

John Rawls' Theory of Justice and its Application to Nigeria's Justice System: Implications for Rule of Law and Democratic Governance

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Abstract

The paper critically interrogates John Rawls' theory of justice as fairness and its applicability to Nigeria's justice system, with particular emphasis on its implications for the rule of law and democratic governance. The study draws on contemporary literature alongside classical Rawlsian thought to evaluate structural inequalities, institutional weaknesses, and governance deficits within Nigeria. The analysis indicates that Nigeria's justice system diverges considerably from Rawlsian ideals, particularly in terms of equal liberty, fair equality of opportunity, and distributive justice. The paper argues that the incorporation of Rawlsian principles into Nigeria's legal and political framework would strengthen institutional integrity, promote social justice, and enhance democratic accountability. The study concludes with policy-oriented recommendations aimed at reforming Nigeria's justice system in line with principles of justice as fairness.

Keywords: Rawls' Theory of Justice; Nigeria's Justice System; Rule of Law; Democratic Governance

Introduction

Justice lies at the heart of any stable society, serving as the foundational virtue that balances liberty, equality, and fairness. In pluralistic democracies like Nigeria, where ethnic, religious, and socio-economic cleavages persist, the justice system must embody impartiality to sustain the rule of law and democratic governance. Nigeria's Fourth Republic, since 1999, has grappled with democratic deficits, including weak institutions, corruption, and a justice system perceived as selective and inefficient. Recent assessments, such as the World Justice Project Rule of Law Index 2024, rank Nigeria 120th out of 142 countries globally and 23rd out of 34 in Sub-Saharan Africa, with notable declines in constraints on government powers and fundamental rights. Issues like delayed justice, judicial bribery, political interference in prosecutions, and impunity for elites exemplify these challenges. Nigeria's justice system faces profound challenges that erode public confidence and democratic legitimacy. Corruption is widely reported within the judiciary and law enforcement, contributing to concerns about selective justice, whereby elites are perceived to evade accountability while the poor experience prolonged detentions or wrongful convictions. Concerns have also been raised regarding perceived political interference in judicial processes, as illustrated

by high-profile cases involving politically exposed persons in which outcomes have been publicly questioned. A case in point is the alleged corruption cases involving two former state Governors, Ifeanyi Okowa of Delta State and Yahaya Bello of Kogi State, who were investigated and arraigned by the Economic and Financial Crimes Commission (EFCC) over allegations of misappropriation running into billions of naira. These cases remain subject to ongoing legal proceedings, and commentators have raised concerns that their handling may reflect the influence of political alignment; however, as allegations rather than established judicial findings, they should be treated with appropriate caution and are cited here only as illustrations of broader concerns about selective accountability. However, Nigeria's return to democratic rule in 1999 has not translated into robust institutional performance, particularly in the justice sector. Recent developments reflect concerns about executive overreach, demonstrated by reports of the executive encroaching upon judicial control and exercising overbearing influence on judicial decisions and judgments. Persistent issues such as case backlogs, denial of fair public trial to dissenting voices, alleged judicial corruption, selective enforcement of rights and disregard for court orders (the ongoing, and yet unresolved, alleged corruption trial of former Kaduna State Governor, Nasir El-Rufai, versus the Federal and Kaduna State Government, is a case in point) continue to challenge the rule of law, which is the bedrock of democratic governance. These challenges create disconnect between constitutional ideals and practical realities. Although the Nigerian Constitution guarantees fundamental rights, enforcement remains weak, particularly for marginalized populations (Aiyede, 2021). Empirical studies demonstrate that legal institutions in Nigeria often reproduce socio-economic inequalities rather than mitigate them (Egberongbe, 2024). The central research problem, therefore, is the extent to which Rawlsian principles can be operationalized within Nigeria's socio-political context to promote fairness, equity, and democratic accountability.

Be that as it may, existing scholarship applies Rawls' theory to Nigeria in areas such as federalism, ethno-religious tensions, political instability and social justice. Okolo, P.O, Derik-Ferdinand, O.I, & Derri, D.K (2018) examines the application of Rawls' theory of justice to the operation of Nigerian federalism, Orji (2023) links the theory to political instability, Obienyem and Nwosu (2024) address ethno-religious challenges, Shugaba et al. (2024) contextualize social justice within Nigeria's democratic system, Aluko, Henry and Ogunjimi (2022) analyse the administration of social justice in Nigeria, and Eze (2022) applies Rawls' theory of justice to the phenomenon of jungle justice in Nigeria. While valuable, these works lack a concentrated, institutional focus on the justice system (judiciary, courts, access mechanisms, and enforcement) and its specific interplay with rule of law metrics and democratic consolidation. This study seeks to address that gap by exploring the application of Rawls' theory to Nigeria's justice system, highlighting implications for strengthening the rule of law, understood as the supremacy of law, equality before the law and accountability, and democratic governance, understood as participatory, transparent and equitable decision-making. For the purposes of this paper, "justice system" refers primarily to the judiciary and the courts, while also engaging, where relevant, with the wider justice-sector architecture of law enforcement, prosecutorial agencies and legal aid provision that shapes how judicial outcomes are experienced by citizens. The study is timely amid ongoing debates on judicial reform, anti-corruption efforts, and constitutionalism in Nigeria. Therefore, the major objective of this paper is to bridge the gap between Rawlsian theory and Nigerian reality by examining how the principles of justice as fairness can be applied to reform Nigeria's justice system and strengthen democratic

