

Adam Plachciak<sup>1</sup>

## ENVIRONMENTAL JUSTICE AND JOHN RAWLS' CONCEPT OF WELL-ORDERED SOCIETY

*The article is an attempt of extending John Rawls' concept of well-ordered society to strengthen the existing suggestions concerning environmental justice. Although Rawls does not deal with environmental issues directly in his theory, he still provides valuable tools to build up a necessary structure under the idea of liberal democratic society which considers natural resources most seriously.*

*Keywords:* distributive principle; environmental justice; well-ordered society; sustainability.

*JEL:* P3, Q01, Q5, A13.

Адам Плахчак

## ЕКОЛОГІЧНА СПРАВЕДЛИВІСТЬ ТА КОНЦЕПЦІЯ СПРАВЕДЛИВОГО СУСПІЛЬСТВА ДЖОНА РОУЛЗА

*У статті зроблено спробу розширити концепцію справедливого суспільства Джона Роулза розумінням та включенням до неї питання екологічної справедливості. Хоча він сам безпосередньо не займався питаннями екологічної справедливості, тим не менш розробив та запропонував низку інструментів для побудови структури ліберального демократичного суспільства, яке в змозі найбільш суттєво врахувати питання захисту природних ресурсів.*

*Ключові слова:* принцип розподілу переваг та шкоди; екологічна справедливість; теорія справедливого суспільства; стійкий розвиток.

*Табл. 1. Літ. 20.*

Адам Плахчак

## ЭКОЛОГИЧЕСКАЯ СПРАВЕДЛИВОСТЬ И КОНЦЕПЦИЯ СПРАВЕДЛИВОГО ОБЩЕСТВА ДЖОНА РОУЛЗА

*В статье сделана попытка расширить концепцию справедливого общества Джона Роулза пониманием и включением в нее вопроса экологической справедливости. Хотя он сам непосредственно не занимался вопросами экологической справедливости, тем не менее разработал и предложил ряд инструментов для построения структуры либерального демократического общества, которое бы наиболее серьёзно уделило внимание вопросу защиты природных ресурсов.*

*Ключевые слова:* принцип распределения благ и вреда; экологическая справедливость; теория справедливого общества; устойчивое развитие.

**Introduction.** It is widely acknowledged that environmentalism and justice share one thing in common – both notions are strongly concerned with actual or increasing scarcity. The authors of "Limits to Growth" argue that the Earth can have only a limited amount of non-renewable natural resources as well as a rather limited capacity for absorbing waste resources created by human productive activity. As a consequence of population enlargement and resources decline, the portion for each individual also becomes shortened. This shows that political environmentalism, basically founded on "The Limits to Growth", puts scarcity as one of the main organizing concerns. If scarcity is a central point both to political environmentalism and to the idea of distributive justice, it should be assumed that political environmentalism has distributive justice at the heart of its discourse.

<sup>1</sup> Wroclaw University of Economics, Poland.

The purpose of this paper is an attempt to extend John Rawls' concept of well-ordered society as a background to environmental justice. In particular, his concern with an initial individual claim to the maximizing the share of goods might support a valuable intellectual material for modelling the ideal pattern of environmental justice. However, there are some critics who try to deny the validity of Rawls' theory of justice to environmental concerns (Thero, 1995). They claim that the American philosopher, together with many other contemporary liberal political theorists, did not devote his attention to environmental issues in constructing his theory of justice. But it should be pointed out that his intellectual struggle basically deals with the problems of political order in the post-war world. At that time, the issues related to natural resources protection were still within their "swaddling-clothes".

Besides these critiques, it should be borne in mind that Rawls' theory plays homage to many different ideas of justice. Moreover, Rawlsian thought is used favorably by some environmentalists. Needless to say, this American philosopher provides theoretical tools for assessing environmental justice claims that identify our obligations and burdens towards the natural environment of which we are a part of.

**The idea of environmental justice.** It is undeniable that any theory of environmental justice should consider the duty of sustaining natural resources as one of the major conditions of life on the Earth. That becomes clear, especially when we talk about the results of environmental pollution, rapid increase of human population, fast urbanization, unsatisfied basic needs of poor people in developing countries and global destabilization of natural and socioeconomic systems. Since it is widely proved that there are limits to growth, we should deny the possibility of the infinite use of resources and consumption without constraints. But still there is a big confusion within Western political culture concerning the place of green thought in liberal democratic theories (de Geus, 2001).

