

# **JOHN RAWLS' THEORY OF DISTRIBUTIVE JUSTICE AND THE NIGERIAN HEALTH INSURANCE SCHEME: A CRITICAL ANALYSIS**

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## **Abstract**

This paper focused on the application of John Rawls' Theory of Distributive Justice in Nigeria especially in the Health system policy, “National Health Insurance Scheme”, emphasizing how Rawls’ principles of justice can promote inclusiveness, fairness and equality in the provision of health services, especially for disadvantaged populations. The paper examines how Rawls' abstract philosophical principles can be integrated into a structured evaluation framework (Rawlsian grid) and its application to the Nigerian socio-political and cultural context through the National Health Insurance Scheme. This allows for a systematic assessment of inequalities in the health system and proposals for equitable policy solutions. The findings show that programs such as the National Health Insurance Scheme (NHIS) have contributed to broader access to health care, but disparities remain in remote and underdeveloped areas. Using the Rawlsian grid, the study highlights challenges in budget allocation, health worker distribution, and infrastructure access. Recommended strategies include reallocating health budgets, fair distribution of health workers, expansion of telemedicine, and participatory planning. This study concludes that integrating Rawlsian principles of justice through a structured evaluation framework can support a more inclusive and sustainable health system in Nigeria, ensuring fair and equal access to quality health services for all citizens.

**Keywords:** John Rawl, distributive justice, Nigeira, and Health policy.

## Introduction

Justice is a concept in philosophy that tends to give a balance between what someone deserves and what they receive. It's about ensuring fairness and equity for all individuals and groups in society, while also respecting different identities. Justice is the treatment of every individual fairly. According to the Stanford Encyclopedia of Philosophy, the most plausible definition of Justice comes from the Institutes of Justinian, a 6th-century codification of Roman law, where *justice* is defined as "the constant and perpetual will to render to each his due."<sup>i</sup> Philosophical views on justice have evolved over the years. Historically, Solon laid the foundation for a democratic system of justice through the first series of constitutions that gave birth to democracy. He instituted changes and established a legal code that brokered a non-violent social revolution and transformed the passion for vengeance into a justice system. This system was based on rule of law, and equality before the law, a redistribution of power through law, and resolution of conflict through a public court system with juries of peers in an adversarial process before the presiding judge<sup>ii</sup>. Religion was separated from the administration of justice for the first time in human history. Solon converted private revenge into public justice. He harnessed wild justice and made it a central part of democracy. Solon's concept of justice influenced Aristotle's notion of justice. Aristotle saw justice as treating similar cases alike, while modern views, such as those of John Rawls, emphasize equality and rights, especially for the disadvantaged<sup>iii</sup>. Social justice movements have fought for equality, civil rights, and an end to discrimination.

Justice is very important in every human society. It is supposed to be one of the basic principles of human existence. In the realm of political philosophy, John Rawls' Theory of Social Justice stands as a landmark contribution to the understanding of fairness and equity in society. In the Rawls' seminal work, "*A Theory of Justice*" in 1971, a comprehensive framework for conceptualizing justice as fairness was made,

these principles have influenced political thought and policy discussions globally<sup>iv</sup>. However, the application of these principles in diverse cultural and political contexts remains a subject of ongoing debate and analysis. Actualisation of the principles of John Rawls's theory of justice have been seen by many as a contemporary reflection of egalitarian society, since it addresses the issue of fair distribution of social goods and services while respecting differences existing among individuals in the society. Although Rawls did not discuss or include the right to health in his theory, but it can be applied to the health care system as the basis of social justice<sup>v</sup>.

The health care system is the life wire of any society. The health of the citizens is the wealth of any society. The health care system is a complex network of organizations, institutions, and resources aimed at promoting, restoring, or maintaining health through preventive, curative, and rehabilitative services. It involves a mix of public and private providers, personnel, and financing mechanisms, often organized into primary, secondary, and tertiary levels to meet population needs. The health care system plays a vital role in the socio-economic development of every nation. In Nigeria, in a bid to ensure social justice and fairness in healthcare service the government created the National Health Insurance Scheme. The National Health Insurance Scheme was created as a social health insurance programme designed by the Federal Government of Nigeria to complement sources of financing the health sector and to improve access to health care for the majority of Nigerians<sup>vi</sup>.