governance. Nevertheless, this study was organized as follows: first, the paper opened with an introduction followed by conceptual clarification, literature review, theoretical framework, methodology, results and discussion, and finally, conclusion and recommendations.

Conceptual Clarification

Concept of Justice

There are problems in defining justice due to the individualistic nature of the concept. What might be just for me in a particular situation might not be just for someone else in some other situation. There are no universal principles by which justice or injustice can be defined other than the way in which the government has made its laws. Justice is an evolutionary concept. The evolution of the meaning of justice from the ancient Greek period to the modern day is interesting to know. Justice was closely related to ethics in its Greek concept. It is not an exaggeration to say that Socrates spent his whole life inquiring into the meaning of justice. Throughout his inquiry into the nature of justice, for Socrates, justice was minding one's own business. One day before the execution of Socrates, his friends offered him help to escape from prison. There were people willing and ready to help Socrates to get out of prison, at no great risk or cost. But Socrates refused to escape from prison, instead he chose to accept the death. He refused to abandon the principles he lived for. He valued law higher than unlawful survival. Socrates was sure that the decision that imposed the death penalty on him was not a correct one; nevertheless, it was a legal decision and he firmly believed that his duty was not to defy the law and a legal decision. (Bhandari, 2014). Plato on the other hand, believed in the natural inequality of men and therefore he advocated the class system. He divided people into four categories, namely, the ruling class, the military class, the producing class and the craftsmen. For Plato, justice is the fundamental virtue and a principle of non-interference, which keeps within proper bounds the various classes of society, various individuals of each class and various elements in an individual's soul. It is a principle of functional specialization. While for Aristotle, justice means "Equals should be treated equally and unequal unequally". According to Aristotle, justice is principally used to describe a conduct in agreement with law. He classified justice into two categories: distributive justice and corrective justice. Aristotle powerfully argues that all lawful and fair acts are just; all unlawful and unjust acts are unfair. However, to an ordinary person, justice may mean due punishment for a crime. To a philosopher, justice may mean morality. To a lawyer, justice may mean the application of the rule of law. The concept of justice is not static; it is an evolutionary concept. The meaning of justice in popular discourse is the idea of getting what one deserves, fairness, moral righteousness and equality. Getting what one deserves includes getting punishments for "immoral" actions. Fairness is the idea of treating equals equally. (Parnami, 2019).

Concept of the Rule of Law

The phrase "Rule of Law" was developed and popularized by A.V Dicey in 1948 in his book entitled "Introduction to the Law of the Constitution". In his conception, the rule of law means the absolute supremacy of regular law as opposed to the influence of arbitrary power, and exclude the existence of arbitrariness or wide discretionary authority on the part of government. (Nuruddin and Bello 2010 in Daniel 2019). This definition perceives the rule of law as a principle that seeks to curb government powers by insisting that governance should be in accordance with the laws of the land and not according to the arbitrary rule of office holders. It also implies that no man can be

punished except for a proven breach of law. Therefore, the rule of law implies that all individuals and institutions are subject to the law, which is fairly applied and independently adjudicated. It includes principles such as legality, accountability, equality before the law, and protection of human rights (Aiyede, 2021). Dicey (1948) asserts that, "those entrusted with the administration of a country, should rule or exercise their authority in accordance with the established laws of the land; and such established laws should be regarded as supreme". The rule of law is the principle that government authority is legitimately exercised only in accordance with written, publicly disclosed laws adopted and enforced in accordance with established procedures. The principle is intended to be a safeguard against arbitrary governance.