The authors of the Brundtland Report addressing, among other things, its statements to the Western liberal democratic governments, emphasized that *inequality is the planet's main "environmental" problem* (World Commission..., 1987: 6). In the same context, Tim O'Riordan argues that actions, which might cause environmental unsustainability, are "essentially uncontrollable unless the structural conditions that include poverty and desperation are altered" (O'Riordan, 1993: 35). Similarly, Rosa Braidotti notices: "a growing recognition of the connections between the crises in development, the deepening global environment crisis, the growth of poverty" (Braidotti, 1994: 3). When we assume that there might be a meaningful correlation between environmental sustainability and wealth distribution, we should consider the fact that poverty and wealth are both major causes of environmental problems (Dobson, 1998: 134). It is an unquestionable fact, as Peter Bartelemus writes, that "poverty and affluence [can] refer to the pressures of growing populations in poor countries on marginal and vulnerable lands, forests and congested cities" (Bartelemus, 1994: 11). But later on he continues: "In industrial countries, on the other hand, impacts of high-level economic growth and consumption are responsible in most cases for environmental degradation" (Bartelemus, 1994: 11). So it seems that pushing on poverty reduction but, at the same time, abandoning reasonable limits to consumption and material growth in developed countries, would not necessarily result in upholding environmental sustainability.

There are also incidents where inequality and poverty may be an evident result of environmental degradation. The authors of the Brundtland Report write: "A growing number of the urban poor suffer a high frequency of diseases; most are environmentally based and could be prevented or dramatically reduced through relatively small investments" (World Commission..., 1987: 239). This statement proves that poor people basically occupy poor environments. It was this insight that gave the beginning of the "Environmental Justice Movement" in the USA in the 1970s and later on in other countries as well. Although environmental threats which occur in different parts of the world may touch everyone equally, usually the poorest are the most affected. They are the least able to afford protecting themselves against it. Laura Pulido describes this as follows: "It ... is the poor and marginalized of the world who often bear the brunt of pollution and resource degradation – whether a toxic dump, a lack of arable land, or global climate change – simply because they are more vulnerable and lack alternatives. The privileged can reduce their vulnerability by insulating themselves from environmental problems through assorted mechanisms including consumption and exportations (such as deforestation of other countries)" (Pulido, 1996: XV–XVI). This may suggest that the environment, of which we are part, is an exact type of goods and bads that society must justly distribute among its members. In this case, it is important to choose such a principle upon which environmental resources distribution would refer to the whole humankind.

Theoretically, different principles of distribution are possible (Plachciak, 2009: 105–110; Dobson, 1998: 63). However, we need to choose a proposition such as might be employed in environmental justice. Let us consider the proposition of D. Bell (2004: 294).

In the earliest ideas of environmental justice, their authors emphasized the unequal distribution of pollution. The objection was that poor and minority communities bear uneven consequences of the polluted environment. It was assumed that environmental hazards could lead to serious health problems and thus the quality of life could deteriorate. According to these theorists, the burden of environmental threats should be distributed equally among all its participants. In time, the statement "an equal opportunity to be polluted" has changed its former meaning and has received a new form: "no one should be forced to suffer from the adverse effects". In other words, the assurance of equal distribution of toxics, hazards, pollution etc. was extended to the point where all possible environmental threats would come to zero. But for some researchers, it was not enough to treat *inequality* from that point of view. Their claims of guaranteed standards changed the stress from *bads* (such as pollution), to *basic goods* (such as clean air or uncontaminated water). So, this modification goes from *equal burdens* to *equal rights* in relation to basic environmental goods which can improve human health. Here we have a *quality environment* as a subject of distribution. However, it still should be pointed out that there is a meaningful difference between *equality* and *equal rights not to be polluted*. The right to live in a quality environment does not exactly mean that everywhere is to be the same or that every area should be as desirable as any other area. But rather, logically reasoning, the least desirable areas should meet certain standards. It seems there is no difficulty with inequality as such. The question here is to guarantee the *minimum* standards which are met by everyone. The principle of distribution here is that everybody should have

this same right to a certain minimum standard, but beyond that standard, there should still be a possibility for variation. The emphasis is put on just distribution of environmental resources and the elimination of food and fuel poverty in such a way that no one would suffer from them. In fact, here we can see 4 basic principles of environmental justice (Bell, 2004: 294–295).

