the ends of others. For the ends of a subject who is an end in himself, must, if this conception is to have its full effect in me, be also, as far as possible, my ends. " (1969, pp. 92-93). Given this Kantian understanding of the precept it is clear Rawls's treatment of the natural capacities of the better endowed neither violates the negative nor the positive requirement. The negative requirement is not violated since the individual is given the right to retain the minimum amount on which he is willing to work. The positive requirement is not violated since the surplus of the individuals labour is used by society to further the ends of the least well-off.

Does this amount to "relaxing altogether the bounds between the self and the other", thus a failure to "take seriously the distinction between persons"? I think the answer is in the negative. Since Rawls recognizes the right of each individual to organize his own life and hence his capacities as he chooses, the distinction between persons is respected. The taking of the surplus over the minimum for which a person will be willing to work, to give to others in need does not "relax" the bounds between the self and the others, since the individual to begin with never had the right to that surplus, he never had the right to the factor rent, and others are given the surplus not on the ground that they are the part of his own self. In fact the idea of natural talents as social assets does not require any conception of the community which partakes in the identity and interests of the individual or which is constitutive of persons, self identity. The idea of the common end which Rawls requires while defining the idea of social union, is merely formal. The common end that Rawls has in mind is the end that the distinct and separate individuals pursue goals of their own choice but within the limits of principle of justice. To pursue this end is not to pursue a collective goal like enhancement of national glory but only to adjust one's goods within the principles of justice. Rawlsian common goal is not another end over and above the individuals own goal. Hence, Sandel's objection that the liberalism's emphasis on sharing would require a conception of constitutive community engaging the identity and interest of individuals inconsistent with its individualist aspirations does not hold good.

Does the claim that the idea of common asset presses hard the distinction between person and his capacity leaving behind only a bare individual hold good? The answer is in the negative. It may be recalled that the classical individualists and the modern libertarians make a distinction between selling oneself and selling

one's labour. When the labour is sold it becomes the labour of his who has purchased it. If this does not press hard the distinction between a person and his labour (mind you: the person is not sold for that is slavery, only the labour is sold as that is wage contract), then neither does the claim that the natural talent is a collective asset. Rawls leaves the person quite thick with his capacities and allows him the liberty to use it as he chooses and gives him the right to collect the payment for costs arising from opportunities forgone in making use of the capacity in any particular way. In fact to read in Rawls's idea that distribution of natural talents is a "collective asset" or "common asset," a full fledged modern property right over the natural talents of individuals vested in the society, is a mistake.

When faced with Sandel's objections against his own theory, Dworkin replied that, "It seems to me, in fact, a great mistake to bring ownership or possession of talents into the discussion at all... Indeed, the idea of ownership, either of talents or of material goods has, I think, no useful role to play in the abstract levels of political theory, because it is parasitic on rather than generative of basic principles of political and personal morality." ¹⁹ (1982, p. 292)

This Dworkinian reply is open to Rawls, for him to treat distribution of natural talents as a "common asset" or a "collective asset" is to accept the difference principle, he does not mean to give the former as an independent argument to support the latter. The premises of Rawls's argument are the arbitrariness of distribution of talents, and development of talent by active participation of society and not the commonality of the natural talent, it is rather a conclusion of the argument.

Before we close one more objection must be discussed. David Gauthier claims, "...Rawls distinguishes factor rent from payment for factor services, agreeing with our view that each

person is entitled to the latter, but supposing that the former, instead of being divided equally among all co-operators, is to be used to the benefit of the least advantaged. And this is a denial of basic liberty in the context of co-operation. If each contributes equally to the production of the co-operative surplus, then each is entitled to an equal share in that surplus, Rawls fails to recognize this entitlement". (1986, p. 277) Gauthier's claim that not to share the factor rent equally is to deny the basic liberty in the context of co-operation at best is unsupported by argument at worst is a misunderstanding of what autonomy requires. Neither is it true that each contributes equally to the co-operative surplus, for the unequal distribution of talent leads to unequal contribution to the surplus. The reason behind difference principle is the Marxian precept "from each according to his ability and to each according to his need". Each contributes to the pool of surplus factor rent according to his ability and the least well off receives this because of their greater need.

Philosophy Department
Lucknow University
LUCKNOW 226 007 (U. P.)

BINOD KUMAR AGARWALA

NOTES

1. Macpherson, C. B., *The Political Theory of Possessive Individualism : Hobbes to Locke*, Oxford University Press, Oxford, 1962.
2. Rawls, John, *A Theory of Justice*, Cambridge : Belnap Press of the Harvard University, 1971.
3. Rawls, John, "Some Reasons for the Maximin Criterion" *American Economic Review*, 64, Papers and Proc., (May, 1974).
4. Hobbes, Thomas, *Leviathan*, ed. W. G. Pogson Smith, Oxford, 1929.

5. Locke, John, *Two Treatises on Government*, ed. Peter Laslett Cambridge, 1960.
6. Nozick, Robert, *Anarchy, State and Utopia*, Basic Books, Inc., Publishers, New York, 1974.
7. Sandel, Michael, *Liberalism and the Limits of Justice*, Cambridge, University Press, 1982.
8. Sandel, Michael, "Liberalism and the Claim of Community : The Case of Affirmative Action", in *Ronald Dworkin and Contemporary Jurisprudence*, ed. Marshall Cohen (Duckworth, 1984).
9. Fried, Charles, " Is Liberty Possible " ? *The Tanner Lectures on Human Values*, Vol. III, 1982.
10. Gauthier, David, *Morals by Agreement*, Clarendon Press, Oxford, 1986.
11. Rawls, John, " Basic Structure as the Subject " *American Philosophical Quarterly*, Vol. 14, No. 2, April 1977.
12. Kant, Immanuel, *Groundwork of the Metaphysics of Morals*, tr. H. J. Paton in *Moral Law*, Hutchinson University Library, London, 1969.
13. Dworkin, Ronald, " A Reply by Ronald Dworkin " in *Ronald Dworkin and Contemporary Jurisprudence*, ed. Marshall Cohen (Duckworth, 1984).