The National Health Insurance Scheme is subsumed under the Universal Health Coverage (UHC) which aims to ensure that all individuals have access to a full spectrum of high-quality health services whenever and wherever they need them without financial hardship (health justice). The national health insurance scheme can be linked to John Rawls theory of justice which tends to achieve a well ordered and well administered community by the establishment of a fair distributive healthcare service system (as an aspect of social service). John Rawls emphasised on the need to focus on fairness instead of absolute equity of the distribution. Rawls suggested that individuals will be able to pursue their own goals and realize their rational life plans within the well-ordered and well administered community. This can only be realised

when the citizens are healthy and have equal access to healthcare services at affordable cost which is offered through the National Health Insurance Scheme<sup>vii</sup>.

However, since his theory of justice provides a method of assessing those social institutions charged with the distribution of all social goods, income, wealth and power, and because health care is such an institution, the application of Rawls' principles to health care distribution is appropriate. Social institutions for Rawls are at the very heart of the structure of a society. They consist of systems of distributive rules which tell people what to expect from those who are members of the institutions and those served by them. In Rawls' theory an institution is both (1) abstract, that is, a sort of ideal of how a particular group of practices, rights and duties relates to society as a whole, and (2) concrete, that is, a specific range of actions and persons at specific times and places which make up the institution. The system of jurisprudence with its laws, courts, practitioners and influence over our daily lives is a good example of what Rawls means by an institution. Health care is a branch of what might be called the Institution of General Welfare<sup>viii</sup>.

In Nigeria, one of the major aims of the National Health Insurance Scheme is the reduction of out of pocket payments thus, reducing vulnerability to having to pay at times of illness or injury. Simply put, National health insurance scheme may be viable solution to provide health care to the poor of the world in developing countries, allowing a break in the circle of ill health and poverty<sup>ix</sup>.

However, despite the laudable goals of the National Health Insurance Scheme in Nigeria, the actualisation of these policies has remained a lofty dream. Based on the reality on ground, most people still die an avoidable death due to poverty and lack of access to adequate healthcare services. Based on this, the question that comes to mind include; how many people are enrolled in the programme? What is the extent of people's awareness of the programme?<sup>x</sup> What is the extent of availability of infrastructural facilities in the healthcare facilities for the programme in Nigeria? What is the extent of fair distribution of human and material resources in the few available healthcare centres in the country?<sup>xi</sup> And above all, why are Nigerian leaders

and political elites still engaging in health tourism abroad (especially in France, India, United Kingdom, Turkey among others) with monies from taxes paid by the poor citizens despite making the policy. Furthermore, if the National Health Insurance Scheme is supposed to be under the Universal Health Coverage (UHC) which aims to ensure that all individuals have access to a full spectrum of high-quality health services whenever and wherever they need them without financial hardship, why are the political elites not utilising our health care system? Globally, health insurances have been successfully implemented not only in high-income countries but also in low- and middle-income countries as a strategy for ensuring health justice. But in Nigeria, the reverse is the case<sup>xii</sup>.

Borrowing from John Rawls theory of justice, one can say that reasons Nigerian political elites and leaders engage in medical tourism include lack of health justice in the country. This lack of health justice can be seen in the form of social negligence to the plight of the masses at home, social injustice in the healthcare sector, insincerity and above all, poor adherence to the masses' social contract mandate as regards to health. However, application of John Rawls theory of justice will not only ensure universal health coverage but also health justice. It is based on this that the paper examines the need for the strict application of John Rawls theory of distributive justice on the Nigerian Health Insurance Scheme.

### **Nigerian Health Insurance Scheme**

The National Health Insurance Scheme (NHIS) in Nigeria, now under the National Health Insurance Authority (NHIA) which aims to provide affordable, accessible quality healthcare for all Nigerians. The National Health insurance Scheme in Nigeria was formally signed into law as a public health policy on 10th of May, 1999 by the Head of State General Abdulsalami Abubakar due to increasing concern about the inability of the poor to afford basic health care services in Nigeria. The formal sector programme, one of the programmes under the scheme designed to cover employees in both the public and private sector was officially launched in June 2005 and the first batch of 100,000 ID-cards was presented to the Head of Service (HOS)

on 13th September 2005 (NHIS Annual Report, 2006). This marked the commencement of access to health care by enrollees in Nigeria. The launching of the formal sector social health insurance programme spring up series of activities under the NHIS ranging from registration of enrollees, issuance of identity cards, registration of hospitals and registration of Health Maintenance Organization (HMO) to serve as the managers of the NHIS funds<sup>xiii</sup>.