Table 1. The concepts of environmental justice (Bell, 2004: 295)

Concept	What is distributed?	Distributive principle
1	toxics, environmental hazards, pollution	equality
2	toxics, environmental hazards, pollution <i>alternatively formulated as:</i> clean air and other basic environmental goods	guaranteed zero equal right to guaranteed standard
3	<i>concept 2 plus</i> quality environments (at home and across away home)	guaranteed minimum
4	<i>concept 3 plus</i> environmental resources (especially food and heat)	guaranteed minimum

Therefore, with regard to the first principle (*equality*), the answer to the question "What should be distributed?" would be: toxics, environmental threats, pollution etc. In the case of the second principle (*an equal right to a guaranteed standard*), the answer to the question is still toxics, environmental threats, pollution etc., but with a guaranteed zero that no one would suffer from exposure to environmental threats. In some sense, the answer to the question "What should be distributed?" may alternatively sound: clean air and other basic environmental goods. Under the third principle, the focus is on the concept 2 plus: quality environments at home and across away from home. The distributive principle here is *guaranteed minimum*. The fourth principle refers to the concept 3 plus environmental resources (specially food and heat) with *guaranteed minimum* also. In consequence, some of potential similarities between those principles of environmental justice and John Rawls' idea of just society will be shown in the final part of this paper. Before this, however, it seems reasonable to present the Rawlsian idea of the basic structure of society.

**Rawls' basic structure of society.** John Rawls' basic structure of society is founded on the principles which are supposed to be contracted by mutual consent behind the so-called "veil of ignorance". The author of the "Theory of Justice" recalls the history of some individuals who were shipwrecked on an uninhabited island. They had to make decisions concerning their communal habitation by setting up compulsory rules. After a certain time of deliberation, a sort of social contract create essential rights and regulations to all members of the community. Behind the "veil of ignorance" everyone has the general knowledge for establishing the principles of justice which would regulate society. In this imagined situation, decision-makers do not know their place in society. They do not know what family they were born into, or what race they are part of. Nor do they know what their own competences are; whether or not they are intelligent, average, or above average. Behind the veil of ignorance, no person is in a position of any prejudicial information. Participants in a social contract cannot possess knowledge that would let them create principles which would benefit them if they knew what their position was to be.

Upon such an assumption, Rawls goes on to formulate the principles of justice which are supposed to be chosen (Rawls, 1999: 53): 1) Each person is to have an equal right to the most extensive basic liberty compatible with a liberty for others; 2) social

and economic inequalities are to be arranged so that they are both: a) reasonably expected to be to everyone's advantage; b) attached to offices and positions open to all.

According to this American philosopher, those principles should be applied to lexical order. The first principle must be guaranteed before any inequalities are allowed within the system. Basic liberties should be satisfied foremost. Among them are political liberties, freedom of speech and assembly, liberty of conscience and freedom of thought, personal freedom of alongside the right to have personal property, and freedom from arbitrary arrest and seizure (Rawls, 1999: 53). But there are other goods distributed by society, which Rawls describes as *social primary goods*. They are subject to inequalities of the second principle. These goods comprise liberty and opportunity, as distinguished from basic liberties, income and wealth, and the bases of self-respect. They are to be distributed equally unless unequal distribution of any, or all, of these values is to everyone's advantage (Rawls, 1999: 54).

Social primary goods may be inequitably delivered on the basis of the *difference principle*. According to this principle, there are individuals who can be allowed a position of power and wealth, but only if it can bring advantage to everyone in the society with special care of the least person affected and only if that position of power or wealth is open to everyone who desires to have it. Behind the veil of ignorance everyone is supposed to choose a system of equal liberty and opportunity for every member of society rather than the greatest good for the greatest number of people, as utilitarianism suggests.