Concept of Democratic Governance

Hyden et al. (2021) define democratic governance as a system of governance characterized by political accountability, public participation, institutional transparency, rule of law, and protection of civil liberties. The concept emphasizes not only democratic structures but also democratic practices that guarantee inclusiveness and citizen engagement in decision-making processes. From another perspective, Fukuyama (2021) argues that democratic governance entails the capacity of the state to formulate and implement policies effectively while remaining accountable to the people. This definition introduces the governance-performance dimension by linking democratic governance with state effectiveness and institutional capacity. Democratic governance emphasizes participation, accountability, transparency, and responsiveness. It ensures that political power is exercised in the interest of the people, thereby fostering legitimacy and stability. Democratic governance is widely regarded as the foundation for sustainable development, political stability, social justice and protection of human rights. It reflects a system in which political authority is exercised in accordance with democratic principles and institutional mechanisms that ensure accountability, transparency, participation and responsiveness to citizens' needs.

Literature Review

Researchers have conducted several studies in relation to this topic, but a practical, contextual and analytical gap remains which this study intends to address. For clarity, the review is organized thematically around: Rawls and justice as fairness; Rawlsian theory and democratic governance; justice and the rule of law in Nigeria; access to justice and institutional inequality; and existing applications of Rawlsian theory in Nigeria.

Rawls and Justice as Fairness

Foundational accounts of Rawls' theory of justice as fairness – his two principles of equal basic liberties and the difference principle, together with the devices of the original position and the veil of ignorance – are well established in the literature (Dutta, 2017; Parnami, 2019; Maya, 2020). These works supply the conceptual vocabulary on which this study draws, but they engage Rawls' theory largely on its own philosophical terms rather than applying it to a specific institutional context such as Nigeria's justice system.

Rawlsian Theory and Democratic Governance

A second strand of scholarship applies Rawlsian thought to the quality of Nigerian democracy. Chidi (2024) explored John Rawls' political philosophy as a response to the problems of Nigeria's constitutional democracy which indicates that the dividends of democracy remain largely unrealized and that recurrent ethnic uprisings reflect deepening social injustice; the study

recommended that political leaders embrace Rawls' notion of "overlapping consensus." Similarly, Anikpe (2015) traced Nigeria's democratic journey from independence in 1960 to 2015 through a Rawlsian lens, concluding that Nigeria had yet to attain full democratic consolidation, particularly regarding political stability, free and fair elections and the equitable distribution of social and economic goods, and recommended that governance be entrusted to individuals versed in Rawls' principles of justice as fairness. These studies establish a link between Rawlsian justice and democratic performance but do not examine the judiciary or the courts as a discrete institutional site.

Justice and the Rule of Law in Nigeria

A separate body of work addresses the state of the rule of law in Nigeria. Aiyede (2021) examines the rule of law, anti-corruption efforts and democratic accountability, while Egberongbe (2024) demonstrates that legal institutions in Nigeria often reproduce, rather than mitigate, socio-economic inequalities. Daniel (2019) similarly catalogues the structural challenges confronting the rule of law in Nigeria. This literature substantiates the empirical picture of institutional weakness that the present study interprets through a Rawlsian normative framework.

Access to Justice and Institutional Inequality

A fourth strand focuses on unequal access to justice. Okafor and Aniche (2020) examine the challenges and prospects of access to justice in Nigeria, highlighting the burden that legal costs and delays place on the poor. Aluko, Henry and Ogunjimi (2022) critically assessed democracy and the administration of social justice in Nigeria's Fourth Republic, finding that the polity is marked by pronounced social injustice and inequality in the sharing of power, the siting of infrastructure and the recruitment of public officeholders, and called on government to embrace the operational principles of an ideal democracy that promotes justice, equity, accountability and respect for fundamental rights. Okeke and Idike (2022) similarly link governance failures to entrenched inequality. Together, these studies provide empirical grounding for the argument, developed later in this paper, that unequal access to justice constitutes a breach of Rawls' requirement of fair equality of opportunity.

Existing Applications of Rawlsian Theory in Nigeria

Finally, a growing body of scholarship applies Rawlsian theory to specific thematic concerns in Nigeria. Okolo, P.O, Derik-Ferdinand, O.I, & Derri, D.K (2018) examines the application of Rawls' theory of justice to the operation of Nigerian federalism; Orji (2023) and Chidi (2023) both explore the philosophical relevance of Rawls' theory of social justice to Nigeria's political instability and ethnic crises; Obienyem and Nwosu (2024) apply the theory to Nigeria's ethno-religious challenges; Shugaba et al. (2024) contextualized Rawlsian social justice within Nigeria's democratic system; and Eze (2022) applies Rawls' theory of justice to the phenomenon of "jungle justice."

Taken together, this literature confirms that Rawlsian theory has been productively applied to Nigeria's federalism, ethno-religious relations, political instability and democratic governance, and that the state of the rule of law and access to justice in Nigeria is independently well documented. What remains largely absent, however, is a study that applies Rawls' principles specifically and systematically to the institutional functioning of the justice system – understood as the judiciary, the courts and their supporting enforcement mechanisms – and that traces the implications of this institutional analysis for both the rule of law and democratic governance simultaneously. The present study seeks to address this gap.