It is the belief of the Nigerian government that the NHIS will probably solve the problem of inequality in the provision of healthcare services (healthcare service injustice) and help to improve the accessibility to health care like some developed countries of the world. This belief of Nigerian government is in line with the main objective for establishing NHIS in Nigeria: To ensure the provision of health insurance “which shall entitle insured persons and their dependants the benefit of prescribed good quality and cost-effective health care services”<sup>13</sup> (NHIS Decree No 35 of 1999, Part 11:5; NHIS, 2009). In order to ensure the achievement of this objective, children under-five social health insurance programme, urban self-employed social health Insurance programme and rural community social health insurance programme were put in place<sup>xiv</sup>.

It was reported by National Health Insurance Scheme that the NHIS was structured to cover all groups in the society; however, the NHIS only covers Federal Government employees and the coverage level now is 20% of the general population and the Federal Government of Nigeria mandated the NHIS administration to achieve population coverage of 40% by 2015 as at then; which is still a mirage<sup>xv</sup>. The federal government employees, their spouses and four biological children are eligible for the scheme. Enrollment with primary health care provider is mandatory to enjoy the privilege of receiving care without making payment or at least make 10% payment of the cost of care<sup>xvi</sup>.

The National Health Insurance scheme has packages for different groups, and status as it is a flexible scheme. The benefits that the worker who enrolls with NHIS enjoy include that his or her spouse and up to four dependents will benefit from just

one enrollment. This though depends on the package. The individual does not need to wait or carry much money before he or she can access the health services after three months past registration. National Health Insurance Scheme reduces the effective price of health care and the insured will tend to use more health care for example, individuals who are just indifferent between using and not using a certain medical services at uninsured rate will tend to use it if they enroll with NHIS<sup>xvii</sup>.

The provision of health care had been and still remains an area of priority for governments and other stakeholders in the health sector of Nigeria. Demand for available health care services is greatly enhanced with increased access. Access, could be informed of proximity of health care within the immediate place of residence of individuals or groups in need of such services

National Health Insurance Scheme demand is the enrollment of subscribers with NHIS to access health care services. Non enrollment with NHIS programmes may lead to high burden to chronic illness, disabilities and mortality which culminate in sub-optimal productivity, low life expectancy and poor development compared with the developed world. Also, non-enrollment may lead to high rate of out-of-pocket expenditure which could be responsible for alternative health seeking behaviour demonstrated by: self-medication, delay in seeking for health care, patronage to herbalist, ignorance to illness, borrowing money to pay for health care and death due to lack of fund to treat ill health. Hence the need for universalisation of the national health insurance scheme with a means of ensuring social justice.

### **John Rawls notion of Justice**

In his famous book, “A Theory of Justice”<sup>xviii</sup> John Rawls tackles the problem of social justice. In the book, John Rawls addressed the problem of distributive justice (the socially just distribution of goods in a society). The theory utilised an updated Kantian philosophy and a variant form of conventional social contract theories of John Locke and Jean Jacques Rousseau in the 17th and 18th centuries. Locke said that the political authority emerges from a social contract between administered and administrator with the presence of voluntary consent of the administered. Rawls

carried the idea of social contract further and aimed to put forth an argument that forms the basis of the modern social justice system. Rawls's theory of justice is fully a political theory of justice as opposed to other forms of justice discussed in other disciplines and contexts.

The resultant theory was challenged and refined several times in the decades following its original publication in 1971. A significant reappraisal was published in the 1985 essay "Justice as Fairness", and a subsequent book under the same title, within which Rawls further developed his two central principles for his discussion of justice. Together, they dictate that society should be structured so that the greatest possible amount of liberty is given to its members, limited only by the notion that the liberty of any one member shall not infringe upon that of any other member. Secondly, inequalities either social or economic are only to be allowed if the worst off will be better off than they might be under an equal distribution. Finally, if there is such a beneficial inequality, this inequality should not make it harder for those without resources to occupy positions of power – for instance, public office<sup>xix</sup>.

First published in 1971, *A Theory of Justice* was revised in 1975, while translated editions were being released in the 1990s it was further revised in 1999. In 2001, Rawls published a follow-up study titled *Justice as Fairness: A Restatement*. Rawls argues for a principled reconciliation of liberty and equality that is meant to apply to the basic structure of a well-ordered society<sup>20</sup>. Central to this effort is an account of the circumstances of justice, inspired by David Hume, and a fair choice situation for parties facing such circumstances, similar to some of Immanuel Kant's views. Principles of justice are sought to guide the conduct of the parties. These parties are recognized to face moderate scarcity, and they are neither naturally altruistic nor purely egoistic. They have ends which they seek to advance, but prefer to advance them through cooperation with others on mutually acceptable terms.