Nevertheless, social institutions do not have complete open control over the sort of actions that individuals and associations can bring to the inequitable share of primary goods. Rawls writes: "There are no feasible rules that it is practical to impose on economic agents that can prevent these undesirable consequences. These consequences are often so far into the future, or so indirect that the attempt to forestall them by restrictive rules that apply to individuals would have been excessive if not impossible burden. Thus we start with the basic structure and try to see how this system itself should make the corrections necessary to preserve background justice" (Rawls, 1977: 160). This shows the strong emphasis Rawls puts upon the importance of the *basic structure of society* and its role in supporting the conditions for maintaining a *well-ordered society*. The author of "Political Liberalism" writes: "The role of the institutions that belong to the basic structure is to secure just background conditions against which the actions of individuals and association take place. Unless this structure is appropriately regulated and adjusted, an initially just social process will eventually cease to be just, however free and fair particular transactions to preserve background justice, and a special condition of justice to define how these institutions are to be set up" (Rawls, 1992: 266–267). Rawls does not advocate here any particular type of society to apply a social contract which could ensure social justice. He tries to instill in institutions the ability to cooperate within the basic structure of society. According to the philosopher those institutions have to be responsible for upholding the conditions necessary to build a society in which individuals are regarded as free and equal citizens, as well as rules and practices which decide the characteristics of individual life.

Within the core aspects that determine the functioning of the basic structure of society, *social justice* plays an unquestionable primary role. It should establish that all persons within a society are qualified to act as free and equal citizens. Nevertheless, this does not mean that everyone has to have a guaranteed right of access to society's *primary goods*; it is more than a distribution plan. Rawls considers social justice as a principle that orders how primary goods are to be distributed in the initial and ongoing actions of institutions established by the basic structure of society. The principle of social justice is supposed to guide how political, social and economic institutions would be rearranged, if the provided distribution of primary goods cause inconvenient obstacles for all persons to operate as free and equal citizens.

Rawls attempts to define the basic structure of society as a system where rules and practices, which might support policies, law, economy, family and other social institutions, are all interconnected. It is more than a collaboration of individuals cohabiting within the established structure of social environment. "The basic structure – as the American philosopher writes – is understood as the way in which the major social institutions fit together into one system, and how they assign functional rights and duties and shape the decision of advantages that arise through social cooperation. Thus, the political constitution, the legally recognized forms of property, and the organization of the economy, and the nature of the family, all belong to basic structure" (Rawls, 1992: 258). There is a variety of ways in which all of these institutions might act individually or in combination. But how actual rules, policies and programs are developed, is strongly affected by people's experience in living within that unique basic institution of society. For that reason, these institutions and how they function individually and collectively, Rawls regards as the primary subject of society.

In summary, the essential idea of Rawls' theory of justice was to create a type of foundation for a basic structure of society that would guarantee a decent life for everyone, rather than the utilitarian proposition of the greatest good for the greatest number of people. According to the assumptions of utilitarianism, it is possible for individuals to lose basic liberties or equal opportunities in society in a situation where such degradation might benefit the rest of people. The American philosopher was conscious that this system of justice would never be selected by any person trying to build a social contract behind the veil of ignorance. It seems that everyone who enters into a primary situation would opt for the system of equal liberty and opportunity, guaranteed for all members of society.

**Rawls and environmental justice.** The focal task of Rawls' two principles of justice depended upon harmonizing the basic structure of society (Rawls, 2001: 4). A society should be guaranteed such a basic structure – a set of social and political institutions, law, property regulations and, of course, a commonly accepted constitution – where two principles of justice would constantly be better applicable than any alternative propositions.

Regarding Rawls' theory as a background to environmental justice, it should be evident that the basic structure of society recognizes nature as the primary subject of justice. It is generally acknowledged that society should be responsible for environmental degradation. There is no doubt that pollution and consumption are the direct results of human overpopulation, industrial development and actions of individual

citizens as consumers of natural resources. However, Rawls explicitly points out that justice belongs only to beings with a capacity for having a sense of justice (Rawls, 1963: 302–305). In fact, the philosopher did not develop any moral theory with regard to environmental issues. When he refers to our obligations towards non-human creatures, he writes: "It does not follow that there are no requirements at all in regard to them, nor in our relations with natural order. Certainly it is wrong to be cruel to animals and the destruction of a whole species can be a great evil. The capacity for feelings of pleasure and pain and for the forms of life of which animals are capable clearly impose duties of compassion and humanity in their case" (Rawls, 1999: 512).