Theoretical Framework

Rawls' theory provides the analytical lens to examine compatibility between the theory and Nigeria's justice system. John Rawls was an American political philosopher who had liberal views. Rawls was born in 1921 and grew up in Baltimore, Maryland. His father was a renowned lawyer, while his mother was a chapter president for League of Women Voters. He studied at Princeton University. His political thinking was influenced by Wittgenstein, an Austrian-British philosopher, who was also a student of Norman Malcolm. Some of his best-known works are, *A Theory of Justice* (1971 & 1999), *Political Liberalism* (1993), *The Law of People* (1999) and *Justice as Fairness* (2001) (Maya, 2020). John Rawls' theory of justice led to the revival of interest in political philosophy in modern times. He is one of the most influential American philosophers of the 20th century. (Bhandari, 2014).

Basic Assumption of the Theory

Justice as Fairness

Rawls' theory of Justice as Fairness envisions a society of free citizens holding equal basic rights operating within an egalitarian economic system. In his most celebrated work "A Theory of Justice" asserted that a good society is characterized by a number of virtues. Justice is the first virtue of a good society. He posited that those who argue that justice should not be allowed to come into the way of social advancement and progress run the risk of causing the moral degradation of society. In a just society, justice is established as the foundation of the social structure. Hence, all political and legislative decisions should be designed to fulfill the requirement of justice. (Dutta, 2017). This can be seen in practice in the western political and economic systems but unfortunately; the reverse is the case in the developing economies of the world especially Africa. In addition, Rawls expressed his ideas of justice as fairness in his two principles of justice:

- First Principle: Each person has the same indefeasible claim to fully adequate and equal basic liberties, which is compatible with similar liberties for all;
- Second Principle: Social and economic inequalities are to satisfy two conditions:
 - a. They are to be attached to offices and positions open to all under conditions of fair equality of opportunity;
 - b. They are to be to the greatest benefit of the least-advantaged members of society (the difference principle).

Therefore, Rawls's first principle accords with widespread convictions about the importance of equal basic rights and liberties. Two further features make this first principle distinctive. First is its priority: the basic rights and liberties must not be traded off against other social goods.

Rawls's second principle of justice has two parts. The first part, fair equality of opportunity, requires that citizens with the same talents and willingness to use them have the same educational and economic opportunities regardless of whether they were born rich or poor. (Dutta, 2017).

The Original Position and the Veil of Ignorance

Rawls devised the original position as a hypothetical device for arriving at fair principles of justice. In the original position, the parties who select the principles that will govern the basic structure of society do so from behind a veil of ignorance. Rather than requiring individuals to literally "forget"

who they are, the veil of ignorance more precisely denotes a condition under which the parties are deprived of knowledge of their particular circumstances: their social class, natural talents,

conception of the good, and place in society, among other contingent facts. Reasoning under this constraint, Rawls argued, the parties would agree only to principles that they could accept irrespective of the social position in which they might eventually find themselves. Rawls further held that, in debating justice and rights, citizens should set aside their personal, moral and religious convictions and argue from the standpoint of a political conception of the person, independent of any particular loyalties, attachments, or conception of the good life; engaging in public discourse about justice and rights in this way requires citizens to abide by the limits of liberal public reason. (Bhandari, 2014) Applied to Nigeria, the veil of ignorance would require designing institutions as if decision-makers might end up as the marginalized (e.g., rural poor, ethnic minorities). This critiques current practices: political elites design or influence laws favoring themselves, violating the difference principle. Recent Nigerian applications, such as analyses of federalism, political instability, and selective justice in cases involving public figures, illustrate how Rawls' framework exposes biases and advocates reforms for stability via overlapping consensus.

The Subject of Justice

Many different kinds of things are said to be just and unjust: not only laws, institutions, and social systems, but also particular actions of many kinds, including decisions, judgments, and imputations. We also call the attitudes and dispositions of persons, and persons themselves, just and unjust. According to Rawls (1999) the primary subject of justice is the basic structure of society, or more exactly, the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation. The major institutions here are the political constitution and the principal economic and social arrangements. Thus, the legal protection of freedom of thought and liberty of conscience, competitive markets, private property in the means of production, and the family systems are examples of major social institutions. Taken together as one scheme, the major institutions define men's rights and duties and influence their life prospects, what they can expect to be and how well they can hope to do. The basic structure is the primary subject of justice because its effects are so profound and present from the start.

