



John Rawls's Theory of Distributive Justice in India: Historical Adoption, Constitutional Embodiment, and Post-Liberalization Relevance

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ABSTRACT

This article examines the reception, embodiment, and contemporary relevance of John Rawls's theory of distributive justice within the Indian polity. It argues that the foundational architecture of the Indian Constitution, particularly through its Directive Principles of State Policy, implicitly adopts the core structure of Rawls's *Justice as Fairness*, including the lexical priority of liberty and the Difference Principle. The post-independence state's socialist-welfarist model (1950-1990) operationalized these principles through structural interventions like land reforms and bank nationalization, aligning with Rawls's preference for a Property-Owning Democracy over Welfare-State Capitalism. However, the 1991 economic liberalization marked a philosophical regression towards a Nozickian minimal state, jeopardizing constitutional distributive commitments. The Indian context, defined by ascriptive caste inequality, necessitated an adaptation of Rawlsian principles, evident in affirmative action policies refined by the judicial "creamy layer" doctrine to better target the "least advantaged." Despite neoliberal challenges, Rawls's framework remains an indispensable normative standard for evaluating policy and guiding structural reforms—such as wealth redistribution and data-driven welfare targeting—to fulfill India's enduring constitutional promise of social and economic justice.

Keywords: John Rawls, Distributive Justice, Indian Constitution, Directive Principles of State Policy, Difference Principle, Liberalization, Caste, Affirmative Action, Property-Owning Democracy.

1. INTRODUCTION

The Dual Legacy of Rawlsian Justice in India

The philosophical underpinnings of John Rawls's theory of distributive justice, *Justice as Fairness*, find a deep, albeit implicit, resonance in the

foundational structure of the Indian Constitution. The early post-independence commitment to a state-led, socialist welfare model, particularly through the Directive Principles of State Policy (DPSP), demonstrates a robust adoption of Rawlsian ideals, especially the Difference Principle, which mandates that socioeconomic inequalities must be to the greatest benefit of the least advantaged (Rawls 1971). However, the comprehensive liberalization policies initiated in 1991 marked a profound philosophical and operational shift. This move towards a market-oriented economy has been analyzed as a regression from Rawlsian "softer capitalism" towards the minimal state paradigm of Robert Nozick (Guruswamy 1997; Pandey & Jaiswal 2022). This erosion endangers the lexical priority enshrined by Rawls, often subordinating distributive equity to market efficiency. India's unique context of pervasive caste-based inequalities further necessitated an adaptation of Rawls's principles. While affirmative action diverges from a strict reading of Fair Equality of Opportunity, the judicial "creamy layer" doctrine acts as a sophisticated mechanism restoring fidelity to the Difference Principle's core aim. The continued relevance of Rawls lies in his framework providing the necessary normative standard to evaluate state interventions against the wealth concentration endemic to post-liberalization India (Sethuraman 2025).

Framing Distributive Justice in the Indian Context

A. The Constitutional Architecture of Social Justice

The Indian constitutional project is fundamentally rooted in a commitment to substantive distributive justice. The Preamble explicitly pledges to secure "Social, Economic and Political Justice," setting the foundational normative goal (India 2022). This is operationalized primarily through the Directive Principles of State Policy (Part IV). Articles 38 and 39 articulate the state's duty to secure a social order where justice informs all institutions and to ensure the equitable distribution of community resources. The Supreme Court has held this commitment to social justice as part of the Constitution's unamendable Basic Structure (*Kesavananda Bharati* case).

B. Exegesis of Rawls's Justice as Fairness

Rawls's theory provides a systematic liberal framework for distributive justice. It is derived from a hypothetical "original position," where individuals behind a "veil of ignorance"—unaware of their future social status—would

choose two lexically ordered principles (Rawls 1971; Wenar 2025):

1. **The Greatest Equal Liberty Principle:** Each person has an equal right to the most extensive basic liberties compatible with similar liberties for others.
2. **The Social and Economic Inequalities Principle:** Inequalities are permissible only if they are (a) attached to offices open to all under conditions of **Fair Equality of Opportunity (FEO)**, and (b) arranged to be to the greatest benefit of the **least-advantaged members of society (Difference Principle)**.

A critical component is Rawls's rejection of Welfare-State Capitalism (WSC) for being inherently prone to undermining political equality and creating a demoralized underclass. Instead, he advocated for a **Property-Owning Democracy (POD)**, requiring structural interventions like inheritance taxes to ensure widespread dispersal of capital and prevent damaging concentrations of economic power (Koppelman n.d.).