Rawls offers a model of a fair choice situation (the original position with its veil of ignorance) within which parties would hypothetically choose mutually acceptable principles of justice. Under such constraints, Rawls believes that parties would find his favoured principles of justice to be especially attractive, winning out over varied alternatives, including utilitarian and 'right wing'-libertarian accounts.

### **The "original position"**

Rawls belongs to the social contract tradition, although he takes a different view from that of previous thinkers. Specifically, Rawls develops what he claims are principles of justice through the use of an artificial device he calls the Original position; in which, everyone decides principles of justice from behind a veil of ignorance. This "veil" is one that essentially blinds people to all facts about themselves so they cannot tailor principles to their own advantage:

"...no one knows his place in society, his class position or social status, nor does anyone know his fortune in the distribution of natural assets and abilities, his intelligence, strength, and the like. I shall even assume that the parties do not know their conceptions of the good or their special psychological propensities. The principles of justice are chosen behind a veil of ignorance."<sup>xx</sup>

According to Rawls, ignorance of these details about oneself will lead to principles that are fair to all. If an individual does not know how he will end up in his own conceived society, he is likely not going to privilege any one class of people, but rather develop a scheme of justice that treats all fairly. In particular, Rawls claims that those in the Original Position would all adopt a maximum strategy which would maximize the prospects of the least well-off.

They are the principles that rational and free persons concerned to further their own interests would accept in an initial position of equality as defining the fundamentals of the terms of their association<sup>xxi</sup>.

Rawls bases his Original Position on a "thin theory of the good" which he says "explains the rationality underlying choice of principles in the Original Position". A full theory of the good follows after we derive principles from the original position. Rawls claims that the parties in the original position would adopt two such principles,

which would then govern the assignment of rights and duties and regulate the distribution of social and economic advantages across society. The difference principle permits inequalities in the distribution of goods only if those inequalities benefit the worst-off members of society. Rawls believes that this principle would be a rational choice for the representatives in the original position for the following reason: Each member of society has an equal claim on their society's goods. Natural attributes should not affect this claim, so the basic right of any individual, before further considerations are taken into account, must be to an equal share in material wealth. What, then, could justify unequal distribution? Rawls argues that inequality is acceptable only if it is to the advantage of those who are worst-off<sup>xxii</sup>.

The agreement that stems from the original position is both hypothetical and ahistorical. It is hypothetical in the sense that the principles to be derived are what the parties would, under certain legitimating conditions, agree to, not what they have agreed to. Rawls seeks to use an argument that the principles of justice are what would be agreed upon if people were in the hypothetical situation of the original position and that those principles have moral weight as a result of that. It is ahistorical in the sense that it is not supposed that the agreement has ever been, or indeed could ever have been, derived in the real world outside of carefully limited experimental exercises<sup>xxiii</sup>.

### **Justice as Fairness**

Rawls makes “Justice as Fairness” a major and most popular section among the subjects treated in his book “A Theory of Justice”. In the first place, Rawls seems to clear our basic prejudice concerning the term “Justice as Fairness”. In other words, the concept does not mean that “justice” is the same thing as “fairness”. It is rather applied with a distinctive qualification to stress that the principle of justice ought to be chosen behind “a veil of ignorance”.<sup>25</sup> So as to ensure that no one is advantaged or disadvantaged. In other words, for Rawls, the principle that will eventually emerge as legitimate for guiding the individual in the society ought to be formulated under a certain condition of fairness and impartiality.

Recognizing the above fact, Emeka Ngwoke asserts that: “every human being asks for justice to be treated fairly in his or her dealings with fellows. When he does not get this fair treatment he complains”.<sup>9</sup> It is this uncompromising nature of justice and truth that propels Rawls to discuss or see justice as fairness. This revolves around the ability of those entering into contract to make and abide by the principles which will be to everyone’s advantage. To this end he says:

*The guiding idea is that the principles of justice for the basic structure of society are the object of the original agreement... These principles are to regulate all further agreements; they specify the kinds of social cooperation that can be entered into and the forms of government that can be established. This way of regarding the principles of justice, I shall call “justice as fairness”<sup>xxiv</sup>.*

In justice as fairness the original position of equality corresponds to the state of nature in the traditional theory of the social contract. The original position is not, of course, thought of as an actual historical state of affairs. It is understood as a purely hypothetical situation characterized so as to lead to a certain conception of justice. Thus, Rawls holds that:

*The original position is, one might say, the appropriate initial status quo, and thus the fundamental agreements reached in it are fair. This explains the properties of the name “justice as fairness”<sup>xxv</sup>.*

One feature of justice as fairness is to think of the parties in the initial situation as rational and mutually disinterested. This does not mean that the parties are egoists, that are individuals with certain kinds of interests, say in wealth, prestige and domination. But they are conceived as not taking an interest in one another’s interest. According to Brian Barry:

*This is in fact the conception of justice as fairness, the idea that substantiate regulative principles (the principles of justice) can be derived from the consideration of the situation in which certain*

*possibilities of pursuing self-interests by exposing one principle rather than another have been removed (condition of fairness).<sup>xxvi</sup>*

Therefore, justice as fairness simply means that the principles of justice are chosen under conditions of fairness that is, behind the “veil of ignorance”. The application of these principles should be to the advantage of everyone rather than create happiness for greater numbers as in the case of utilitarians. For more understanding of Rawlins theory of justice, let us examine his idea of the “original positions”.

### **The Veil of Ignorance**

To achieve the aim of the original position, which is “a well-ordered society”, Rawls holds that the parties are situated behind a ‘veil of ignorance’. That is to say, they do not know how the various alternatives will affect their own particular case and they are obliged to evaluate principles solely on the basis of general considerations. In fact, Rawls sees the veil of ignorance as a situation in which:

*No one knows his place in society, his class, position or social status; nor does he know his fortune in the distribution of natural assets and abilities, his intelligence and strength, and the like. Nor again, does anyone know the conception of the good, the particular of his rational plan of life, or even the special features of his psychology such as his aversion to risk or liability of optimism or pessimism. More than this, I assume that the parties do not know the particular circumstances of their own society<sup>xxvii</sup>.*

What this view of Rawls seems to suggest is that although people in the original position while being rational, they are nevertheless ignorant of their environment and abilities so they can reach agreement or decisions free from partisan interests. The veil of ignorance ensures that no one tailors principles to his own advantage. In order that agreement arrived at by parties is free and just, it is necessary that the parties are not only confronted with the veil of ignorance which, makes them to be unaware of those things which set them at variance with one another, but also that they are supplied

with the relevant knowledge that will ensure that the agreement reached is not unfair. Of course, the agreement reached will depend upon what practice prevails within the social structure.

Thus, since no one knows his situation in society nor his natural assertions, therefore, no one is in a position to tailor principle to his advantage. We might imagine that one of the contractors threatens to hold out unless the other agrees to the principles favourable to him. But how does he know which principles are especially in his interests? The same holds for the formation of coalitions: if a group were to decide to band together to the disadvantages of the others, they would have no assurance that it was to their advantage, since they cannot identify themselves either by name or description<sup>xxviii</sup>.

Commenting on the veil of ignorance, Brian Barry asserts that: “the veil of ignorance by itself is not what is distinctive about Rawls’ approach. It is compatible with any view of morality which insist on the central role of impartiality”.<sup>15</sup> Recognizing the importance of the veil of ignorance Rawls asserts thus:

*The veil of ignorance makes possible a unanimous choice of a particular conception of justice. Without this limitation on knowledge the bargaining problem of the original position will be hopelessly complicated. Even if theoretically a solution were to exist, we would not, at present anyway, be able to determine it.*<sup>xxix</sup>

The notion of the veil of ignorance raises several difficulties. Some may object that the exclusion of nearly all particular information makes it difficult to grasp what it meant by the original position. It may equally be protested that the condition of the veil of ignorance is irrational. Surely, some many objects, principles should be chosen in the light of all the knowledge available. There are various replies to this contention. But it should be noted that according to Rawls, the purpose of this veil of ignorance is to ensure justice and fairness to all the careers, professions, or positions in the new society. If one were to know what his career in the society is going to be, one would be biased; one would choose the principles that would favour that career. But since

one does not know, one would choose the principle that would be fair to all, so that whichever happens to be one's career afterwards, one would not suffer. The parties in the original position have an understanding of the general principle of justice that governs political affairs, economic social organizations, human psychology and the distribution of all rights, duties, privileges and the basic good of the society. Let us now examine these principles of justice.

### **John Rawls' Principles of Justice**

For the realization of the sense of justice and fairness in the society, Rawls recommends two basic principles of justice:

The first principle: *Each person must have an equal right to the most extensive basic liberty compatible with a similar system of liberty for all.*<sup>xxx</sup>

The second principle:

*Social and economic inequalities are to be arranged so that they are both: (a) to the greatest benefit of the least advantage, consistent with the just saving principles, (b) attached to offices and positions open to all under conditions of fair equality of opportunity.*<sup>xxxi</sup>

### **The First Principle**

The first principle of social justice of Rawls is the principle of equality of rights, liberty and opportunity. In this system, everybody in the society is to be considered as a "free, moral agent, as the subject of liberties: personal liberties, political liberties."