Methodology

This study adopts a qualitative, doctrinal and normative-philosophical research design, appropriate to a paper whose central task is theoretical application rather than empirical measurement. The design combines conceptual analysis of Rawls' theory with a documentary review of Nigeria's justice system, using Rawls' principles as the analytical categories against which institutional conditions are evaluated. The study relies on two categories of sources. Primary sources comprise Rawls' original texts, notably *A Theory of Justice* (1971, revised 1999), *Political Liberalism* (1993) and *Justice as Fairness: A Restatement* (2001), from which the two principles of justice, the original position and the veil of ignorance are drawn as analytical benchmarks. Secondary sources comprise peer-reviewed journal articles, books, and reports of credible governmental and non-governmental bodies (including the World Justice Project, Transparency International, Amnesty International and Human Rights Watch) addressing

Rawlsian theory, the rule of law and democratic governance in Nigeria. Sources were selected on the basis of thematic relevance to Rawlsian theory, Nigeria's justice system, rule of law and democratic governance, and, where possible, recency and standing within the scholarly and policy literature. Documentary and content analysis was employed to identify recurring themes, principally inequality, corruption, selective enforcement and institutional weakness, across the secondary literature. Each of Rawls' core principles (equal basic liberties, fair equality of opportunity, the difference principle, and the original position and veil of ignorance) was then used as an analytical category, or lens, against which the identified institutional conditions in Nigeria's justice system were interpreted. Consistent with this design, the study does not generate new empirical data through interviews, surveys or statistical analysis; rather, it offers a normative evaluation of documented institutional conditions against Rawlsian benchmarks, and its conclusions should be read as analytical interpretations rather than empirical findings.

Results and Discussion

Nigeria's Justice System: Context and Challenges

Nigeria's justice system operates within a pluralistic legal framework, combining constitutional law, customary law, and Islamic law in some regions. The 1999 Constitution (as amended) establishes the judiciary as an independent arm, tasked with upholding the rule of law. However, the system faces systemic challenges such as:

- i. **Corruption and lack of Judicial Independence:** Bribery and political interference undermine judicial impartiality (Transparency International, 2023).
- ii. **Access to Justice:** High legal costs, delays, and illiteracy limit access, particularly for marginalized groups (Okafor & Aniche, 2020).
- iii. **Inequality:** Socioeconomic disparities exacerbate unequal treatment under the law, with elites often escaping accountability (Human Rights Watch, 2024).
- iv. **Customary and Religious Law Conflicts:** Tensions between customary, Islamic, and statutory laws create inconsistencies in justice delivery (Usman, 2019).

These challenges hinder the rule of law, defined as the principle that all are subject to transparent, predictable, and impartial laws (Bingham, 2010), and weaken democratic governance, which relies on accountable institutions.

Applying Rawls' Theory of Justice to Nigeria's Justice System

Applying Rawls' principles indicates fundamental justice deficits in Nigeria. Each principle is examined below by tracing a consistent analytical sequence: the Rawlsian principle at stake, the corresponding institutional condition observed in Nigeria, the evidence documenting that condition, and its implications for the rule of law and for democratic governance in turn:

I. Equal Basic Liberties (Justice as fairness)

Rawls' first principle demands equal access to liberties such as fair trials, legal representation, and freedom from arbitrary detention. In Nigeria, this principle is violated by unequal Access to Legal Services. The violations of the Liberty Principle lead to arbitrary arrests, judicial bias, and suppression of dissent which undermine basic liberties. The poor often lack legal representation due to underfunded legal aid systems (Okafor & Aniche, 2020). In addition, the equal liberty principle demands that all individuals have equal access to justice. However, in Nigeria, access is often determined by wealth and influence. Wealthy litigants can afford experienced legal

representation, while indigent citizens rely on underfunded legal aid services (Aiyede, 2021). Therefore, Nigeria's justice system largely fails Rawls' first principle due to compromised liberties (e.g., arbitrary arrests, restricted expression). Judicial corruption and political interference violate equal basic liberties, as the powerful secure favorable outcomes. Behind Rawls' veil of ignorance, rational agents would reject a system where wealth determines access to justice. Thus, arbitrary detentions prolonged pretrial detentions, often exceeding constitutional limits, violate liberty rights (Amnesty International, 2023). Rawls' principle would require reforms to ensure timely trials and habeas corpus enforcement. The implication for Rule of Law is that a justice system failing to guarantee equal liberties undermines legal predictability and impartiality, eroding public trust. For democratic governance, this fuels perceptions of illegitimacy, reducing civic participation (World Bank, 2024). Thus, relating Rawls' exposition on equal basic liberties and fair equality of opportunity in the Nigerian context leave much to be desired, because these basic principles are being undermined by the ruling elites and there is flagrant violation of the rule of law. There is total absence in the observance of the principle of equality before the law and civil liberty of the citizens are always violated with impunity. For instance, the administration of civil and criminal justice system is characterized by corruption and travesty of justice. Additionally, there is clear case of discrimination on the basis of class, sex, ethnic and religious differences in employment and other economic opportunities deeply rooted in social and economic injustice prevailing in the country.