Although the difference principle does not say anything about the distribution of environmental goods and bads, Rawls makes it obvious that his theory of justice requires some completion. He notes 4 additional things when looking at the list of primary goods chosen by parties behind the veil of ignorance. According to the philosopher: "One is extending justice to cover our duties to future generations... Another is the problem of extending it to the conception and principles that apply to international law and political relations between peoples... A third problem of extension is that of setting out the principles of normal healthcare; and finally, we may ask whether justice can be extended to our relations to animals and the order to nature" (Rawls, 1993: 244–245). Referring to our discussion on this passage, it is highly doubtful that Rawls builds a rational foundation upon which the idea of justice between spaces might be constructed. However, he provides a meaningful extension for the theory of environmental justice, especially justice among humans with regard to the distribution of environmental goods and bads. This is particularly important when we talk about the rights of future generations. Here it is necessary to construct the principles of intergenerational environmental justice. Similarly, in relation to healthcare, the principles of intragenerational environmental justice become obvious (Bell, 2004: 297).

It seems that the main issue of environmental justice is not the question of justice between spaces or the problem of intrinsic value, but rather the results of environmental pollution and its impact on health (Toward Environmental..., 1999). It is characteristic that Rawls does not categorize health as a primary good to be distributed by the just society. It is rather included on the list of natural primary goods, such as vigor, intelligence, and imagination. They are not influenced directly by the basic structure of society, yet they deserve no less consideration than social primary goods. It might be a strong improvement that health should be treated as a social primary good when we consider medical care, which is obviously under the direct influence of the basic structure of society and can even be considered as one of the basic institutions. It does not need any additional explanation that care and rehabilitation of those who are permanently ill or handicapped has social grounds. Pollution and environmental degradation, caused and controlled by institutions such as industries, governments, utilities etc., influence health and in general the well-being of individual citizens within society. Rawls even rejects the assumption that such a community, where people are never ill, might be imaginary. He writes: "To attempt this extension we interpret the assumption that citizens are normally cooperating members of society

over a complete life to allow that they may be seriously ill or suffer from severe accidents from time to time" (Rawls, 2001: 172).

The basic goal of medical care is to sustain and restore the "minimum essential capacities for being a normal and fully cooperating member of society" (Rawls, 2001: 171–172). Healthcare Rawls takes as "policies to protect public health and to provide medical care" (Rawls, 2001: 173). These statements clearly suggest that health should be considered as a social primary good distributed by the basic structure of society. "Since environmental pollution and resource consumption – as R. Manning writes – results in institutions within society, and since it has been shown that such pollution affect the health of individuals, and if we now consider health to be a social primary good rather than a natural one, we have the bases for requiring in our society appropriate environmental controls" (Manning, 1981: 159).

It is beyond any shadow of doubt that environmental controls should be decided at the legislative stage. In his discourse, Rawls builds a four-stage sequence where he implies the principles of justice. Stage one – here individuals, behind the veil of ignorance, agree on the principles of justice. At the second stage, a constitutional convention deliberates, where just political forms are decided and a constitution is written up – here the veil of ignorance is partially lifted up, so individuals can understand how society actually functions. However, they do not know their particular future positions. The third stage is the legislative one at which laws and policies are to be decided upon – here all economic and social facts are to be understood. The fourth stage is the level where all rules and laws are applied by particular administrators and judges and upheld by citizens. At the legislative stage, all law and formal rules can be established in order to regulate environmental impacts because pollution and degradation of natural resources have immediate impact upon health. In addition, it seems reasonable to note that a result of resource consumption may cause lowering of opportunities, which Rawls treats as a social primary good. If health and opportunity are recognized as primary goods distributed by social institutions, and if resource consumption has an evident effect on health and opportunity, then there should be a place for environmental control within Rawls' theory of just society (Manning, 1981: 161).