<sup>35</sup> Hence, there should be as much liberties as possible for everyone in the society so long as such liberties are not detrimental to the welfare of the society. This "equal basic liberties" which is divided into personal liberties and political liberties has their features. Personal liberties include: freedom of personal dignity, freedom of conscience of thought, freedom to own personal property and freedom from arbitrary arrest and seizure as defined by the concept of the rule of law.

## The Second Principle

Rawls second principle allows inequality in wealth and position provided that the opportunity of attaining high positions in the society is equally open to all. What Rawls insists upon is not equality of position but equality of opportunities. Commenting on this, David Lyons assert thus:

*Inequalities can be justified... but never just because they serve the general welfare, for the average welfare might be saved by benefiting some at others' expense. Rawls' model for justified inequalities involves incentives, when the extra benefit offered some, increases their productivity in such a way that everyone benefits though some may wind up much better off than others<sup>xxxii</sup>.*

Rawls second principle specifically insists that any change, law, or socio-economic arrangement in the society must aim at benefiting the least advantage in the society. This is what Rawls calls the “difference principle” which he substitutes for the utilitarian “efficiency principles”. He rejects the utilitarian “efficiency principle” because it ignores the lot of the poor and allows laws, changes, or socio-economic arrangements in society which improve the condition of the rich without improving that of the poor.

Rawls describes his own principle, the “difference principle” as follows:

*The difference principle is a strongly egalitarian conception in the sense that unless there is a distribution that makes both persons better off... an equal distribution is to be preferred. No matter how much either person's situation is improved there is no gain from the stand point of the difference principle unless the other gains also<sup>xxxiii</sup>.*

Rawls then examines four systems to see which of them is conducive to the realization of the second principle which demands that the least advantaged, the poor,

is always favoured by any change or socio-economic arrangement in society. First, he examines the system of natural liberty.

### **Application Of Rawls' Theory to the National Health Insurance Scheme**

Generally, health care services have as their goal the reduction of pain and suffering. This service has had deep moral and religious meaning from earliest recorded history. Health care services also increase the quality of people's lives by prevention of diseases and education directed at enhanced wellness and fitness. The presence of particular types of health care, such as prenatal care, has a direct bearing on how a child enters the world -- healthy or unhealthy. Health care absence or presence can influence the opportunities a person has in society in a very direct manner with correction of congenital defects on a routine basis, for example with glasses or hearing aids<sup>38</sup>. These classes of advantages available to individuals, because of their effect on the person's long-range plan, are a powerful argument for using a theory of justice which addresses the issue of opportunity directly, as Rawls does. Health care, then, is special because it diminishes pain and suffering, increases health and vigour, has historical, religious, and moral connotations, and affects a person's long-term goals. A final feature of its specialness is that it is unpredictable in its need, that is, it is not usually a continuous lifelong need, like food or shelter, but an intermittent, unpredictable need which is not affected by social class or position. There are of course diseases or risks which are greater in one class than another. It is, for instance, unlikely that a wealthy person, who was mentally sound, would be the victim of chronic starvation, nor is it likely that a person from the poverty zone in the Nigeria would be made ill by improperly canned foreign food items<sup>xxxiv</sup>.

However, anyone from any class may develop cancer or pneumonia. These special features of health care and the Rawlsian perspective of the disadvantaged have led a group of writers to use Rawls' theory as a basis for discussion on health care and justice. Those who write on the subject of Rawls and health care can be roughly categorized in the following manner: those who feel that health care should be covered by the first principle and is a primary good, those who view health care as a

social good subject to free market demand, those who feel it is most appropriately dealt with in the third and fourth stages of societal development, and finally, those who see it as an issue of the second principle, either the difference principle or the opportunity rule<sup>xxxv</sup>.

The health sector in Nigeria is inseparable from the existence of health law. Law Number 17 of 1999 concerning Health, states that health insurance is mandatory for all residents and established a more robust framework for vulnerable groups. The 1999 Constitution (as amended) of the Federal Republic of Nigeria also provided the foundational legal basis for health, indirectly obligating the government to ensure public health and safety, particularly under Section 17(3)(d). This law generally covers all regulations directly related to health services and their implementation in all the six geopolitical zones of the country. Its scope includes health institutions, service facilities, medical guidelines, medical personnel practices, and branches of health science such as forensics. These are inline with Rawls' first principle, which states that every individual has the right to the broadest possible basic freedom, as long as the freedom can be accepted fairly by all parties. In the realm of health services, this principle emphasizes that everyone must have equal access to decent health services without any different treatment based on social background (such as tribe), economic conditions, or other factors<sup>xxxvi</sup>.