II. Difference Principle and Fair Equality of Opportunity

Rawls' second principle allows inequalities only if they benefit the least advantaged and are accessible under fair conditions. Nigeria's justice system falls short due to elitism and Impunity. High-profile corruption cases, such as those involving politically exposed persons, often result in lenient outcomes, while petty offenders face harsh penalties (Transparency International, 2023). This contradicts the difference principle, as inequalities favor the elite, not the least advantaged. The difference principle is breached by inequalities in access; the wealthy afford swift justice or influence, while the least advantaged face prolonged trials or extrajudicial issues. Fair equality of opportunity is absent when judicial appointments or promotions reflect patronage rather than merit. Appointment to judicial positions in Nigeria has also been associated with nepotism and political loyalty rather than merit alone, a concern that, if substantiated, would limit fair access to judicial office (Usman, 2019). This concern warrants further empirical and documentary verification, but even as a documented perception it is consequential, since Rawls argued for merit-based systems to ensure equal opportunity. The implication for Rule of Law is that unequal treatment under the law violates Rawls' fairness, weakening accountability and legal equality. For democratic governance, this fosters distrust in institutions, as citizens perceive justice as serving only the powerful (Afrobarometer, 2023).

III. The Original Position and Veil of Ignorance

In practice, applying the original position and the veil of ignorance to Nigeria's judiciary exposes a considerable gap between the ideal and the reality. The judiciary, as an institution expected to uphold the rule of law and equality before the law impartially, is instead the subject of persistent and credible concerns regarding bribery and undue influence, which are perceived to favour selected political and economic elites at the expense of ordinary citizens (Transparency

International, 2023; Human Rights Watch, 2024). Of particular concern are allegations that judicial pronouncements have, in some instances, been used to intervene in the internal affairs of political parties, including opposition parties, notwithstanding constitutional and statutory limits on judicial jurisdiction over such matters. Such allegations, where they touch upon the conduct of electoral and party processes ahead of the 2027 general elections, are matters of legitimate public concern; however, in the absence of established judicial findings, they should be treated as contested claims requiring further verification from authoritative and independent sources, rather than as settled fact. Viewed through a Rawlsian lens, even the perception of such interference is significant: parties reasoning behind a veil of ignorance, uncertain of their future political affiliation, would be unlikely to endorse a judiciary whose independence and neutrality could plausibly be questioned. Therefore, applying Rawls' thought experiment, Nigerian stakeholders in the original position would likely reject the current justice system. Ignorant of their status, they would prioritize; a system ensuring equal access to justice, regardless of wealth or influence; protections against corruption and political interference in judicial processes; such a system would align with Rawls' vision of justice as fairness, promoting a rule of law that supports democratic stability.

Implications for Rule of Law and Democratic Governance

The absence of Rawlsian justice corrodes Nigeria's democratic foundations. The relationship between the rule of law and democratic governance can be understood as a sequential pathway: fair institutions generate equal access to justice; equal access to justice, in turn, fosters institutional legitimacy; legitimacy sustains public trust; public trust enables accountability; and accountability, cumulatively, underpins democratic stability. Read against this pathway, the deficits identified above disrupt the chain at its earliest link, with consequences that compound at each subsequent stage.

- i. **Rule of Law Erosion:**
Selective application of laws enables impunity for elites while marginalized groups face harsh enforcement. This violates Rawls' requirement that institutions constitute a "basic structure of society" ensuring impartiality. Courts often lack independence to check executive overreach (Amnesty International, 2023).
- ii. **Democratic Legitimacy Crisis:**
When citizens perceive the state as an ethnic cartel rather than a neutral arbiter, social contracts break down. Rawls' "overlapping consensus" remains unrealized, as competing groups view the state with suspicion. Voter apathy (e.g., 26.7% turnout in 2023 elections) reflects this disenchantment (Transparency International, 2023).
- iii. **Conflict and Instability:**
Injustices fuel ethno-religious violence (e.g., farmer-herder conflicts, Boko Haram). Rawls warns that unaddressed "grave injustices" allow conflicts to fester. Nigeria's fragility indices reflect this – ranked 15th globally in 2024 (Fragile States Index).
- iv. **Strengthening Rule of Law:**
Judicial Reforms: Implementing Rawls' principles requires anti-corruption measures, such as transparent judicial appointments and funding for legal aid (Okafor & Aniche, 2020). This ensures impartiality and accessibility, core to the rule of law. Public Trust: A Rawlsian justice

system, prioritizing fairness, would enhance public confidence, reducing extrajudicial practices like mob justice (Human Rights Watch, 2024).

v. **Enhancing Democratic Governance:**

Accountability: A justice system reflecting Rawls' principles holds elites accountable, reinforcing democratic checks and balances (Afrobarometer, 2023).