Right now, the question is how Rawls' theory of just society refers to the 4 concepts of environmental justice as presented above. First of all, *environmental equality* in Rawlsian theory of justice does not seem to have a reasonable position. This principle becomes very attractive and is often used by different populists as a handy political tool. However, in practice it creates all kinds of social and economic difficulties. Serious doubts arise from the statement that all people can have equal access to consuming goods with the same pace of economic growth (Piatek, 2000: 53–61; Papuzinski, 2005: 42–47). It seems more reasonable as Paul Hawken writes that we should "make the world better in a natural way by simple daily deeds than by conscious altruism" (Hawken, 1996: 16). According to the line of Rawls' reasoning, the idea that all toxics, environmental hazards and pollution should be equally divided cannot be acceptable. It is obvious when we consider guaranteed environmental standards as a part of primary goods, knowing that the difference principle allows the unequal distribution of them in the case of the least advantaged. However, it seems that Rawls' theory seems more attuned to the second principle of environmental jus-



tice. In this respect we still need to consider his difference principle in our discussion. *An equal right to a guaranteed standard* allows the inclusion of basic environmental goods (such as clear air or uncontaminated water) into the list of primary goods. In this case they play a role in maintaining indispensable capabilities for functioning as a normal and completely cooperating citizen within society. Without quarantining the right to live in a clean environment, many people would suffer from different serious illnesses which prevent them from participating in normal social cooperation and even from achieving their personal sense of good. Nevertheless, the Rawlsian concept is not compatible with the idealistic commitment to *zero pollution*. The philosopher seems to allow higher than zero pollution so that resources, which might have been used for further reduction of pollution threats, can be spent in other ways that are of greater benefit to the least advantaged group of people. The third concept requires guaranteed *minimum* in respect of quality environments at home as well as away from home. Quality environments have a meaningful connection with health and may be considered as Rawlsian primary good. This concept seems more plausible than equality of environment. It is more appropriate to invest resources in building safe and clean areas, where all citizens may have access to them, rather than to use those resources on medical care. According to the fourth principle of environmental justice, a *minimum* of food and fuel should be guaranteed to the least advantaged. At this point we cannot forget that, unlike environmental goods, food and fuel are not public goods in terms of economic understanding. It may seem that this principle is less useful but we can consider the fact that regulating public sectors such as housing, medical care and transportation would efficiently and effectively influence the least advantaged in the society. Moreover, giving people an equal chance of higher income enables them to afford better food and increase their consciousness of environmental protection.

So far, although Rawls did not create any proposition for environmental justice, his theory plays an indispensable role for modelling a contemporary well-ordered society, which must consider environmental goods as the subject of distribution. It becomes more and more urgent to treat environmental protection seriously, because the issues of health, which are often the immediate results of environmental impacts, are social primary goods that should play the common base for the unconditional selection of the justice principle.

**Conclusions.** The term "environmental justice" has two distinct implications. On the one hand, it is connected with a social movement aimed at fair distribution of environmental benefits and burdens. On the other, it refers to the theories of environment, environmental law and governance, environmental policy, sustainability, and political ecology. In the second meaning, there are three basic questions to be answered: Who are the beneficiaries of environmental justice? What is to be distributed? What is the principle of distribution? More recently, the advocates of environmental justice emphasize that the term should have a much wider meaning than an equal distribution of toxics, environmental hazards and pollution. They argue that the idea of whether environmental justice should be extended beyond bads and consider goods. However, the focus on goods distribution relates more to the idea of environmental quality or the opportunity of experiencing quality environments than the equal share of clean air, clean water, uncontaminated land as the basic social goods.

It does not mean that this new focus rejects the earlier concepts of environmental justice. It is rather a complementary proposition tries to emphasize the place of the least advantaged within a common share of environmental resources. There are still some areas and even whole regions which are ecologically exclusive and where all marginalized minorities lack both mental, as well as physical access. Although the Rawls' theory of justice does not contain any clearly developed proposition of environmental justice, yet it gives some suggestions as to how basic environmental goods can be regarded as primary goods distributed by the basic structure of society. But more than that, it provides how to reason basic environmental goods as an important part of a social minimum for the least advantaged citizens in society.

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