Rawlsian Principles and Indian Constitutional Jurisprudence

The constitutional jurisprudence of India, particularly the interpretation of the relationship between Fundamental Rights (Part III) and the Directive Principles (Part IV), demonstrates an implicit endorsement of the structural framework of Rawls's *Justice as Fairness*.

A. Principle 1: Fundamental Rights as Basic Liberties

Rawls's first principle correlates directly with Part III (Fundamental Rights) of the Indian Constitution. Articles 14 (equality), 19 (freedoms), and 21 (life and personal liberty) secure the basic liberties that form the non-negotiable foundation, consistent with Rawlsian lexical priority.

B. Judicial Synthesis: DPSP as the Ends, Rights as the Means

The Supreme Court's reconciliation of Parts III and IV epitomizes a Rawlsian structure. In *Minerva Mills v. Union of India*, the Court held that Fundamental Rights are not ends in themselves but "means" to achieve the ends specified in the DPSP. This mirrors Rawls's lexical ordering: liberty sets the foundational limits, but the state's substantive purpose is to achieve distributive

justice as defined by the Difference Principle and FEO (Abeyratne 2014).

C. Operationalizing the Difference Principle through Judicial Activism

The judiciary has actively enforced principles akin to the DP. Through an expansive interpretation of the Right to Health under Article 21, the Court has included access to

social determinants like nutrition and housing, asserting a claim over primary social goods for the vulnerable (Ekmekci & Arda 2015). Furthermore, the innovation of Social Action Litigation (SAL) or epistolary jurisdiction serves as a structural mechanism to enforce socio-economic rights for the marginalized under non-ideal conditions.

Table I: Rawlsian Principles and Indian Constitutional Provisions

Rawls' Principle	Core Concept	Indian Constitutional/Legal Correlate	Analytical Significance
Greatest Equal Liberty	Protection of fundamental rights and freedoms	Articles 14, 19, 21 (Part III)	Establishes the non-negotiable floor for subsequent economic adjustments.
Fair Equality of Opportunity (FEO)	Access to positions regardless of background	Articles 16(1), 46; Right to Education Act	Corrects for historical and social accident through targeted intervention.
Difference Principle (DP)	Inequalities maximize benefits for the worst-off	Articles 38, 39 (Part IV); MGNREGA	Provides the normative foundation for welfare legislation and redistributive policy.
Rawls' Principle	Core Concept	Indian Constitutional/Legal Correlate	Analytical Significance

Historical Application: State Socialism and Rawlsian Resonance (1950–1990)

The post-independence era reflected a strong commitment to redistributive justice aligned with Rawlsian ideals.

A. Structural Redistribution and the Difference Principle

Early policies focused on reorganizing productive assets to benefit the least advantaged.

- Land Reforms aimed to eliminate exploitation and provide security for tillers, applying the DP directly to agrarian asset ownership.
- Bank Nationalization (1969, 1980) sought to prevent wealth concentration and direct credit to rural areas and social objectives, aligning with the Rawlsian preference for dispersing control over capital, akin to a Property-Owning Democracy (Samanta 2021).
- Early Welfare Schemes, evolving into programs like the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), institutionalized wealth redistribution for poverty reduction.

B. The Critical Divergence:

FEO and Ascriptive Justice
India's reservation policy presented a necessary adaptation. Rawls's FEO aims to neutralize the "natural lottery." India's affirmative action, however, addresses *historical ascriptive injustice* (caste) through compensatory justice, providing benefits based on group identity, not just individual endowment (Darnal 2023; Sharma 2015). This highlights the need to adapt liberal models to deeply non-ideal societal structures.
Contextualizing FEO: Caste, Reservations, and the "Creamy Layer" Doctrine

Caste constitutes a structural impediment that Rawls himself would condemn as aristocratic and unjust.

- Caste: The Structural Impediment**
The philosophy of B.R. Ambedkar underscores that justice in India requires the "annihilation of caste" and attention to lived experiences of exclusion, going beyond Rawls's abstract distribution of primary goods to demand fundamental social reform (Darnal 2023).

B.