- Inclusivity: Ensuring equal access to justice empowers marginalized groups, fostering inclusive participation in democratic processes (World Bank, 2024).
- Stability: A fair justice system reduces social tensions, promoting stability essential for democratic consolidation (Bingham, 2010).

vi. **Promoting Accountability:**

Justice as fairness requires transparent governance and accountability mechanisms. This would reduce corruption and improve public trust in institutions.

Conclusion

This paper has argued that Nigeria's justice system departs considerably from Rawlsian ideals of justice as fairness, particularly in the areas of equal basic liberties, fair equality of opportunity, and the difference principle. This conclusion follows from the normative application of Rawlsian benchmarks to documented institutional conditions, rather than from independent empirical measurement, and should be read accordingly. By applying Rawls' theoretical framework to the specific institutional terrain of the judiciary, courts, and enforcement mechanisms, rather than the broader themes of federalism or ethnicity that dominate existing literature, the study makes a distinct contribution: it suggests that Nigeria's weak rule of law and eroding democratic legitimacy are not incidental failures but structural consequences of a justice system that consistently privileges the powerful over the least advantaged. In doing so, the paper links philosophical theory to documented governance concerns (judicial corruption, selective prosecution, low civic trust) and argues that social justice reform is a precondition, not a byproduct, of sustainable democratic development. The study argues that no digital, economic, or institutional transformation agenda can be sustainable in Nigeria, or comparable emerging democracies, without first correcting the justice deficits that undermine equal access to opportunity and accountable governance.

Recommendation

Building on the analysis presented in this study, the paper makes the following actionable recommendations:

- i. Institutionalize Judicial Independence: Establish autonomous oversight bodies, insulated from executive influence, to vet judicial appointments and investigate interference (Transparency International, 2023).
- ii. Expand Legal Aid Funding: Guarantee the least advantaged access to legal representation, operationalizing Rawls' difference principle in practice, not just in policy language (Okafor & Aniche, 2020).
- iii. Digitize Case Management: Leverage technology to reduce case backlogs, cut delays, and increase transparency in trial scheduling and outcomes (Amnesty International, 2023).
- iv. Harmonize and streamline Customary, Islamic, and Statutory Law: Develop a constitutional framework that resolves conflicts between legal systems without sacrificing consistency or

- fairness (Usman, 2019). Given that Nigeria's plural legal system rests on distinct constitutional and historical foundations, any such harmonization should proceed through careful constitutional and legal processes that respect these foundations, rather than through the wholesale displacement of customary or Islamic law.
- v. Invest in Legal Literacy Campaigns: Equip citizens, especially marginalized groups, to understand and exercise their rights, closing the opportunity gap Rawls identifies as central to fair equality (World Bank, 2024).
 - vi. Enforce Merit Based Judicial Recruitment: Replace patronage driven appointments with transparent, competency based processes to restore public confidence in impartiality (Usman, 2019).
 - vii. Strengthen Anti Corruption Enforcement: Ensure agencies such as the EFCC apply the law uniformly regardless of political affiliation, closing the accountability gap highlighted by the Okowa and Bello cases (Transparency International, 2023). Collectively, these recommendations position justice system reform as a foundation for achieving rule of law, democratic governance and sustainable development.

References

- Afrobarometer. (2023). Nigeria Round 9 Survey: Trust in Institutions. Retrieved from afrobarometer.org.
- Aiyede, E. R. (2021). Rule of law, Anti-corruption, and Democratic Accountability in Nigeria. *Journal of African Law*, 65(2), 143–162.
- Aluko, A. A., Henry, A. A., & Ogunjimi, F. (2022). Democracy and administration of social justice in Nigeria: A critical assessment of the Fourth Republic. *Open Journal of Political Science*, 12(2), 181–194.
- Amnesty International (2023). Nigeria: Human Rights Report 2023. Retrieved from amnesty.org.
- Anikpe, A.M (2015) Fostering Democratic Governance in Nigeria through John Rawls' Political Theory. *International Journal of Humanities Social Sciences and Education*, Vol. 2 pp. 52 - 64
- Bhandari, S. (2014) The Ancient and Modern Thinking About Justice: An Appraisal of the Positive Paradigm and the Influence of International Law. *The International Studies Association of Ritsumeikan University: Ritsumeikan Annual Review of International Studies*, Vol. 13, pp. 1-41
- Bingham, T. (2010). *The Rule of Law*. London: Penguin Books.
- Chidi, O.P (2024) John Rawls' Political Philosophy as a Solution to the Problems of Constitutional Democracy in Nigeria. *Journal of Applied Philosophy*, Vol. 22 No. 1 pp. 1 - 13
- Chidi, O.P (2023) John Rawls' Theory of Social Justice and its Philosophical Relevance to Nigeria's Political Instability. *Journal of Applied Philosophy*, Vol. 21, No. 4 pp. 81 - 92
- Daniel, A.A (2019) Challenges of Rule of Law in Nigeria. In: I. Sa'idu., I.K Mikail and A,A Daniel (Eds) *Basics of Political Science, Concept Designs & Print*, Chapter 8 pp 78 – 83
- Diamond, L. (2022). *Saving democracy from Russian rage, Chinese ambition, and American Complacency*. Penguin Books.
- Dutta, S. (2017) Rawls' Theory of Justice: An Analysis. *Journal of Humanities and Social Science*, Volume 22, pp. 40 – 43
- Egberongbe, T. T. (2024). Reversing the Curse of Corruption in Nigeria. *Nigerian Journal of*