Furthermore, it is also necessary to pay attention to the principle of fairness and public sanity presented by John Rawls, which offers an important framework for understanding and realizing justice in the field of health. Rawls illustrates fairness as the ability to offer policies or ideas that can be accepted and supported by all members of society without discrimination or discriminatory treatment. This means that health policies and services must be accepted and supported by all levels of society, from the most fortunate to the least fortunate, without exception or difference in treatment. Rawls's principle of justice in health will ensure that everyone, regardless of social, economic, or geographic status, has equal access to high quality health services.

The above fact is also closely related to the function of health service institutions such as hospitals. Based on Health Law Number 17 of 2022 concerning Health, specifically Chapter VI Part Three concerning Hospitals, Article 184 states that hospitals have the function of individual health services in the form of specialists and/or subspecialists, and can also provide basic health services as well as educational and research tasks in the health sector. From these provisions, every hospital is responsible for providing optimal health services to all patients in need<sup>xxxvii</sup>.

Meanwhile, on the concept of public sanity (reasonableness), which Rawls introduced as an important capacity that allows plural and diverse societies to live together in harmony despite their differences. In the health sector, this means that every health policy and program must consider and accommodate the needs of all groups in society, including vulnerable and marginalized groups such as the poor and the disabled. Only in this way can a health system be built that is equitable and fair for all citizens. The principle of equal liberty (equal liberty) in Rawls' theory emphasizes that everyone should have equal rights to receive medical care. In the Nigerian health system, this indicates that everyone should have equal and fair access to high-quality health services, regardless of their social, economic, or geographic status. This includes the freedom for each individual to choose the type of health care that suits their needs and the freedom to be involved and have a say in the health policy-making process that will affect their lives. By implementing this principle of equal freedom in the health sector, the Nigerian health system will be able to provide fair and inclusive services to all its citizens.

The principle of difference (difference principle) proposed by Rawls argues that the arrangement of social and economic inequalities should be done to provide the most significant benefits to the least fortunate in society. In the health system, top priority should be given to health policy and resource allocation to improve services and access for the neediest groups in society, such as people experiencing poverty, people with disabilities, and people living in remote areas. Concrete steps that can be taken include building and improving health infrastructure in disadvantaged areas, training health workers to serve vulnerable groups, and developing more affordable and comprehensive health insurance schemes for them<sup>xxxviii</sup>.

Rawls introduces the idea of the original position to show how the concept of fairness can be generated. In the original position, Rawls imagines policy makers to be in a situation of ignorance (veil of ignorance) about their social position in society. Thus, they will make policies based on the principle of justice, without favoring the interests of certain groups. This means that health policies must be designed as if policymakers do not know their position in society, to produce policies that are fair and acceptable to all levels of society, without discrimination.

The concept of the 'curtain of ignorance' (veil of ignorance) introduced by John Rawls implies that when making policies, policymakers should ignore their knowledge of their social and economic position in society. Health policies should be designed without considering the interests or advantages of certain groups. Still, they should be directed towards the good and interests of all parties in society fairly and evenly, without discrimination, for the common good.

Rawls emphasized achieving a just consensus in Nigeria's pluralistic and diverse society. This means that health policies must be acceptable and supported by various community groups, without exception, in the health system. These health policies must reflect the values of justice mutually agreed upon by all components of society to ensure that every citizen has fair and high-quality access to health services. Formulating and implementing participatory, transparent health policies involving all stakeholders is key to ensuring that the interests and aspirations of all community groups, especially the vulnerable and marginalized, can be appropriately accommodated.

The implementation of Rawls' theory of justice from the perspective of the health system in Nigeria faces challenges in terms of adaptation and adjustment to local conditions and needs. The principles of justice developed by Rawls in the framework of Western thought need to be aligned and adjusted to the values, norms, and socio-cultural characteristics of the diverse Nigerian society. This adjustment is essential so that the application of Rawls' principles of justice can be more effective and contribute to developing an equitable and just health system for all citizens<sup>xxxix</sup>.