B. The Creamy Layer Doctrine as Jurisprudential Fidelity to the DP

The judicial innovation of the "creamy layer"—excluding economically advanced members from reservation benefits—serves to refine affirmative action to better comply with the Difference Principle. It ensures limited

resources are targeted at the *functional* "least advantaged": those suffering from the combined burdens of caste marginalization *and* profound economic deprivation (Chadha-Sridhar & Shah 2017). This judicial calibration is a practical exercise in Rawlsian "reflective equilibrium."

Table II: Comparative Justice Frameworks

Framework	John Rawls (<i>Justice as Fairness</i>)	B.R. Ambedkar (Contextual Social Justice)	Analytical Utility in India
Primary Concern	Fair distribution of Primary Social Goods	Annihilation of Caste and structural exclusion	Rawls provides the <i>what</i> (normative benchmark); Ambedkar the <i>how</i> (societal transformation).
Solution Mechanism	Hypothetical contract; Difference Principle	Constitutional guarantees; Legal protection; Social reform	
View of Inequality	Socioeconomic, result of "natural lottery"	Historical, ascriptive, and structural (Caste)	

The Emerging New Context: Neoliberalism and Erosion (Post-1991)

The 1991 liberalization marked a decisive philosophical shift with significant distributive consequences.

A. Philosophical Regression: Towards Nozickian Minimalism

The New Economic Policy signified a move from a state-socialist, Rawlsian framework towards a market-oriented model closer to Robert Nozick's entitlement theory and minimal state, which prioritizes liberty and property rights over state-enforced equality (Guruswamy 1997; Pandey & Jaiswal 2022).

B. Threat to Lexical Priority and Empirical Consequences

This shift creates a contradiction with Rawls's lexical order, as economic growth is often prioritized over the welfare of the least advantaged. The outcomes reflect this:

- **Increased Inequality:** Post-liberalization growth has been accompanied by significant wealth concentration,

with a Gini coefficient of around 0.40 indicating high income inequality (ResearchGate n.d.).

- **Confirmation of Rawls's Critique:** The Indian model resembles the Welfare-State Capitalism Rawls criticized, failing to ensure the widespread capital dispersal of a Property-Ownng Democracy and risking the creation of a demoralized underclass.

Representational

Deficits: Persistent underrepresentation of Scheduled Castes, Scheduled Tribes, and Other Backward Classes in elite institutions like the civil services and premier colleges indicates a systemic failure of Fair Equality of Opportunity.

Continued Relevance: Rawlsian Tools for Modern Indian Challenges

Despite neoliberal challenges, the Rawlsian framework remains critically relevant for addressing contemporary issues.

A. Securing FEO in the Knowledge Economy

In an era defined by "big data and artificial intelligence," access to quality education and digital

skills constitutes a crucial primary social good. The National Education Policy 2020 links education to social justice, but aggressive policy is needed to prevent "digital exclusion" from creating new, permanent violations of FEO (India, Ministry of Education 2020).

B. Addressing New and Persistent Vulnerabilities

Rawls's emphasis on prioritizing the worst-off provides an ethical mandate for structuring health resource allocation and designing policies for gender parity. Legal reforms and affirmative action for women function as targeted interventions to rectify structural impediments to FEO.

C. The Necessity of Property-Owning Democracy (POD)

To counter extreme wealth concentration, a structural shift toward POD is necessary. This demands policies like wealth taxes, progressive inheritance taxes, and asset-building schemes for the poor to ensure a broad dispersal of capital ownership, moving beyond mere income redistribution to fulfill the structural vision of Article 39.

CONCLUSIONS AND RECOMMENDATIONS.

Rawls's *Justice as Fairness* provides the most coherent liberal framework to evaluate India's redistributive policies against its constitutional promise. While requiring adaptation for caste-based realities, its core principles—lexical priority and the Difference Principle—remain an essential metric. The current neoliberal path jeopardizes these founding ideals. To restore fidelity, the following is recommended:

1. **Constitutional Recalibration of Policy:** All major economic policies (public expenditure, disinvestment, gig-economy regulation) must be explicitly justified by their demonstrable benefit to the least advantaged, using the DP as the overarching constitutional mandate.
2. **Structural Reform Towards POD:** Implement wealth taxes, robust inheritance taxes, and capital-ownership schemes to disperse productive assets structurally, aligning with Article 39's vision.
3. **Data-Driven Distributive Justice:** The judiciary should mandate comprehensive socioeconomic data collection to rigorously evaluate whether welfare and affirmative action policies are effectively targeted at

the true "worst-off," ensuring reflective equilibrium in policy application.

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