- Eze, V.U (2022) 'Stop Killing Us Without Witness': Analyses of Rawls's Theory of Justice within the Context of Jungle Justice in Nigeria. *Verbum et Ecclesia*, 43(1)
- Fukuyama, F. (2021). Liberalism and its discontents. Farrar, Straus and Giroux.
- Haken, N., Turner, P., Sample, E., Maiga, F., Arkun, P., Ali, Z., Tokame, W., Mohamed, A., Gouagna, A. O., Pease, H., Piner, M., Ankiambom, M. G., Palmer, M., Branigan, N., Ahmed, H., & Clay-Robison, S. (2025). *Fragile States Index 2024: Annual report – A world adrift*. The Fund for Peace.
<https://fragilestatesindex.org/wp-content/uploads/2025/02/FSI-2024-Report-A-World-Adrift-2.pdf>
- Human Rights Watch. (2024). *World Report 2024: Nigeria*. Retrieved from hrw.org.
- Hyden, G., Court, J., & Mease, K. (2021). *Making Sense of Governance: Empirical Evidence from Sixteen Developing Countries*. Lynne Rienner Publishers.
- Maya, C.A.S (2020) Rawls' Theory of Justice and its Relevance in Analyzing Injustice on Ethnic Phenomenon. *Journal of Ethnic and Cultural Studies*, Vol. 7, No 3, pp. 210 – 219
- Obienyem, V, & Nwosu, N. (2024) John Rawls' Theory of Justice: Relevance to Nigeria Ethno-Religious Challenges. *Alphamet Journal of Applied Philosophy*.
- Okafor, O. C., & Aniche, E. T. (2020). Access to Justice in Nigeria: Challenges and Prospects. *African Journal of Legal Studies*, 12(3), 45–67.
- Okeke, R. C., & Idike, A. N. (2022). Governance and Inequality in Nigeria: A critical analysis. *African Journal of Political Science*, 16(1), 45–67.
- Okolo, P.O, Derik-Ferdinand, O.I, & Derri, D.K (2018) Application of John Rawls' Theory of Justice in the Operation of Nigerian Federalism. *Studies in Politics and Society, A Journal of the Nigerian Political Science Association*, SIPAS Volume 6, No 1 90 - 103
- Orji, C.P. (2023) John Rawls' Theory of Social Justice and its Philosophical Relevance to Nigeria's Political Instability. *Amamihe Journal of Applied Philosophy*
- Parnami, K. (2019) Concept of Justice Difficulties in Defining Justice. *International Journal of Law Management and Humanities*, Volume 2, pp. 1-7
- Rawls, J. (1971) *A Theory of Justice*, United States of America, Harvard University Press.
- Rawls, J. (1993) *Political Liberalism*, New York, Columbia University Press.
- Rawls, J. (1999) *A Theory of Justice*, Revised Edition, United States of America, Harvard University Press.
- Rawls, J. (2001) *Justice as Fairness: A Restatement*, Cambridge, MA, Harvard University Press (Belknap Press).
- Shugaba, M.A. et al. (2024) Contextualizing John Rawls' Theory of Social Justice in Nigeria's Democratic System. *Journal of Political Discourse*, volume 8(2), pp 210 - 230
- Transparency International (2023). *Corruption Perceptions Index 2023*. Retrieved from [transparency.org](https://www.transparency.org).
- Usman, S. (2019). Pluralism and the Nigerian Legal System. *Journal of African Law*, 63(2), 123–140.
- World Justice Project. (2024). *Rule of Law Index 2024*.
- World Bank. (2024). *Governance Indicators: Nigeria*. Retrieved from worldbank.org