Despite the challenges of adapting to local conditions and needs in Nigeria, the relevance of Rawls' theory of justice remains significant as an essential guide in building a just health system in this country. The principles of justice put forward by Rawls, such as equal freedom, differences that benefit vulnerable groups, and just consensus, can be a valuable reference in formulating health policies that ensure disadvantaged groups in society, such as people with low incomes and people with disabilities, who need special attention and treatment.

Applying Rawls' principles in Nigerian health policy can encourage innovation in providing fairer and more equitable health services for the entire community. The focus on equal access can promote the development of creative solutions, such as telemedicine, to reach remote areas and improve accessibility for underserved groups, such as those living in rural areas or from low socio-economic backgrounds. With innovative health technology, access to quality health services will likely increase. This aligns with Rawls' principle of justice, which emphasizes providing the most significant benefits to the least advantaged groups in society<sup>xl</sup>.

In the pluralistic and diverse Nigerian society, Rawls's principle of justice (fairness) is very relevant to building an inclusive health system that is acceptable to all levels of society. Constitutional agreements on the right to health must reflect principles of justice that are acceptable and supported by all parties, without exception. This is important to ensure that everyone has equal and high-quality access to health services, in accordance with the spirit of justice and equality that is at the heart of Rawls' thinking<sup>xli</sup>.

From the perspective of Rawls' two principles and their lexical priority, Nigerian health policies must first guarantee basic liberties, such as the constitutional right to health, before addressing other dimensions of efficiency or economic considerations. Only after these liberties are secured should the state ensure fair equality of opportunity in accessing healthcare, with policies designed in an order that prioritizes rights above mere utility. This sequencing is crucial to prevent the sacrifice of citizens' fundamental rights in the pursuit of short-term policy goals.

Equally important is the operationalization of fair equality of opportunity and the difference principle. FEO requires that health services and professional opportunities be equally available regardless of region or socio-economic status, which directly addresses the maldistribution of facilities and health workers in Nigeria. The difference principle further obligates the state to direct policies toward those least advantaged, ensuring that budget reallocations, health worker incentives, and technological innovations like telemedicine primarily serve marginalized and remote populations. Finally, these reforms must be justified through public reason and foster an overlapping consensus, so that health policies are grounded in values that can be accepted across Nigeria's diverse social, cultural, and religious contexts, making them both legitimate and sustainable.

Implementing the principles of justice proposed by John Rawls in the health system in Nigeria requires comprehensive reform. This includes improving health infrastructure in all regions, especially in remote and underdeveloped areas, to ensure more equitable access to health facilities and services. In addition, efforts are needed to distribute health workers more fairly and proportionally, so that people throughout Nigeria can receive quality health services without discrimination. Reform of the health financing system is also essential to create a more equitable financing scheme to reach vulnerable and underprivileged groups. Through this comprehensive reform, the principles of justice proposed by Rawls can be effectively implemented in Nigeria's health system.

The government, health workers, and society need various stakeholders' strong and collaborative commitment to implement Rawls' theory successfully in the health system. To realize justice in access to health services, joint efforts are needed from all components of society to ensure the provision and distribution of health resources that are fair and equitable throughout Nigeria.

Ultimately, Rawls' theory of justice provides an essential basis for assessing and transforming Nigeria's health system to be more equitable and just for all. Nigeria can move towards a more inclusive and equitable health system by implementing principles of justice, such as equal freedom, differences that benefit vulnerable

groups, and just consensus. This effort will encourage fair and equal access to high-quality health services for all citizens. Therefore, Nigeria can build a health system responsive to the needs of all levels of society, which aligns with the national development goals for social justice.

### **Conclusion**

John Rawls' theory of distributive justice, centred on fairness, equality, and the "Difference Principle, provides a framework for analysing the Nigerian Health Insurance Scheme (NHIS). Rawls argues that social inequalities should benefit the least advantaged, suggesting that health care—a social primary good should be distributed equitably, not just based on merit or ability to pay, Rawls theory of justice is a comprehensive theory, developed on the grounds of ethical theories, for the fair distribution of social goods. The main fulcrum of the theory rests on the idea that rational individuals will determine the principles of justice by taking care of the worst off behind the veil of ignorance, where they are uninformed about their personal properties. Rawls puts forth the probability of being in the worst off group urges the rational ignorant individuals to decide in favour of the worst off group of the society. Albeit the theory of justice is comprehensive, it leaves out health and social determinants of health. Thus few approaches to enhance the theory and include health services as well have emerged. In this paper we discussed two most well-known these approaches; adding health to the list of primary social goods, and the normal function.

## ENDNOTES

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